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November 3, 1993

Briefing on How To Use the Federal Register
For information on briefing in New York, NY, see announcement on the inside cover of this issue

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WHO: The Office of the Federal Register.

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

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

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Rules and Regulations

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

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

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Parts 1901 and 1944

RIN 0575–AA92

Housing Application Packaging Grants

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) is amending the Agency's policies and procedures governing the administration of Housing Application Packaging Grants (HAPG). This action is necessary to comply with the Cranston-Gonzalez Affordable Housing Act of 1990, which allows private and public nonprofit organizations to participate as grant recipients to package housing applications in targeted underserved areas and colonias. This will result in reimbursing qualified organizations for the costs of preparing applications for housing under certain agency housing programs.

EFFECTIVE DATE: December 3, 1993.

FOR FURTHER INFORMATION CONTACT: Betsy McDaniel, Senior Loan Specialist, Single Family Housing Loan Processing Division, at (202) 690–4209, or Sue Harris, Senior Loan Specialist, Multi-Family Housing Processing Division, at (202) 720–1660. The address is USDA-FmHA, South Agricultural Building, 14th and Independence Ave. SW., Washington, DC 20250–0700.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under USDA procedures established in Departmental Regulation 1512–1 which implements Executive Order 12291, and has been determined to be nonmajor because there is no substantial change from practices under existing rules that would have an annual effect on the economy of $100 million or more. There is no major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies or geographical regions or significant adverse effects on competition, employment, productivity, innovation or in the ability of United States-based enterprises to compete with foreign based enterprises in domestic or export markets.

Paperwork Reduction Act

The information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provision of 44 U.S.C. chapter 35 and have been assigned OMB control number 0575–0157 in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). This final rule does not revise or impose any new information collection or recordkeeping requirement from those approved by OMB.

A proposed rule was published in the **Federal Register** (57 FR 39635) on September 1, 1992, and invited comments for 60 days ending November 2, 1992. Eight comments were received. All comments were considered. All of the comments were submitted by groups who work with FmHA applicants on a regular basis, or by employees of these groups. Included in this category were responses from nonprofit housing advocacy associations, farmworker housing organizations, and local governments. Six respondents were either public or private nonprofits. This category of respondents will be referred to as the nonprofits.

Two respondents were FmHA employees who work with various types of housing applications. They represented several levels within the Agency, including State Rural Housing Chiefs and Assistant District Directors. This category will be referred to as FmHA employees.

Several comments were received that were not relevant to the proposed rule. These respondents were contacted directly and the responses are not included here.

Two respondents were concerned with the training that is required for grantees. One nonprofit, currently packaging applications, was not aware of Certificates of Training. They felt that previous experience or a demonstration of their ability to package should be sufficient. We have determined that annual training is necessary for participating grantees to be apprised of current regulations and any changes.

An FmHA employee wanted a training outline and/or an agenda provided by the National Office for purposes of training the grantees. The National Office is taking this under advisement.

Four respondents commented on the amount of reimbursement for Sections 502 and 504 packages. Several questioned the source used to determine the $300 fee per package. One respondent felt the fee was excessive for packaging Sections 502 and 504 loans and grants. There was little information available when the proposed rule was written, however based on the comments we received by nonprofits currently doing application packaging, we agree that the fee should be raised to $500 per sections 502 and 504 application package. A higher fee is justified in order to carry out the objectives of this Instruction and direct funds to underserved areas. We also felt that a higher fee would attract public and private nonprofit agencies to provide application packages and thereby increase capacity building in underserved areas. This recommendation was adopted.

One respondent commented that the amount of reimbursement could not possibly pay for a full-time employee. We did not visualize this program as a full-time job. There is limited funding available for FmHA housing programs, which therefore limits the number of applications that can be processed in any given year. FmHA takes the position that only in unique situations would nonprofit groups be able to justify a fulltime employee. This would be based mainly on the number of packages the State Director advertises for in that particular underserved area.

Several respondents were concerned about the number of packages a State Director advertises for in accordance with § 1944.70(b). It is not FmHA's intention to limit the number of applications in any FmHA office. Even though we advertise for a specific number of applications in a particular housing program, it does not limit us to paying only for that prescribed number of applications submitted. We have

made a change to the final rule that allows the FmHA approval official to pay for application packages over and above the prescribed number, as long as the grantee completes them in good faith and submits them to the appropriate FmHA office prior to receiving notice from FmHA to stop packaging activities.

One respondent was very concerned about the method of grant disbursement. While we understand the position of some nonprofit organizations regarding reimbursement grants, FmHA feels this is an effective management tool to carry out the intent of the program and provide housing opportunities to those with the most need. A reimbursement system will ensure application packages are developed quickly and thoroughly and submitted in a timely manner. We determined reimbursement to be an incentive to the nonprofits involved. Additionally, this is also in conformance with private industry standard. Fees, other than credit report and appraisal fees, are generally not collected by mortgage originators until loan closing.

An FmHA employee was concerned with promoting programs when there is limited funding. This is a targeting program to direct scarce resources to those areas with the most need. It will provide the underserved areas with equal access to housing program funds.

A nonprofit disagreed with designating 523 counties as underserved areas. They felt that this program should be tied into the 100 counties and colonias targeted in the Rural Housing Targeting Set Aside (RHTSA). We disagree that expanding the number of designated counties dilutes the resources. FmHA believes that to have an effective packaging program reaching those in most need, we need to work in all impacted underserved areas. This does not dilute resources but instead redirects them.

Several respondents commented they felt their area should qualify for this program. The determination of the 523 counties was based on census data in accordance with the criteria in the definition of "Designated counties" in § 1944.52. Additionally, all territories and commonwealths of the United States were given the same consideration in determining eligible underserved areas.

Several respondents were concerned with the intent of § 1944.67 regarding accepting additional compensation for application packaging from other sources. This section clearly states "except as permitted by FmHA," which is intended to allow other funding in some circumstances. Some nonprofits obtain funding from local governments and private foundations to use for application packaging. We do not foresee a problem with this type of source, however the intent was to prevent grantees from accepting funding from developers, contractors, and other parties with a pecuniary interest in the packaging of housing loan/grant applications. We also wanted to protect applicants from being charged a fee by the grantee.

An FmHA employee responded that payment to grantees for packaging Sections 502 and 504 loans and grants should be tied to a split payment system similar to that used in the multi-family housing programs. It was suggested that 50 percent of the packaging fee be paid to the grantee upon FmHA's receipt of the complete application and 50 percent paid at loan approval. FmHA determined that it is unfair to grantees to tie their packaging fee to Section 502 and 504 loan or grant approvals since so many variables beyond the grantees control can prevent an eligible applicant from being approved. We instead clarified in § 1944.73(d) that grantees will not be reimbursed for an application package that does not meet initial eligibility. For example a grantee would not be reimbursed for submitting a Section 502 applicant with an adjusted income over the income limits established in FmHA Instruction 1944–A, Exhibit C or who already owns adequate housing. Likewise a grantee would not be reimbursed for submitting an application for a Section 504 loan where the adjusted family income exceeds very low-income limits of Exhibit C of FmHA Instruction 1944–A or where the applicant does not own the property, or for a Section 504 grant where the applicant is not 62 years of age. This change is intended to encourage grantees to package applications for those families who will meet FmHA eligibility requirements. This will also ensure the intent of the program, to provide housing in underserved areas, is being carried out and FmHA is obtaining the desired number of eligible applicants necessary to process loans and grants.

Two respondents questioned the formula for determining packaging grants for sections 515, 514/516 applications. Non-profit organizations with substantial history of involvement in these programs were polled for their costs to package applications. FmHA determined in order to provide the most housing assistance to the areas with the most need, the sliding scale method of reimbursement is equitable. This method provides reasonable assistance recognizing there are a variety of development costs by area.

Another respondent was concerned about the limitations of § 1944.62 regarding pecuniary interest between the packager and the sections 515 and 514/516 applicant. The respondent felt that in underserved rural areas, there may be only one organization involved in housing. This organization might in some situations be involved in the eventual management of the project. We have adopted language that will allow the authorized representative to have an indirect pecuniary interest in managing these projects.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." It is the determination of FmHA that this action does not constitute a major Federal Action significant affecting the quality of the human environment, and in accordance with the National Environment Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

Civil Justice Reform

This document has been reviewed in accordance with Executive Order (EO) 12778. It is the determination of FmHA that this action does not unduly burden the Federal Court Systems in that it meets all applicable standards provided in section 2 of the EO.

Programs Affected

The Catalog of Federal Domestic Assistance programs affected by this action are:

10.405 Farm Labor Housing Loans and Grants
10.410 Low-Income Housing Loans
10.411 Rural Housing Site Loans
10.415 Rural Rental Housing Loans
10.417 Very Low-Income Housing Repair Loans and Grants
10.433 Rural Housing Preservation Grants

Intergovernmental Consultation

For the reason set forth in the final rule and related notice to 7 CFR part 3015, subpart V, 48 FR 29115, June 24, 1983, 10.410 Low-Income Housing Loans and 10.417 Very Low-Income Housing Repair Loans and Grants are excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials. All other programs affected by this program are included in this process.

List of Subjects

7 CFR Part 1901

Civil rights, Compliance reviews, Fair housing, Minority groups.

7 CFR Part 1944

Administrative practice and procedure, Grant programs—Housing and community development, Loan programs—Housing and community development, Migrant labor, Nonprofit organizations, Reporting requirements, Rural housing.

Therefore, parts 1901 and 1944, chapter XVIII, title 7, Code of Federal Regulations are amended as follows:

PART 1901—PROGRAM RELATED INSTRUCTIONS

1. The authority citation for subpart E of part 1901 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 40 U.S.C. 442; 5 U.S.C. 301; 42 U.S.C. 2942; sec. 10, Pub. L. 93–357, 88 Stat. 392 delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70; delegations of authority by Director OEO, 29 FR 14764, 33 FR 9850.

Subpart E—Civil Rights Compliance Requirements "C"

2. Section 1091.204 is amended by adding a paragraph (a)(26) to read as follows:

§ 1901.204 Compliance Reviews.

(a) * * *

(26) Housing Application Packaging Grants.

* * * * *

PART 1944—HOUSING

3. The authority citation for part 1944 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

4. Subpart B of part 1944 is added to read as follows:

Subpart B—Housing Application Packaging Grants

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1944.52 Definitions.
1944.53 Grantee eligibility.
1944.54–1944.61 [Reserved]
1944.62 Authorized representative of the applicant.
1944.63 Authorized use of grant funds.
1944.64–1944.65 [Reserved]
1944.66 Administrative requirements.
1944.67 Ineligible activities.
1944.68 [Reserved]
1944.69 FmHA point of contact.
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1944.72 Application packaging orientation and training.
1944.73 Package submission.
1944.74 Debarment or suspension.
1944.75 Exception authority.
1944.76–1944.99 [Reserved]
1944.100 OMB control number.

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Exhibit A—[Reserved]
Exhibit B—Housing Application Packaging Grants (HAPG) Fee Processing
Exhibit C—Requirements for Housing Application Packages
Exhibit D—Designated Counties for Housing Application Packaging Grants

Subpart B—Housing Application Packaging Grants

§ 1944.51 Objective.

This subpart states the policies and procedures for making grants under Section 509 of the Housing Act of 1949, as amended (42 U.S.C. 1479). Grants reimburse eligible organizations for part or all of the costs of conducting, administering, and coordinating an effective housing application packaging program in colonias and designated counties. Eligible organizations will aid very low- and low-income individuals and families in obtaining benefits from Federal, State, and local housing programs. The targeted groups are very low- and low-income families without adequate housing who will receive priority for recruitment and participation and nonprofit organizations able to propose rental or housing rehabilitation assistance benefitting such families. These funds are available only in the areas defined in Exhibit D of this subpart. Participants will assist very low- and low-income families in solving their housing needs. One way of assisting is to package single family housing applications for families wishing to buy, build, or repair houses for their own use. Another way is to package applications for organizations wishing to develop rental units for lower income families. The intent is to make Farmers Home Administration (FmHA) housing assistance programs available to very low- and low-income rural residents in colonias and designated counties. FmHA will reimburse eligible organizations packaging loan/grant applications without discrimination because of race, color, religion, sex, national origin, age, familial status, or handicap if such an organization has authority to contract.

§ 1944.52 Definitions.

References in this subpart to County, District, State, National and Finance Offices, and to County Supervisor, District Director, State Director, and Administrator refer to FmHA offices and officials and should be read as prefaced by FmHA. Terms used in this subpart have the following meanings:

Colonias. As defined in Exhibit C of subpart L of part 1940 of this chapter.

Complete application package (hereafter called package). The package submitted to the appropriate FmHA office which is considered acceptable in accordance with Exhibit C of this subpart.

Cost reimbursement. Amount determined by the Administrator that equals the customary and reasonable costs incurred in preparing a package for a loan or grant. These amounts are included in Exhibit B of this subpart.

Designated counties. These counties are listed in Exhibit D of this subpart. Using the most recent published census data, the counties meet the following criteria:

(1) Twenty percent or more of the county population is at or below the poverty level; and

(2) Ten percent or more of the occupied housing units are substandard.

Organization. Any of the following entities which are legally authorized to work in designated counties and/or colonias and are:

(1) A State, State agency, or unit of general local government or;

(2) A private nonprofit organization or corporation that is owned and controlled by private persons or interests, is organized and operated for purposes other than making gains or profits for the corporation, and is legally precluded from distributing any gains or profits to its members.

Packager. Any eligible organization which is reimbursed with Housing Application Packaging Grants (HAPG) funds.

Technical assistance. Any assistance necessary to carry out housing efforts by or for very low- and low-income individuals/families to improve the quality and/or quantity of housing available to meet their needs. Such assistance must include, but is not limited to:

(1) Contacting and assisting very low- and low-income families in need of adequate housing by:

(i) Implementing an organized outreach program using available media and personal contacts;

(ii) Explaining available housing programs and alternatives to increase the awareness of very low- and low-income families and to educate the community as to the benefits from improved housing;

(iii) Assisting very low- and low-income families in locating adequate housing; and

(iv) Developing and packaging loan/grant applications for new construction and/or rehabilitation, or repair of existing housing.

(2) Contacting and assisting eligible applicants to develop multi-family housing loan/grant applications for new construction, rehabilitation, or repair to serve very low- and low-income families.

§ 1944.53 Grantee eligibility.

An eligible grantee is an organization as defined in § 1944.52 of this subpart and has received a current "Certificate of Training" pertaining to the type of application being packaged. In addition, the grantee must:

(a) Have the financial, legal, and administrative capacity to carry out the responsibilities of packaging housing applications for very low- and low-income applicants. To meet this requirement it must have the necessary background and experience with proven ability to perform responsibly in the field of housing application packaging, low-income housing development, or other business or administrative ventures which indicate an ability to perform responsibly in this field of housing application packaging.

(b) Legally obligate itself to administer grant funds, provide adequate accounting of the expenditure of such funds, and comply with FmHA regulations.

(c) If the organization is a private nonprofit corporation, be a corporation that:

(1) Is organized under State and local laws.

(2) Is qualified under section 501(c)(3) of the Internal Revenue Code of 1986.

(3) Has as one of its purposes assisting very low- and low-income families to obtain affordable housing.

§§ 1944.54–1944.61 [Reserved]

§ 1944.62 Authorized representative of the applicant.

FmHA will deal only with authorized representatives designated by the applicant. The authorized representatives must have no pecuniary interest in the award of the architectural or construction contracts, the purchase of equipment, or the purchase of the land for the housing site.

§ 1944.63 Authorized use of grant funds.

Grant funds may only be used to reimburse a packager for delivered packages. Payment will be made for each complete package received and accepted in accordance with Exhibit C of this subpart.

§§ 1944.64–1944.65 [Reserved]

§ 1944.66 Administrative requirements.

The following policies and regulations apply to grants made under this subpart:

(a) Grantees must comply with all provisions of the Fair Housing Act of 1988 and subpart E of part 1901 of this chapter which states in part, that no person in the United States shall, on the grounds of race, color, national origin, sex, religion, familial status, handicap, or age, be excluded from participating in, be denied the benefits of, or be subject to discrimination in connection with the use of grant funds.

(b) the policies and regulations contained in subpart S of part 1940 of this chapter apply to grantees under this subpart.

(c) The policies and regulations contained in FmHA Instruction 1940–Q (available in any FmHA office), Departmental Regulation 2400–5, and 7 CFR part 3018 apply to grantees under this subpart.

(d) Grantees should be aware of the policies and regulations contained in subpart G of part 1940 of this chapter. They will supply needed information requested by the local FmHA office in connection with the loan/grant application.

(e) The grantee will retain records for three years from the date Standard Form (SF)–269A, "Financial Status Report (Short Form)," is submitted. These records will be accessible to FmHA and other Federal officials in accordance with 7 CFR part 3015.

(f) Annual audits will be completed if the grantee has received more than $25,000 of Federal assistance in the year in which HAPG funds were received. These audits will be due 13 months after the end of the fiscal year in which funds were received.

(1) States, State agencies, or units of general local government will complete an audit in accordance with 7 CFR parts 3015 and 3016 and OMB Circular A–128.

(2) Nonprofit organizations will complete an audit in accordance with 7 CFR part 3015 and OMB Circular A–133.

(g) Performance reports, as required, will be submitted in accordance with 7 CFR part 3015.

§ 1944.67 Ineligible activities.

The packager may not charge fees or accept compensation or gratuities directly or indirectly from the very low- and low-income families being assisted under this program. The packager may not represent or be associated with anyone else, other than the applicant, who may benefit in any way in the proposed transaction. If the packager is compensated for this service from other sources, then the packager is not eligible for compensation from this source except as permitted by FmHA. Grantees who are funded to do Self-Help Housing, may not be reimbursed for packaging applications for participation in the Self-Help Housing effort.

§ 1944.68 [Reserved]

§ 1944.69 FmHA point of contact.

Grantees must submit packages to the appropriate FmHA office serving the designated county and/or colonias. Packages for Single Family Housing loans/grants are submitted to the appropriate County Office. All other packages are submitted to the appropriate District Office. The applicable forms required to develop a package can be obtained in any District or County Office. Packagers should coordinate their packaging activity with the appropriate District and County Offices.

§ 1944.70 Targeting of HAPG funds to States.

(a) HAPG funds will be distributed administratively by the Administrator to achieve the success of the program. Allocations will be distributed to States as set forth in Attachment 2 of Exhibit A of subpart L of part 1940 of this chapter.

(b) The State Director will determine based on the housing funds available and the personnel available, how many applications can be processed for each program during the fiscal year in each FmHA office serving a designated county and/or colonias. The number of applications will be published in the advertisement required under § 1944.72 of this subpart.

§ 1944.71 Term of grant.

(a) For Single Family Housing loans/grants, HAPG funds will be specifically available for designated counties. Packages may be submitted after the annual housing application packaging orientation and training is held. The grant period will end when sufficient packages are received for each designated county or colonia or on September 30, of the fiscal year, whichever is earlier. The State Director must send notification, in the form of a letter, to all packagers who attended the packaging orientation and training that the number of applications specified in the advertisement required under § 1944.72 of this subpart have been received. Any packages submitted after this date will be paid for only if the grantee can demonstrate the package was prepared in good faith and prior to receipt of the above notification.

(b) For Multi-Family Housing loans/grants, HAPG funds will be available for designated areas or colonias to the extent specified in FmHA's

advertisement. Preapplications approved in one fiscal year, for which grant funds were obligated, may have the balance disbursed in a later fiscal year when the application is submitted and approved.

§ 1944.72 Application packaging orientation and training.

FmHA approval officials will orient and train organizations on how to package. A newspaper advertisement will be published by FmHA offices serving designated counties and/or colonias after October 1. The advertisement will announce that application packaging services are being requested and specify the date of the certification training. All eligible organizations may attend this training. This date will be no more than 30 days after the advertisement appears in the newspaper and no later than December 31 of any year. The advertisement will include the estimated number of packages needed by loan type, i.e., Single Family, Multi-Family, etc. Exhibit A of this subpart (available in any FmHA office) is an example of an appropriate advertisement. "Certificates of Training" as required under § 1944.53 of this subpart will be signed by the State Director and given after completion of the training. Efforts will be made by the appropriate FmHA office to complete this training process and certify packagers as quickly as possible. Grantees must attend this training each year in order to qualify for assistance.

§ 1944.73 Package submission.

(a) When submitting its first package to an FmHA office, in addition to the item in paragraph (b) of this section and the information set forth in Exhibit C of this subpart, the organization must submit the following. A file of these documents will be established in the FmHA office and retained in accordance with FmHA Instruction 2033–A (available in any FmHA office).

(1) Proof of their nonprofit status under section 501(c)(3) or section 501(c)(4) of the Internal Revenue Code of 1986 or of their existence as a state agency or unit of general local government legally authorized to work in the designated county and/or colonias. If the FmHA approval official is in doubt about the legal status of the organization, the evidence will be sent to the State Director. The State Director may, if needed, submit the above documents with any comments or questions to the Office of General Counsel (OGC) for an opinion as to whether the applicant is a legal organization of the type required by these regulations.

(2) An original and copy of Forms FmHA 400–1, "Equal Opportunity Agreement," and FmHA 400–4, "Assurance Agreement."

(3) A copy of a current "Certificate of Training" pertaining to the type of application package submitted.

(b) All packages must contain a signed statement which states, "Neither the organization nor any of its employees have charged, received or accepted compensation from any source other than FmHA for packaging this application and are not associated with or represent anyone other than the applicant in this transaction."

(c) Form SF–270, "Request for Advance or Reimbursement" will be submitted with each application package for the amount authorized for the specific loan type in Exhibit B of this subpart.

(d) The FmHA approval official will review each package for completeness, accuracy, and conformance to program policy and regulations. Cost reimbursement will be made in accordance with Exhibit B of this subpart. Packagers that submit "incomplete" packages for sections 502 and 504 loans/grants will be sent a letter within 5 working days after submission of the "incomplete" package advising of additional information needed. Payment will be held until all the information is received. Packagers for sections 502 loans and 504 loans/grants will not be paid for packages submitted on applicants who are obviously ineligible for the programs. For example, a grantee would not be reimbursed for submitting a package for a section 502 loan applicant with an adjusted income exceeding the limits of Exhibit C of subpart A of part 1944 of this chapter (available in any FmHA office) or who already owns adequate housing. Likewise, a grantee would not be reimbursed for submitting an package for a section 504 loan/grant when the adjusted family income exceeds the very low-income limits of Exhibit C of FmHA Instruction 1944–A (available in any FmHA office) or when the applicant does not own and occupy his/her property, or for a section 504 grant when the applicant is not 62 years of age or older.

(e) Submissions for sections 514/516, 515, and 524 loans/grants will be reviewed and, if incomplete, a letter sent within 15 working days advising of additional information required.

(f) Form SF–269A, will be submitted within 15 days of the end of the fiscal year.

§ 1944.74 Debarment of suspension.

Certified packagers whose actions or acts warrant they not be allowed to participate in the program are to be investigated in accordance with § 1940.606 (c) or FmHA Instruction 1940–M (available in any FmHA office).

§ 1944.75 Exception authority.

The Administrator may, in individual cases, make an exception to any requirement or provision of this subpart which is not inconsistent with the authorizing statute or other applicable law if the Administrator determines that the Government's interest would be adversely affected. The Administrator will exercise this authority only at the request of the State Director and recommendation of the Assistant Administrator, Housing. Requests for exceptions must be in writing by the State Director and supported with documentation to explain the adverse effect on the Government's interest and/or impact on the applicant, borrower, or community, proposed alternative courses of action, and show how the adverse effect will be eliminated or minimized if the exception is granted.

§§ 1944.76–1944.99 [Reserved]

§ 1944.100 OMB Control number.

The reporting and recordkeeping requirements contained in this regulation have been approved by the Office of Management and Budget and have been assigned OMB control number 0575–0157. Public reporting burden for this collection of information is estimated to vary from 30 minutes to five hours per response, with an average of 3 hours per response including time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, Room 404–W, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB# 0575–0157), Washington, DC 20503.

Exhibits to Subpart B

Exhibit A—[Reserved]

Exhibit B—Housing Application Packaging Grant (HAPG) Fee Processing

The Farmers Home Administration (FmHA) approval official will execute and distribute Form FmHA 1940–1, "Request for Obligation of Funds," in accordance with the Forms Manual Insert (FMI). HAPG funds will

be used for the fees except as otherwise noted in paragraphs II (A) and (B) of this exhibit. Funds for all loan and/or grant application packages will be paid as follows.

I. For all Single Family Housing loans (Sections 502, 504, and 514 ("on" farm labor housing only) of the Housing Act of 1949, checks will be ordered when complete application packages as defined in § 1944.73 of this subpart and Exhibit C of this subpart are received. The fees are as follows:

(A) Section 502 Single Family Housing Loans—$500

(B) Section 504 Rural Housing Loans and Grants—$500

(C) Section 514 "On" Farm Labor Housing Loans—$500

II. For all Multi-Family Housing loans and grants (sections 514/516, 515, 524, and 533 of the Housing Act of 1949), the entire amount of the fee coming from HAPG funds will be obligated when the packager has met all the requirements of the preapplication stage, however, payments will be made in accordance with the following schedules:

(A) Sections 514/516 Farm Labor Housing Loans and Grants

"Off" farm labor housing loans/grants—fees paid in accordance with the schedule for section 515 Rural Rental Housing loans.

(B) Section 515 Rural Rental Housing Loans.

(1) The scale for packaging fees is based on the percentage of the total development cost as follows:

Up to $400,000—1.6 percent

For additional amounts between:

$400,001 and $800,000—add 1.2 percent
$800,001 and $1,200,000—add 1.0 percent
$1,200,001 and $1,600,000—add .7 percent
$1,600,001 and $2,000,000—add .5 percent
Over $2,000,001—No additional amount

(2) Twenty-five percent paid from HAPG funds when Form AD-622, "Notification of Preapplication Review Action," is sent inviting submission of a complete application.

(3) Twenty percent paid from HAPG funds when a complete application is filed including plans and specifications.

(4) The 55 percent balance paid when the loan is approved. Funds for this 55 percent will be drawn from loan funds in accordance with § 1944.212(j) of subpart E of 1944 of this chapter for Section 515 loans and § 1944.158(i) of subpart D of part 1944 of this chapter for Section 514 loans.

(C) Section 524 Rural Housing Site Loans—total fee is 1 percent of the loan amount payable in two installments.

(1) Thirty percent paid after FmHA's review of the preapplication under § 1822.271(a) of subpart G of part 1822 of this chapter (paragraph XI A of FmHA Instruction 444.8).

(2) Seventy percent paid upon the completion of the docket in accordance with § 1822.271(c) of subpart G of part 1822 of this chapter (paragraph XI C of FmHA Instruction 444.8).

(D) Section 533 Housing Preservation Grants—total fee is 2 percent of the grant amount paid in two installments.

(1) Forty percent will be paid when the Form AD-622, inviting submission of a complete application, is sent.

(2) Sixty percent will be paid after grant closes.

Exhibit C—Requirements for Housing Application Packages

A package will consist of the following requirements for the respective program.

A. Section 502—Complete applications packages will be submitted in accordance with the requirements of Exhibit A of subpart A of part 1944 of this chapter. The package must also include the following:

Form FmHA 410-9—"Statement Required by the Privacy Act."
Form FmHA 1910-11—"Applicant Certification Federal Collection Policies for Consumer or Commercial Debts."
Form FmHA 1944-3—"Budget and/or Financial Statement."

B. Section 504—Complete application packages will be submitted in accordance with the requirements of Exhibit C of subpart J of part 1944 of this chapter (available in any FmHA office). The package must include the forms listed in paragraph A of this exhibit and the following:

Form FmHA 410-4—Application for Rural Housing Assistance (Non-Farm Tract)."
Form FmHA 1910-5—Request for Verification of Employment."
Form FmHA 1944-12—Rural Housing Loan Application Package."

Evidence of ownership in accordance with § 1944.461(a) of subpart J of part 1944 of this chapter.

Cost estimates or bid prices for removal of health or safety hazards in accordance with § 1944.463(a) of subpart J of part 1944 of this chapter.

C. Section 514/516—Complete application packages will be submitted in accordance with Exhibit A-1 of subpart D of part 1944 of this chapter.

D. Section 515—Complete application packages will be submitted in accordance with the requirements of Exhibit A-7 of subpart E of part 1944 of this chapter.

E. Section 524—Complete application packages will be submitted in accordance with § 1822.271(a) of subpart G of part 1822 of this chapter (paragraph XI A of FmHA Instruction 444.8). After Farmers Home Administration's review and as instructed, the application should be completed in accordance with § 1822.271(c) of subpart G of part 1822 of this chapter (paragraph XI C of FmHA Instruction 444.8).

F. Section 533—Complete application packages will be submitted in accordance with the requirements of subpart N of part 1944 of this chapter.

Exhibit D—Designated Counties for Housing Application Packaging Grants

Alabama (13): Barbour County, Bibb County, Choctaw County, Clarke County, Conecuh County, Dallas County, Greene County, Hale County, Lowndes County, Marengo County, Perry County, Sumter County, and Wilcox County.

Alaska (5): Bethel Census Area, Dillingham Census Area, Nome Census Area, Wade Hampton Census Area, and Yukon-Koyukuk Census Area.

Arizona (8): Apache County, Coconino County, Graham County, La Paz County, Navajo County, Pinal County, Santa Cruz County, and Yuma County.

Arkansas (5): Crittenden County, Lee County, Newton County, St. Francis County, and Searcy County

California (3): Fresno County, Imperial County, and Tulare County.

Colorado (1): Conejos County.

Florida (2): Gadsden County and Jefferson County.

Georgia (22): Baker County, Burke County, Calhoun County, Clay County, Dooly County, Early County, Greene County, Hancock County, Jenkins County, Marion County, Meriwether County, Mitchell County, Quitman County, Randolph County, Stewart County, Talbot County, Taliaferro County, Terrell County, Twiggs County, Warren County, Washington County, and Webster County.

Idaho (1): Madison County.

Kentucky (25): Breathitt County, Casey County, Clay County, Clinton County, Clinton County, Elliott County, Estill County, Fleming County, Jackson County, Knott County, Knox County, Lawrence County, Lee County, Leslie County, Lewis County, Lincoln County, McCreary County, Magoffin County, Morgan County, Owsley County, Perry County, Powell County, Robertson County, Rockcastle County, Wayne County, and Wolfe County.

Louisiana (10): East Carroll Parish, East Feliciana Parish, Plaquemines Parish, Red River Parish, St. Helena Parish, St. James Parish, St. Martin Parish, St. Mary Parish, Terrebonne Parish, and West Feliciana Parish.

Mississippi (27): Attala County, Benton County, Bolivar County, Claiborne County, Coahoma County, Greene County, Holmes County, Humphreys County, Issaquena County, Jasper County, Jefferson County, Jefferson Davis County, Kemper County, Leflore County, Madison County, Marshall County, Noxubee County, Panola County, Quitman County, Sharkey County, Sunflower County, Tallahatchie County, Tate County, Tunica County, Walthall County, Washington County, and Yazoo County.

Montana (2): Big Horn County and Glacier County.

New Mexico (11): Catron County, Chaves County, Cibola County, Dona Ana County, Luna County, McKinley County, Mora County, Rio Arriba County, Sandoval County, San Juan County, and San Miguel County.

North Carolina (4): Bertie County, Halifax County, Hyde County, and Warren County.

North Dakota (3): Benson County, Rolette County, and Sioux County.

Ohio (1): Vinton County.

South Carolina (6): Clarendon County, Dillon County, Fairfield County, Lee County, Marlboro County, and Williamsburg County

South Dakota (9): Bennett County, Buffalo County, Corson County, Dewey County, Jackson County, Mellette County, Shannon County, Todd County, and Ziebach County.

Tennessee (2): Fayette County and Hancock County.

Texas (45): Atascosa County, Brooks County, Caldwell County, Cameron County, Castro County, Cochran County, Crosby

County, Culberson County, Dawson County, Deaf Smith County, Dimmit County, Duval County, Ector County, Edwards County, El Paso County, Frio County, Gaines County, Grimes County, Hale County, Hidalgo County, Hudspeth County, Jim Hogg County, Jim Wells County, Karnes County, Kinney County, Kleberg County, La Salle County, Marion County, Matagorda County, Maverick County, Medina County, Nueces County, Pecos County, Presidio County, Reeves County, San Jacinto County, San Patricio County, Starr County, Terry County, Uvalde County, Val Verde County, Webb County, Willacy County, Zapata County, and Zavala County.

Utah (1): San Juan County.

Virginia (4): Brunswick County, Lee County, Northampton County, and Scott County.

Washington (2): Ferry County and Yakima County.

West Virginia (4): Calhoun County, Clay County, Webster County, and Wirt County.

Wisconsin (1): Menominee County.

Puerto Rico (77): Adjuntas, Aguada, Aguadilla, Aguas Buenas, Aibonito, Anasco, Arecibo, Arroyo, Barceloneta, Barranquitas, Bayamon, Cabo Rojo, Caguas, Camuy, Canovanas, Carolina, Cayey, Ceiba, Ciales, Cidra, Coamo, Comerio, Corozal, Culebra, Dorado, Fajardo, Florida, Guanica, Guayama, Guayanilla, Guaynabo, Gurabo, Hatillo, Hormigueros, Humacao, Isabela, Jayuya, Juana Diaz, Juncos, Lajas, Lares, Las Marias, Las Piedras, Loiza, Luquillo, Manati, Maricao, Maunabo, Mayaguez, Moca, Morovis, Naguabo, Noranjito, Orocovis, Patillas, Penuelas, Ponce, Quebradillas, Rincon, Rio Grande, Sabana Grande, Salinas, San German, San Juan, San Lorenzo, San Sebastian, Santa Isabel, Toa Alta, Toa Baja, Trujillo Alto, Utuado, Vega Alta, Vega Baja, Vieques, Villalba, Yabucoa, and Yauco.

Virgin Islands (2): St. Croix Island and St. Thomas Island.

Western Pacific Territories (5): American Samoa, Federated States of Micronesia, Marshall Islands, Northern Marianas, and Palau.

Dated: August 7, 1993.

Bob Nash,

Under Secretary, Small Community and Rural Development.

[FR Doc. 93-26891 Filed 11-2-93; 8:45 am]

BILLING CODE 3410-07-M

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7 CFR Parts 1943 and 1955

RIN 0575-AB62

Management and Disposal of FmHA Inventory Farm Property

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: FmHA amends its regulations to allow the Agency to declare suitable inventory farm property surplus 12 months from the date it was first published for sale to family-size farm operators, including beginning farmers and ranchers. FmHA also amends its definition of a "socially disadvantaged applicant." These changes are required by recent legislative changes to the Consolidated Farm and Rural Development Act (CONACT). FmHA also is amending its regulations to conform to the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) of 1989. The intended effect is to facilitate the Agency's efforts to sell farm and ranch property, reduce the Agency's holding cost for inventory property and implement legislative requirements.

EFFECTIVE DATE: November 3, 1993.

FOR FURTHER INFORMATION CONTACT: James P. Fortner, Realty Specialist, Farmer Programs Loan Servicing and Property Management Division, Farmers Home Administration, U.S. Department of Agriculture, room 5449-South, Washington, DC 20250, Telephone (202) 720-1976.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under USDA procedures established in Departmental Regulation 1512-1, which implements Executive Order 12291, and has been determined to be nonmajor because it will not result in an annual effect on the economy of 100 million dollars or more.

Programs Affected

These changes affect the following FmHA programs as listed in the Catalog of Federal Domestic Assistance:

10.407—Farm Ownership Loans

Intergovernmental Consultation

For the reasons set forth in the final rule related to Notice 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983) and FmHA Instruction 1940-J, "Intergovernmental Review of FmHA Programs and Activities" (December 23, 1983), Farm Ownership Loans are excluded, with the exception of the nonfarm enterprise activity, from the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

Certification of Compliance with Executive Order 12778

The rule has been reviewed in light of Executive Order 12778 and meets the applicable standards provided in sections 2(a) and 2(b)(2) of that Order. Provisions within this part which are inconsistent with state law are controlling. All administrative remedies pursuant to 7 CFR part 1900 subpart B must be exhausted prior to filing suit.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969 (Pub. L. 91-190), an Environmental Impact Statement is not required.

Background of Final Rule and Response to Comments

A. Background

One purpose of this final rule is to implement the provisions of Section 1813, "Disposition of Suitable Property," of the FACT Act (Pub. L. 101-624)(CONACT § 335). Therefore, this revises the procedures by which the Agency disposes of inventory farm property. CONACT § 335(c)(1) now provides that the Agency will classify suitable farm property surplus 12 months from the date it was first published for sale. Prior to the enactment of the FACT Act, the Agency was required to hold suitable farm property in inventory for a 3-year period after the date of acquisition before it declared the property surplus and sold it to the general public. On May 7, 1992, an interim rule was published in the **Federal Register** (57 FR 19526 and 19529) and provided for a 30-day comment period ending June 8, 1992. The Agency amended its regulations by removing the 3-year holding period and adding the provision of the FACT Act that suitable inventory farm property will be classified surplus 12 months from the date the property was first published for sale to family-size farm operators. All comments received on the interim rule will be addressed in this final rule. Changes also were made in order to better explain how appeals affect acceleration and foreclosure actions when loan servicing rights are involved and to be consistent with other FmHA regulations. Farmer Programs cases may be accelerated after any primary loan servicing and associated appeals have been concluded. These cases, however, will not be submitted to OGC for foreclosure until all appeals related to any preservation loan servicing have been concluded. The definition of a "socially disadvantaged applicant" also is revised to comply with the Agricultural Improvement Act of 1992 (Pub. L. 102-554). Section 21(b) of this Act revised the 355(e)(1) definition to include gender prejudice. Changes also were made to the section pertaining to appraisals in order to

conform with the provisions of the Office of Management and Budget Circular A–129 and other guidelines concerning the implementation of the FIRREA. These directives provide guidelines for appraising all real estate including FmHA's inventory farm property. Other minor changes have been made in order to provide clarification, to update references to other FmHA instructions and exhibits, and to correct grammar and punctuation.

B. Response to Comments

The Agency received two comments from two respondents; those comments and the Agency's responses are as follows:

One respondent commented that permitting FmHA to reclassify as surplus, land in inventory prior to May 7, 1992, which is not sold after only one more advertisement, clearly violated Congressional intent. The respondent further commented that beginning farmers would be the biggest losers since there was no preference given for beginning farmers prior to May 7, 1992. The Agency is unable to adopt this comment. The Agency has already begun the disposition of its inventory properties, and the vast majority of the suitable properties on hand had already been advertised numerous times with no success. Since these properties did not sell previously, not even as the result of one more advertisement after May 7, 1992, the Agency does not consider these farms to be suitable units for beginning farmers to purchase and will, therefore, classify them as surplus.

One respondent also commented that clarification should be provided to show that it is not the Agency's intent to hold inventory farm property that was in inventory on May 7, 1992, another 12 months after the first set of advertisements. The respondent suggested that § 1955.63 be revised to use the word "is" instead of "was" when referring to property that was not available for sale or was withheld from the market. The Agency does not accept this comment. This section refers to property that was in inventory prior to May 7, 1992, and does not affect newly acquired properties.

List of Subjects

7 CFR Part 1943

Credit, Loan programs—Agriculture, Recreation, Water Resources

7 CFR Part 1955

Foreclosure, Government acquired property, Government property management, sale of government acquired property, Surplus government property.

Accordingly, chapter XVIII, title 7, Code of Federal Regulations is amended as follows:

PART 1943—FARM OWNERSHIP, SOIL AND WATER AND RECREATION

1. The authority citation for Part 1943 continues to read as follows:

Authority: 7 U.S.C 1989; 5 U.S.C. 301; 7 CFR 2.23 and 2.70.

Subpart A—Insured Farm Ownership Loan Policies, Procedures and Authorizations

2. Section 1943.4 is amended by revising the definition of "Socially disadvantaged applicant" to read as follows:

§ 1943.4 Definitions.

* * * * *

Socially disadvantaged applicant. An applicant/borrower who has been subjected to racial, ethnic, or gender prejudice because of his/her identity as a member of a group, without regard to his/her individual qualities. For entity applicants, the majority interest has to be held by socially disadvantaged individuals. FmHA has identified socially disadvantaged groups to consist only of Women, Blacks, American Indians, Alaskan Natives, Hispanics, Asians, and Pacific Islanders.

* * * * *

PART 1955—PROPERTY MANAGEMENT

3. The authority citation for part 1955 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23 and 2.70.

Subpart A—Liquidation of Loans Secured by Real Estate and Acquisition of Real and Chattel Property

4. Section 1955.15 is amended by revising paragraph (d)(5) to read as follows:

§ 1955.15 Foreclosure by the Government of loans secured by real estate.

* * * * *

(d) * * *

(5) *Appeals.* All appeals will be handled pursuant to subpart B of part 1900 of this chapter. Foreclosure actions will be held in abeyance while an appeal is pending. No case will be referred to OGC for processing of foreclosure until a borrower's appeal and appeal review have been concluded, or until the time has elapsed during which an appeal or a request for review may be made. In Farmer Programs cases, (except graduation cases under subpart F of part 1951 of this chapter), the borrower must have received the appropriate notices and consideration for primary loan servicing per subpart S of part 1951 of this chapter. Any Farmer Programs cases may be accelerated after all primary loan servicing options have been considered and all related appeals concluded, but will not be submitted to OGC for foreclosure action until all appeals related to any preservation rights have been concluded.

* * * * *

Subpart B—Management of Property

5. In § 1955.53, the definition of "Socially disadvantaged applicant" is revised to read as follows:

§ 1955.53 Definitions.

* * * * *

Socially disadvantaged applicant. An applicant/borrower who has been subjected to racial, ethnic, or gender prejudice because of his/her identity as a member of a group, without regard to his/her individual qualities. For entity applicants, the majority interest has to be held by socially disadvantaged individuals. FmHA has identified socially disadvantaged groups to consist only of Women, Blacks, American Indians, Alaskan Natives, Hispanics, Asians, and Pacific Islanders.

* * * * *

6–7. Section 1955.63 is amended by revising paragraph (a) to read as follows:

§ 1955.63 Suitability determination.

* * * * *

(a) *Property other than housing.* Property which secured loans or was acquired under the CONACT will be classified as suitable or surplus by the applicable County Committee. The classification will be recorded on Form FmHA 440–2, "County Committee Certification or Recommendation," and placed in the inventory property case file. CONACT property originally classified as suitable may be reclassified as surplus because of physical damage such as fire, flood, sheet erosion or falling water table; or change in economic conditions such as the rising cost of production inputs, viable market outlets and obsolescence, which affect its suitability for program purposes. In addition, suitable farm property that is not sold to a family-size farm operator, including beginning farmers or ranchers, within 12 months from the date of the first advertisement pursuant to § 1955.107(a) of subpart C of this part 1955, will be reclassified surplus

(without County Committee approval). Any suitable property that was in inventory as of May 7, 1992, must be advertised one more time (that is, one advertisement must be after May 7, 1992) to family-size farm operators. If the property was withheld from the market because its sale may have a negative impact on farm real estate values or for other administrative reasons, such as statutory or proposed regulation revisions, the 12-month period will be extended to compensate for the period of time the property was not available for sale. Form FmHA 1955–3A, "Acquired Property—Maintenance," must be completed and entered into the FmHA field office terminal to update the change in the property's classification. If the property is offered for sale as surplus and the purchaser is eligible for FmHA assistance, it may be reclassified by the County Committee as suitable, if it is in fact suitable for program purposes.

* * * * *

8. Section 1955.66 is amended by adding the words "of this section" following the words "(d)(1) and (d)(2)" in paragraph (d)(4) and by revising paragraphs (c)(2), (e)(1), and (g) to read as follows:

§ 1955.66 Lease of real property.

* * * * *

(c) * * *

(2) *Racial, ethnic, and gender consideration.* The approval official will make a special effort to insure that those prospective lessees are reached in the marketing area who traditionally would not be expected to lease FmHA farm inventory properties or apply for Farm Ownership loan assistance because of existing racial, ethnic, or gender prejudice. Emphasis will be placed on providing technical assistance to such socially disadvantaged individuals in accordance with the applicable sections of subpart A of part 1910 of this chapter.

* * * * *

(e) * * *

(1) *Farm property.* To arrive at a market rent amount, the County Supervisor will make a survey of lease amounts of farms in the immediate area with similar soils, capabilities, and income potential. This rental data will be maintained in an operational file as well as in the running records of case files for leased inventory properties. While cash rent is preferred, lease of a farm on a crop-share basis may be approved if this is the customary method in the area. For crop-share leases, the lease amount and terms must be outlined in detail in the "Special Stipulations" section of the lease, in accordance with the FMI for Form FmHA 1955–20. The lessee will in these cases market the crop(s), provide FmHA with documented evidence of crop income, and pay the pro rata share of the income to FmHA. The leasing official is responsible for seeing that crops are properly accounted for and for collecting the lease money.

* * * * *

(g) *Highly erodible land.* If farm inventory property contains "highly erodible land," as determined by the SCS, the lease must include conservation practices specified by the SCS and approved by FmHA as a condition for leasing.

* * * * *

9. Section 1955.80 is amended by revising paragraph (c) to read as follows:

§ 1955.80 Management of inventory chattel property.

* * * * *

(c) *Lease of chattel property.* Chattels which are essential to the operation of a farm, such as bulk milk tanks, pumps, and center-pivot sprinkler systems may be leased along with the real property. The lease amount will be based on documented comparable rental rates and the amount will be specified in the lease agreement. The lessee will be responsible for maintenance and repairs during the lease term. Repair costs will be limited to those essential under the terms of the lease to place the equipment in operable condition. When a lessee cannot or will not make needed repairs, the servicing official will contact the State Director for guidance on economic feasibility.

* * * * *

10. In § 1955.81, the first sentence is amended by adding commas after the words "cases," "law," and the first occurrence of the word "subpart;" and the second sentence is amended by adding the word "the" after the word "with" and adding the word "a" after the word "upon."

Subpart C—Disposal of Inventory Property

11. In § 1955.103, the definition of "socially disadvantaged applicant" is revised to read as follows:

§ 1955.103 Definitions.

* * * * *

Socially disadvantaged applicant. An applicant/borrower who has been subjected to racial, ethnic, or gender prejudice because of his/her identity as a member of a group, without regard to his/her individual qualities. For entity applicants, the majority interest has to be held by socially disadvantaged individuals. FmHA has identified socially disadvantaged groups to consist only of Women, Blacks, American Indians, Alaskan Natives, Hispanic, Asians, and Pacific Islanders.

* * * * *

12. Section 1955.105 is amended by revising paragraph (d) to read as follows:

§ 1955.105 Real property affected (CONACT).

* * * * *

(d) Highly erodible land. If farm inventory property contains "highly erodible land," as determined by the SCS, the lease must include conservation practices specified by the SCS and approved by FmHA as a condition for leasing. Refer to § 1955.137 (f) of this subpart for implementation requirements.

13. In Section 1955.106, paragraph (b) is revised to read as follows:

§ 1955.106 Disposition of farm property.

* * * * *

(b) *Racial, ethnic, and gender consideration.* The County Supervisor will make a special effort to insure that prospective purchasers, who traditionally would not be expected to apply for farm ownership loan assistance because of existing racial, ethnic, or gender prejudice, are informed of the availability of the Socially Disadvantaged Program. Emphasis will be placed on providing assistance to such socially disadvantaged applicants in accordance with the applicable sections of subpart A of part 1943 of this chapter.

* * * * *

14. In § 1955.108, paragraph (b) is amended in the last sentence by removing the title of Form FmHA 1955–41, and paragraph (c) is revised to read as follows:

§ 1955.108 Sale of surplus property (CONACT).

* * * * *

(c) *Sale by sealed bid or auction.* Surplus real property must be offered for public sale by sealed bid or auction. The State Director will determine the method of the sale, the minimum acceptable sale price and whether or not credit will be offered prior to the offering. The minimum acceptable sale price established may not be more than the market value. For sealed bid sales, preference will be given to a cash offer which is at least * percent of the highest offer requiring credit. (*Refer to Exhibit B of FmHA Instruction 440.1 (available in any FmHA office) for the current percentage.) For property other than

farm property, equally acceptable sealed bid offers will be decided by lot.

* * * * *

15. Section 1955.122 is amended by revising the first sentence of paragraph (d)(1) to read as follows:

§ 1955.122 Method of sale (chattel).

* * * * *

(d) * * *

(1) *Established public auction.* An established public auction is an auction that is widely advertised and held on a regularly scheduled basis at the same facility. * * *

* * * * *

16. Section 1955.123 (a) is revised to read as follows:

§ 1955.123 Sale procedures (chattel).

(a) *Sales.* Although cash sales are preferred in the sale of chattels, credit sales may be used advantageously in the sale of chattels to eligible purchasers and to facilitate sales of high-priced chattels. Chattel sales will be made to eligible purchasers in accordance with the provisions of this chapter. Preference will be given to a cash offer which is at least * percent of the highest offer requiring credit. (*Refer to Exhibit B of FmHA Instruction 440.1 (available in any FmHA office) for the current percentage.) Credit sales made to ineligible purchasers will require not less than a 10 percent downpayment with the remaining balance amortized over a period not to exceed 5 years. The interest rate for ineligible purchasers will be the current ineligible interest rate for Farmer Programs property set forth in Exhibit B of FmHA Instruction 440.1 (available in any FmHA office). Form FmHA 431–2, in conjunction with Form FmHA 440–32, "Request for Statement of Debts and Collateral," may be used to show financial capability. For Farmer Programs, County Supervisors, District Directors, and State Directors are authorized to approve or disapprove chattel sales on eligible terms in accordance with the respective loan approval authorities in Exhibit C of FmHA Instruction 1901–A (available in any FmHA office). Applicants who have been determined ineligible, and eligible applicants who have their application disapproved, will be notified of the opportunity to appeal in accordance with subpart B of part 1900 of this chapter. County Supervisors, District Directors, and State Directors are authorized to approve or disapprove chattel sales on ineligible terms in accordance with the respective type of program approval authorities in Exhibit E of FmHA Instruction 1901–A (available in any FmHA office.)

* * * * *

17. Section 1955.128 is revised to read as follows:

§ 1955.128 Appraisers.

(a) *Real property.* The State Director may authorize the County Supervisor or District Director to procure fee appraisals of inventory property, except MFH properties, to expedite the sale of inventory real or chattel property. (Fee appraisals of MFH properties will only be authorized by the Assistant Administrator, Housing, when unusual circumstances preclude the use of a qualified FmHA MFH appraiser.) The decision will be based on the availability of comparables, the capability and availability of personnel, and the number and type of properties (such as large farms and business property) requiring valuation. For Farmer Programs real estate properties, all contract (fee) appraisers should include the sales comparison, income (when applicable), and the cost approach to value. All FmHA real estate contract appraisers must be certified as State-Certified General Appraisers.

(b) *Chattel property.* For Farmer Programs chattel appraisals, the contractor/appraiser completing the report must meet at least one of the following qualifications:

(1) Certification by a National or State appraisal society.

(2) If the contractor is not a certified appraiser and a certified appraiser is not available, the contractor may qualify or may use other qualified appraisers, if the contractor can establish that he/she or that the appraiser meets the criteria for a certification in a National or State appraisal society.

(3) The appraiser has recent, relevant, documented appraisal experience or training, or other factors clearly establish the appraiser's qualifications.

Dated: August 16, 1993.

Bob Nash,

Under Secretary, Small Community and Rural Development.

[FR Doc. 93–26889 Filed 11–2–93; 8:45 am]

BILLING CODE 3410–07–U

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Regulations

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: The Small Business Administration (SBA) hereby amends its size regulations to provide that prime contractors may rely on the information contained in SBA's Procurement Automated Source System (PASS) as an accurate representation of a concern's size and ownership characteristics for purposes of maintaining a small business source list.

DATES: This rule is effective November 3, 1993.

FOR FURTHER INFORMATION CONTACT: Catherine B. Thomas, Procurement Analyst, (202) 205–6460.

SUPPLEMENTARY INFORMATION: On September 9, 1993, the SBA amended its size regulations to make a general policy statement that prime contractors may rely on the information contained in SBA's Procurement Automated Source System (PASS) as an accurate representation of a concern's size for the purpose of maintaining a small business source list. Although contained in the supplementary information, the words "and ownership characteristics" were inadvertently omitted from the actual rule. This final rule is to remedy that omission. The new rule will amend the size regulations to make a general policy statement that prime contractors may rely on the information contained in SBA's Procurement Automated Source System (PASS) as an accurate representation of a concern's size and ownership characteristics for the purpose of maintaining a small business source list.

SBA is publishing this rule setting forth a general statement of Agency policy without prior notice or an opportunity for public comment pursuant to the Administrative Procedure Act, 5 U.S.C. 553(b)(A).

Compliance With Executive Orders 12291, 12612 and 12778, the Regulatory Flexibility Act (55 U.S.C. 601, et seq.), and the Paperwork Reduction Act (44 U.S.C. Chap. 35)

For purposes of Executive Orders 12291, SBA certifies that this final rule is not considered a major rule because it would not have an annual economic effect in excess of $100 million, it would not lead to a major increase in costs, and it would not have an adverse effect on competition. This rule effects no substantive change to SBA's regulations and does not affect the rights of any party. Rather, this rule is meant to provide contractors with an efficient, cost-effective means of undertaking a task they are presently doing. In fact, SBA believes that this rule will result in collective savings to prime contractors and small businesses of more than $6 million per year.

For purposes of the Regulatory Flexibility Act, SBA certifies that this rule will not have a significant economic impact on a substantial

number of small entitles for the same reason that it is not a major rule.

For purposes of Executive Order 12612, SBA certifies that this rule will not have federalism implications warranting the preparation of a Federalism Assessment.

For purposes of Paperwork Reduction Act, SBA certifies that this rule will not have new or additional reporting or recordkeeping requirements.

For purposes of Executive Order 12778, SBA certifies that this rule is drafted in accordance with the standards set forth in Section 2 of that Order.

List of Subjects in 13 CFR Part 121

Administrative practice and procedure, government procurement, small business.

For the reasons set forth above, part 121 of title 13, Code of Federal Regulations, is amended as follows:

PART 121 [AMENDED]

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

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

2. Section 121.911(a) is revised to read as follows:

§ 121.911 Size procedures under SBA's Section 8(d) Subcontracting Program.

(a) Prime contractors may rely on the information contained in SBA's Procurement SBA's Procurement Automated Source System (PASS) as an accurate representation of a concern's size and ownership characteristics for purposes of maintaining a small business source list. However, although a prime contractor may rely on the information contained in PASS for purposes of maintaining a small business source list, this does not remove the requirement that a concern must qualify and self-certify as a small business at the time it submit its offer as a section 8(d) subcontractor as set forth in § 121.905(a).

* * * * *

Dated: October 27, 1993.

Erskine B. Bowles,

Administrator.

[FR Doc. 93-27019 Filed 11-2-93; 8:45 am]

BILLING CODE 8025-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Prohibition on Insider Trading

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule; correction.

SUMMARY: This document contains corrections to the release explaining the final insider trading regulation which was published on October 25, 1993 (58 FR 54966).

SUPPLEMENTARY INFORMATION: As published, the release explaining the final amendments to Commission Regulation 1.59, 17 CFR 1.59, the Commission's insider trading regulation, contains several errors which may prove to be misleading and therefore require correction. In the table on page 54967 of the October 25, 1993 release, 58 FR 54966, the fifth entry in the fourth column, "Unchanged," should read "Revised" and the thirteenth entry in the fourth column, "Unchanged," also should read "Revised." In addition, in the third line of the first sentence of the first full paragraph in column one on page 54973, the word "not" should be inserted between the word "would" and the word "have."

Dated: October 28, 1993.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 93-26975 Filed 11-2-93; 8:45 am]

BILLING CODE 6351-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 249

[Release Nos. 33-6902; 34-29354; 39-2267; IC-18210; International Series Release No. 291]

RIN 3235-AC64

Multijurisdictional Disclosure and Modifications to the Current Registration and Reporting System for Canadian Issuers

CFR Correction

In Title 17 of the Code of Federal Regulations, part 240 to end, revised as of June 1, 1993, on page 437, in the second column immediately following § 249.240f (b)(3), paragraphs (b)(4) and (5) were inadvertently removed. The omitted text should read as follows:

§ 249.240f [Corrected]

* * * * *

(b) * * *

(4) The aggregate market value of the outstanding equity shares of the registrant is:

(i) (CN) $180 million or more if a report or registration statement filed on this Form relates to convertible securities of a Form F-9-eligible issuer that would be eligible for registration under the Securities Act on Form F-9; or

(ii) (CN) $360 million or more in all other cases; *provided, however,* that no market value threshold need be satisfied in connection with non-convertible securities eligible for registration on Form F-9; and

(5) The aggregate market value of the public float of such equity shares is (CN) $ 75 million or more; *provided, however,* that no market value threshold need be satisfied in connection with non-convertible securities eligible for registration on Form F-9.

* * * * *

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Praziquantel/Pyrantel Pamoate Tablets

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Miles, Inc., Agriculture Division, Animal Health Products. The NADA provides for oral use of Drontal™ tablets containing 18.2 milligrams (mg) praziquantel with 72.6 mg pyrantel (as pyrantel pamoate) for cats and kittens for removal of tapeworms, hookworms, and large roundworms.

EFFECTIVE DATE: November 3, 1993.

FOR FURTHER INFORMATION CONTACT: Marcia K. Larkins, Center for Veterinary Medicine (HFV-112), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-594-0614.

SUPPLEMENTARY INFORMATION: Miles, Inc., Agriculture Division, Animal Health Products, P. O. Box 390, Shawnee Mission, KS 66201, filed NADA 141-008, which provides for oral use of Drontal™ (Praziquantel/Pyrantel Pamoate) tablets for cats and kittens for removal of tapeworms (*Dipylidium caninum, Taenia taeniaeformis*), hookworms (*Ancylostoma tubaeforme*), and large roundworms (*Toxacara cati*). The NADA was approved September 29, 1993. The regulations are amended by adding new § 520.1871 to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(ii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(ii)), this approval for nonfood producing animals qualifies for 3 years of marketing exclusivity beginning September 29, 1993, because the application contains reports of new clinical or field investigations (other than bioequivalence studies) essential to the approval and conducted or sponsored by the applicant.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

2. New § 520.1871 is added to read as follows:

§ 520.1871 Praziquantel/pyrantel pamoate tablets.

(a) *Specifications.* Each cat tablet contains 18.2 milligrams (mg) praziquantel with 72.6 mg pyrantel (as pyrantel pamoate).

(b) *Sponsor.* See 000859 in § 510.600(c) of this chapter.

(c) *Conditions of use*— (1) *Cats*— (i) *Dosage.* 1.5 to 1.9 pounds, 1/4 tablet; 2 to 3 pounds, 1/2 tablet; 4 to 8 pounds, 1 tablet; 9 to 12 pounds, 1 1/2 tablets; 13 to 16 pounds, 2 tablets.

(ii) *Indications for use.* For removal of tapeworms (*Dipylidium caninum* and *Taenia taeniaeformis*), hookworms (*Ancylostoma tubaeforme*), and large roundworms (*Toxocara cati*) in cats and kittens.

(iii) *Limitations.* Not for use in kittens less than 1 month of age or weighing less than 1.5 pounds. May be given directly by mouth or in a small amount of food. Do not withhold food prior to or after treatment. If reinfection occurs, treatment may be repeated. Consult your veterinarian before giving to sick or pregnant animals. Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism.

(2) [Reserved]

Dated: October 25, 1993.

Richard H. Teske,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 93-26950 Filed 11-2-93; 8:45 am]

BILLING CODE 4160-01-F

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Ivermectin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect the approval of a new animal drug application (NADA) filed by Merck Research Laboratories, Division of Merck & Co., Inc. The NADA provides for use of a Type A medicated article containing ivermectin in manufacturing Type C medicated feeds. The feeds are intended for use in growing swine for the treatment and control of certain endo- and ectoparasites.

EFFECTIVE DATE: November 3, 1993.

FOR FURTHER INFORMATION CONTACT: Melanie R. Berson, Center for Veterinary Medicine (HFV-135), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-594-1643.

SUPPLEMENTARY INFORMATION: Merck Research Laboratories, Division of Merck & Co., Inc., P.O. Box 2000, Rahway, NJ 07065, filed NADA 140-974 which provides for use of a Type A medicated article containing 0.6 percent ivermectin in manufacturing Type C medicated swine feeds containing 2 parts per million ivermectin. The feed is indicated for the treatment and control of certain gastrointestinal roundworm, lungworm, kidney worm, lice and mite infestations of growing swine as in new § 558.300.

The NADA is approved as of November 3, 1993 and the regulations are amended in part 558 (21 CFR part 558) by adding new § 558.300 to reflect the approval. The basis of approval is discussed in the freedom of information summary. The regulations are also amended by adding ivermectin to the Category II table in § 558.4(d) because of the withdrawal requirement for use of the Type C medicated feed in swine.

Additionally, because a Category II, Type A medicated article is involved, medicated feed applications (Form FDA 1900) are required when the article is used to manufacture Type C medicated feeds.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Section 512(c)(2)(F)(ii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(ii)) provides a 3-year period of exclusivity to this original NADA beginning November 3, 1993, because new clinical or field investigations (other than bioequivalence or residue studies) essential to this approval were conducted or sponsored by the applicant.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

2. Section 558.4 is amended in paragraph (d) in the "Category II" table by alphabetically adding a new entry for "Ivermectin" to read as follows:

§ 558.4 Medicated feed applications.

* * * * *

(d) * * *

* * * * *

CATEGORY II

Drug	Assay limits percent[1] Type A	Type B maximum (100x)	Assay limits percent[1] Type B/C[2]
* * * * *			
Ivermectin	95–105	182 g/ton (0.02%)	80–110
* * * * *			

[1] Percent of labeled amount.

[2] Values given represent ranges for either Type B or Type C medicated feeds. For those drugs that have two range limits, the first set is for a Type B medicated feed and the second set is for a Type C medicated feed. These values (ranges) have been assigned in order to provide for the possibility of dilution of a Type B medicated feed with lower assay limits to make Type C medicated feed.

* * * * *

3. New § 558.300 is added to subpart B to read as follows:

§ 558.300 Ivermectin.

(a) *Approvals.* Type A medicated articles: 0.6 percent (2.72 grams per pound; 6 grams per kilogram) to 000006 in § 510.600(c) of this chapter.

(b) *Related tolerances.* See § 556.344 of this chapter.

(c) *Conditions of use.* (1) It is used in swine feed as follows:

(i) *Amount per ton.* 300 grams of Type A medicated article (equivalent to 1.8 grams of ivermectin).

(ii) *Indications for use.* For the treatment and control of gastrointestinal roundworms (*Ascaris suum*, adult and fourth-stage larvae; *Ascarops strongylina*, adults; *Hyostrongylus rubidus*, adult and fourth-stage larvae; *Oesophagostomum* spp., adult and fourth-stage larvae), kidneyworms (*Stephanurus dentatus*, adults and fourth-stage larvae), lungworms (*Metastrongylus* spp., adults), lice (*Haematopinus suis*) and mange mites (*Sarcoptes scabiei* var. *suis*).

(iii) *Limitations.* Feed as the only feed for 7 consecutive days. For use in swine only. Not to be fed to swine that weigh more than 220 pounds. Withdraw 5 days before slaughter.

(2) [Reserved]

Dated: October 27, 1993.

Richard H. Teske,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 93-26949 Filed 11-2-93; 8:45 am]

BILLING CODE 4160-01-F

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA-7586]

List of Communities Eligible for the Sale of Flood Insurance

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule identifies communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The dates listed in the third column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the NFIP at: Post Office Box 457, Lanham, MD 20706, (800) 638-7418.

FOR FURTHER INFORMATION CONTACT: James Ross MacKay, Acting Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, 500 C Street SW., room 417, Washington, DC 20472, (202) 646-2717.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM). The date of the flood map, if one has been published, is indicated in the fourth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4012(a), requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard areas shown on the map.

The Director finds that the delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Federal Insurance Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities in accordance with the Regulatory Flexibility Act, 5 U. S. C. 601 et seq., because the rule creates no additional burden, but lists those communities eligible for the sale of flood insurance.

Regulatory Impact Analysis

This rule is not a major rule under Executive Order 11291, Federal Regulation, February 17, 1981, 3 CFR, 1981 Comp., p. 127. No regulatory impact analysis has been prepared.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

Executive Order 12612, Federalism,

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*, Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

State/location	Community No.	Effective date of authorization/cancellation of sale of flood insurance in community	Current effective map date
New Eligibles—Emergency Program			
South Dakota: Spencer, town of, McCook County	460140	Sept. 2, 1993	
Iowa:			
Bradgate, city of, Humbolt County	190420	.....do	June 25, 1976.
Pisgah, city of, Harrison County	190151	.....do	Dec. 6, 1974.
Shellsburg, city of, Benton County	190319	.....do	Oct. 29, 1976.
Madison County, unincorporated areas	190887	Sept. 10, 1993	Jan. 17, 1978.
Nebraska: Cuming County, unincorporated areas	310427	Sept. 14, 1993	August 16, 1977.
Iowa: Brandon, city of, Buchanan County	190328	Sept. 15, 1993	Oct. 29, 1976.
Oklahoma: Beckham County, unincorporated areas	400487	Sept. 30, 1993	
Indiana: Brazil, city of, Clay County	180511	.....do	
New Eligibles—Regular Program			
Iowa: Letts, city of, Louisa County	190311	Sept. 2, 1993	Feb. 6, 1991.
Missouri: Rosendale, city of, Andrew County	290008	Sept. 10, 1993	August 19, 1986.
Withdrawn—Regular Program			
Montana: Grass Range, town of, Fergus County.	300021	Oct. 7, 1981, Emerg.; Dec. 1, 1982, Reg.; Sept. 21, 1993, With	Dec. 1, 1982.
Reinstatements—Regular Program			
Iowa: Persia, city of, Harrison County	190150	Apr. 6, 1976, Emerg.; Sept. 4, 1985, Reg.; Sept. 4, 1985 Susp.; Sept. 1, 1993, Rein	Sept. 4, 1985.
New York:			
Hartwick, town of, Ostego County	361271	May 13, 1977, Emerg.; Nov. 4, 1983, Rein.; Nov. 4, 1992, Susp.; Sept. 9, 1993 Rein.	Nov. 4, 1983.
Fulton, town of, Schoharie County	361195	May 13, 1977, Emerg.; Nov. 18, 1983 Reg.; Nov. 4, 1992, Susp.; Sept. 9, 1993, Rein.	November 18, 1983.
Nebraska: Shelton, village of, Buffalo County	310019	Oct. 30, 1975, Emerg.; Sept. 27, 1985, Reg.; Jan. 3, 1986, Susp.; Sept. 24, 1993, Rein.	Sept. 27, 1985.
Indiana: Cloverdale, town of, Putnam County	180215	May 9, 1975, Emerg.; June 17, 1986, Rein.; June 17, 1986, Susp.; Sept. 22, 1993, Rein.	June 17, 1986.
Regular Program Conversions			
Region II:			
New York: Lyme, town of, Jefferson County	360343	Sept. 2, 1993, suspension withdrawn	Sept. 2, 1993.
Region III:			
Pennsylvania:			
Allegany, township of, Potter County	421972	.....do	Dec. 1, 1986.
Birdsboro, borough of, Berks County	420127	.....do	Dec. 18, 1979.
Deerfield, township of, Tioga County	421176	.....do	June 1, 1987.
Hector, township of, Potter County	421980	.....do	Dec. 1, 1986.
Meadville, city of, Crawford County	420351	.....do	June 1, 1977.
Menno, township of, Mifflin County	421881	.....do	June 1, 1987.
Warwick, township of, Chester County	421494	.....do	Mar. 1, 1984.
Region IX:			
Hawaii: Kauai County, unincorporated areas	150002	.....do	Mar. 4, 1987.
Regular Program Conversions			
Region II:			
New York:			
Chatham, town of, Columbia County	361314	Sept. 15, 1993, suspension withdrawn	Sept. 15, 1993.
Freeport, village of, Nassau County	360464	.....do	Do.
Moreau, town of, Saratoga County	360723	.....do	Do.
Philadelphia, village of, Nassau County	360348	.....do	Do.
Region IV:			
Tennessee: Erin, city of, Houston County	470213	.....do	Do.

State/location	Community No.	Effective date of authorization/cancellation of sale of flood insurance in community	Current effective map date
Region V:			
Indiana: Marengo, town of, Crawford County	180033	....do	Sept. 16, 1982.

Code for reading fourth column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension, Rein.—Reinstatement.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")

Issued: October 21, 1993.

Donald L. Collins,

Acting Administrator, Federal Insurance Administration.

[FR Doc. 93-26996 Filed 11-2-93; 8:45 am]

BILLING CODE 6718-21-P

44 CFR Part 64

[Docket No. FEMA-7587]

Suspension of Community Eligibility

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register**.

EFFECTIVE DATES: The effective date of each community's suspension is the third date ("Susp.") listed in the third column of the following tables.

ADDRESSES: If you wish to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

FOR FURTHER INFORMATION CONTACT: James Ross MacKay, Acting Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, 500 C Street SW., room 417, Washington, DC 20472, (202) 646-2717.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the National Flood Insurance Program, 42 U.S.C. 4001 et seq., unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59 et seq. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications have been made, this final rule may take effect within less than 30 days.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Federal Insurance Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless they take remedial action.

Regulatory Impact Analysis

This rule is not a major rule under Executive Order 12291, Federal Regulation, February 17, 1981, 3 CFR, 1981 Comp., p. 127. No regulatory impact analysis has been prepared.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

State/location	Community No.	Effective date of authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
Regular Program Conversions				
Region III:				
West Virginia: Pocahontas County, unincorporated areas	540283	Feb. 12, 1976, Emerg.; Oct. 17, 1989, Reg.; Nov. 3, 1993, Susp.	Oct. 17, 1989	Nov. 3, 1993.
Region V:				
Wisconsin: Pierce County, unincorporated areas.	555571	Dec. 31, 1970, Emerg.; July 14, 1972, Reg.; Nov. 3, 1993, Susp.	Nov. 3, 1993	Do.
Region VI:				
Arkansas: Little Rock, city of, Pulaski County.	050181	Mar. 16, 1973, Emerg.; Mar. 4, 1980, Reg., Nov. 3, 1993, Susp.	.....do	Do.
Region IX:				
California:				
Mission Viejo, city of, Orange County.	060735	Sept. 26, 1989, Reg.; Nov. 3, 1993, Susp.	.....do	Do.
Orange, city of, Orange County	060228	May 1, 1987, Emerg.; May 1, 1987, Reg.; Nov. 3, 1993, Susp.	.....do	Do.
Orange County, unincorporated areas.	060212	Apr. 30, 1971, Emerg.; Sept. 14, 1979, Reg.; Nov. 3, 1993, Susp.	.....do	Do.
San Juan Capistrano, city of, Orange County.	060231	Aug. 7, 1975, Emerg.; Sept. 14, 1979, Reg.; Nov. 3, 1993, Susp.	.....do	Do.
Region I:				
Connecticut: Stamford, city of, Fairfield County.	090015	Mar. 10, 1972, Emerg.; Jan. 16, 1981, Reg.; Nov. 17, 1993, Susp.	Nov. 17, 1993	Nov. 17, 1993.
Rhode Island: Johnston, town of, Providence County..	440018	Aug. 1, 1975, Emerg.; Sept. 1, 1978, Reg.; Nov. 17, 1993, Susp.	Nov. 17, 1993	Do.
Region III:				
Pennsylvania:				
Birdsboro, borough of, Berks County.	420127	Dec. 29, 1972, Emerg.; Dec. 18, 1979, Reg.; Nov. 17, 1993, Susp.	Dec. 18, 1979	Do.
Hector, township of, Potter County	421980	June 9, 1975, Emerg.; Dec. 1, 1986, Reg.; Nov. 17, 1993, Susp.	Dec. 1, 1986	Do.
Menno, township of, Mifflin County	421881	Mar. 8, 1985, Emerg.; June 1, 1987, Reg.; Nov. 17, 1993, Susp.	June 1, 1987	Do.
Warwick, township of, Chester County.	421494	Nov. 28, 1975, Emerg.; Mar. 1, 1984, Reg.; Nov. 17, 1993, Susp.	Mar. 1, 1984	Do.
Region VIII:				
Colorado: Larimer County, unincorporated areas.	080101	July 2, 1974, Emerg.; Apr. 2, 1979, Reg.; Nov. 17, 1993, Susp.	Nov. 17, 1993	Do

Code for reading fourth column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")

Issued: October 26, 1993.

Donald L. Collins,

Acting Administrator, Federal Insurance Administration.

[FR Doc. 93-26997 Filed 11-2-93; 8:45 am]

BILLING CODE 6718-21-P

Proposed Rules

Federal Register
Vol. 58, No. 211
Wednesday, November 3, 1993

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

NUCLEAR REGULATORY COMMISSION

10 CFR Part 40

RIN 3150-AE77

Uranium Mill Tailings Regulations; Conforming NRC Requirements to EPA Standards

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is proposing to amend its regulations governing the disposal of uranium mill tailings. These changes would conform existing NRC regulations to proposed regulations published by the Environmental Protection Agency (EPA). The proposed conforming amendments are intended to clarify the existing rules by ensuring timely emplacement of the final radon barrier and by requiring appropriate verification of the radon flux through that barrier. This action is related to another action by EPA to rescind its National Emission Standard for Hazardous Air Pollutants (NESHAPs) for radon emissions from the licensed disposal of uranium mill tailings at non-operational sites.

DATES: Submit comments by December 17, 1993. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Send comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555. ATTN: Docketing and Service Branch.

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:45 am and 4:15 pm Federal workdays.

Examine comments received, the environmental assessment and finding of no significant impact, and the regulatory analysis at: The NRC Public Document Room, 2120 L Street NW., (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Catherine R. Mattsen, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492-3638.

SUPPLEMENTARY INFORMATION:

Background

On April 29, 1983 (48 FR 19584), EPA proposed general environmental standards for uranium and thorium mill tailings sites licensed by NRC or one of its Agreement States. Final standards were published on September 30, 1983 (48 FR 45926) and codified in 40 CFR part 192, subparts D and E. On October 16, 1985 (50 FR 41852), NRC published amendments to 10 CFR part 40 to conform its rules to EPA's general standards in 40 CFR part 192, as it affected matters other than ground water protection. Both NRC and EPA regulations included a design standard requiring that the tailings or wastes from mill operations be covered to provide reasonable assurance that radon released to the atmosphere from the tailings or wastes will not exceed an average of 20 picocuries per square meter per second (pCi/m^{2}s) for 1000 years, to the extent reasonably achievable, and in any case, for 200 years.

Neither the EPA standards of 1983 nor NRC's conforming standards of 1985 established compliance schedules to ensure that the tailings piles would be expeditiously closed and the 20 pCi/m^{2}s standard would be met within a reasonable period of time. *Criterion 6* of appendix A to part 40 is a design standard. *Criterion 6* does not require verification that the radon releases meet this "flux standard."

In response to the separate requirements of the Clean Air Act (CAA), EPA promulgated additional standards in 40 CFR part 61 (subpart T for non-operational sites) to ensure that the piles would be closed in a timely manner (December 15, 1989; 54 FR 51654). This regulation applies only to uranium mill tailings and requires, in addition to the flux standard of 20 pCi/m^{2}s, that once a uranium mill tailings pile or impoundment ceases to be operational, it must be closed and brought into compliance with the standard within two years of the effective date of the standard (by December 15, 1991) or within two years of the day it ceases to be operational, whichever is later. If it were not physically possible for the mill owner or operator to complete disposal within that time, EPA contemplated a negotiated compliance agreement with the mill owner or operator pursuant to EPA's enforcement authority in order to assure that disposal would be completed as quickly as possible. Subpart T of 40 CFR part 61 also requires testing for all piles within the facility to demonstrate compliance with the emission limit, as well as specific reporting and recordkeeping associated with this demonstration.

Subpart T was challenged by a number of parties including the American Mining Congress (AMC), the Environmental Defense Fund (EDF), and the Natural Resources Defense Council (NRDC). In addition, AMC, the NRC, and others filed an administrative petition for reconsideration of subpart T. Among the concerns of these parties was the argument that the overlap between EPA's subpart D of 40 CFR part 192 (based on the Uranium Mill Tailings Radiation Control Act (UMTRCA)) and subpart T of 40 CFR part 61 (based on the CAA) resulted in regulations that are unnecessarily burdensome and duplicative. The industry also alleged that subpart T was unlawful because it was physically impossible to come into compliance with subpart T in the time required. In November 1990, Congress amended the CAA by including a new provision, section 112(d)(9). This provision authorized EPA to decline to regulate radionuclide emissions from NRC licensees under the CAA if EPA found, by rule, after consultation with NRC, that the regulatory program implemented by NRC protects the public health with an ample margin of safety.

In July 1991, EPA, NRC, and the affected Agreement States began discussions concerning the dual regulatory programs established under UMTRCA and the CAA. In October 1991, those discussions resulted in a Memorandum of Understanding (MOU) between EPA, NRC, and the affected Agreement States. The MOU outlines the steps each party would take to both eliminate regulatory redundancy and to ensure uranium mill tailings piles are closed as expeditiously as practicable. (The MOU was published by EPA as part of a proposal to stay subpart T on October 25, 1991 (56 FR 55434).) The

primary purpose of the MOU is to ensure that the owners and operators of all disposal sites that have ceased operation and those owners and operators of sites that will cease operation in the future effect emplacement of a final earthen cover to limit radon emissions to a flux of no more than 20 pCi/m²s as expeditiously as practicable considering technological feasibility. The MOU presents a goal that all current disposal sites be closed and in compliance with the radon emission standard by the end of 1997 or within seven years of the date on which existing operations cease and standby sites enter disposal status. The attachment to the MOU lists specific target dates for completing emplacement of final earthen covers to limit radon emissions from non-operational tailings impoundments which were based on consultations with the licensed mill operators.

In accordance with the MOU, the NRC and affected Agreement States agreed to amend the licenses of all sites whose milling operations have ceased and whose tailings piles remain partially or totally uncovered. The amended licenses would require each mill operator to establish a detailed reclamation plan that includes key closure milestones and a schedule for timely emplacement of a final radon barrier on all non-operational tailings impoundments to ensure that radon emissions after closure do not exceed 20 pCi/m$_2$s. The licenses were to be amended as soon as practicable, but in no event later than September 1993.

On December 31, 1991, the EPA published three **Federal Register** notices: a final rule to stay the effectiveness of 40 CFR part 61, subpart T, as it applies to owners and operators of uranium mill tailings disposal sites licensed by the NRC or an Agreement State (56 FR 67537); a proposed rule to rescind 40 CFR part 61, subpart T, as it applies to uranium mill tailings disposal sites licensed by the NRC or an Agreement State (56 FR 67561); and an advance notice of proposed rulemaking to amend 40 CFR part 192, subpart D, to require that site closure occur as expeditiously as practicable considering technological feasibility and to add a demonstration of compliance with the design standard for radon releases (56 FR 67569). The stay of effectiveness of subpart T is to remain in effect until EPA takes final action to rescind subpart T and amend 40 CFR part 192, subpart D, to ensure that the remaining rules are as protective of the public health with an ample margin of safety as implementation of subpart T, or until June 30, 1994. If EPA fails to complete these rulemakings by that date, the stay will expire and the requirements of subpart T will become effective.

The stay of effectiveness of subpart T was also challenged. Discussions continued between EPA, the litigants, and the NRC. In February 1993, final agreement was reached to settle the pending litigation and the administrative proceeding, avoid potential future litigation, and otherwise agree to a consensus approach to regulation of licensed non-operational uranium mill tailings disposal sites. EPA announced the settlement agreement in a notice of April 1, 1993 (58 FR 17230). NRC was not a signatory to this agreement but agreed in principle with the settlement agreement. The settlement agreement further defined steps for implementing the MOU. It called for the NRC to amend its regulations in appendix A of part 40 to be substantially consistent with a specific regulatory approach described in the settlement agreement. It also described actions to be taken by the parties to the agreement which were intended to implement the MOU and eliminate further litigation with respect to subpart T.

On June 8, 1993 (58 FR 32174), the EPA proposed minor amendments to 40 CFR part 192, subpart D, to ensure timely emplacement of the final radon barrier and to require monitoring to verify radon flux levels (a one-time verification). In that notice, the EPA stated its tentative conclusion that if those amendments to 40 CFR part 192, subpart D, were properly implemented by NRC and the Agreement States to ensure specific, enforceable closure schedules and radon level monitoring, the NRC's regulatory program for non-operational uranium mill tailings piles would protect the public health with an ample margin of safety. The EPA also noted its intent to publish a proposed finding for public comment on whether the NRC program protects public health with an ample margin of safety before taking final action on rescission of 40 CFR part 61, subpart T.

EPA's proposed rule is not intended to change EPA's original rationale or scheme set forth in its 1983 rule. The EPA proposed rule "seeks to clarify and supplement that scheme in a manner that will better support its original intent." EPA's proposed rule, and this conforming rule, would require that once a uranium mill becomes non-operational, the final barrier to control radon will be emplaced as expeditiously as practicable considering technological feasibility (including factors beyond the control of the licensee). Setting interim dates for achieving milestones towards emplacement will support and better assure this progress, and post-emplacement determination of radon flux will serve as confirmation that the design of the cover is working as intended. EPA's June 8, 1993, notice of proposed rulemaking provides a detailed discussion of the rationale for the action and the legislative and regulatory history leading to its proposal.

The Commission notes that the nature of the proposed revisions to 40 CFR part 192, subpart D has been influenced by the settlement agreement. The settlement agreement included considerable detail concerning the specifics of the regulations that were to be developed. Apparently as a result of this, 40 CFR part 192, subpart D, as proposed, includes details of implementation such as when public participation in NRC decisions must be allowed, what specific planning aspects must be incorporated into a license, and a specific measurement method as a standard of adequate verification of radon release levels. Although the NRC has no problem with conforming with these particular provisions, it is the Commission's view that the inclusion of these implementation details is a special case because of the settlement agreement and does not establish any precedent with regard to what constitutes a generally applicable standard.

Coordination With Affected NRC Agreement States

The affected Agreement States of Colorado, Texas, and Washington were provided a draft of the proposed rule at a meeting on July 29, 1993. A brief presentation was made describing the proposed rule. A copy was also sent to the State of Illinois, which is the State that most recently assumed responsibility for 11e(2) byproduct material (byproduct material as defined in section 11e(2) of the Atomic Energy Act), but which has no affected uranium byproduct material licensees. All four of these Agreement States submitted comments. The States were in general agreement with the proposed rule and indicated no major problems in implementing compatible requirements.

Response to NRC Agreement State Comments

Comment. The licensee should be required to maintain its records pertaining to radon flux verification until site transfer to DOE or the State. The DOE or the State may elect to obtain such records upon transfer of the site. Also, all records relating to

decommissioning and reclamation should be transferred at this time.

Response. The proposed rule is consistent with this comment. Previously this approach had been discussed as an alternative to be considered in addition to a five year retention period which would have mirrored the requirements of subpart T. The rule does not specifically require transfer of all appropriate records to the custodial agency but assures their availability in this case.

Comment. The 30-day limit for time elapsed between remediation activities should be removed because, in some cases, there can be no real point where one activity ends and another starts.

Response. This additional timeliness criterion has been deleted in the proposed rule. The NRC agrees that the timeliness requirements are adequate without this provision and that it could create some problems. Although the draft provision contained an exception for factors such as weather, it is recognized that the weather during periods longer than 30 days would routinely be expected to preclude certain reclamation activities.

Comment. The term "as soon as reasonably achievable" in paragraph (2) of *Criterion 6* should be changed or defined.

Response. The meaning of this term is discussed in the fifth paragraph of the existing text of the *Introduction* to appendix A. It is used consistently in this context.

Comment. The word "portion" should be deleted from paragraph (3) of *Criterion 6A*. Also, the limitation of not delaying emplacement of the remainder of the final radon barrier should be deleted.

Response. This provision allows limited disposal during closure as an exception to the definition of *operation*. If the whole impoundment is involved in waste disposal and no reclamation activities are proceeding, the impoundment would be considered operational and continue to be under appropriate requirements for operation. Note, one site may have both an operational impoundment and a non-operational impoundment with the applicable regulations applying to each. Also, the suggested changes are likely to violate conformance with the proposed EPA provisions.

Comment. Why are the implementation time limits in the preamble omitted from the rule?

Response. The time periods for completion of the final radon barrier discussed in the preamble of seven years after the end of operation, or December 31, 1997, for those uranium mill tailings impoundments which were non-operational at the time of the MOU, are general goals of the MOU and remain goals. Because of this, specifying these dates in the rule is not necessary or appropriate. The proposed rule would require that specific dates for each impoundment be established as a condition of each license considering site specific factors which could affect the feasibility of meeting this general goal.

Comment. The definition of *operation* is somewhat confusing in regards to "standby status". What controls would prevent a licensee from keeping an impoundment on a standby status for an extended period of time without beginning closure?

Response. The definition of *operation* is in conformance with the definition of "operational" in the proposed EPA amendment to subpart D and in 40 CFR part 61, subpart W. Nothing in this proposed rule would keep the licensee from maintaining its operational status. The licensee would be subject to all requirements of an operational license including 40 CFR part 61, subpart W, which contains a 20 pCi/m²s flux standard. Thus, radon releases would be controlled to the same level as the design standard for closed impoundments. Also, there are financial assurance requirements to assure adequate funds for closure. Final action on a proposed NRC rule to require timeliness in decommissioning (January 13, 1993; 58 FR 4099) may affect this situation.

Comment. One of the factors that could cause a delay in achieving reclamation completion at certain impoundment sites is groundwater remediation. Because the time required for groundwater remediation cannot be forecast with certainty, it should be recognized that the reclamation schedule may need to be modified. Hence, groundwater remediation may be added to the list of factors falling under this definition.

Response. The completion of groundwater remediation is not covered by the specific timeliness criteria of this proposed rule. The inclusion of these activities in the reclamation plan allows for consideration of possible interactions with radon control activities when setting the schedule for key milestone activities. The definition of *factors beyond the control of the licensee* need not include a list of possible factors. A list of potential factors was included in the preamble. Problems with carrying out groundwater remediation is recognized as a possible factor as well.

Comment. The proposed rule incorporates NRC's policy statement published earlier (May 13, 1992; 57 FR 20525) concerning the disposal into the impoundment of materials similar to uranium byproduct material; however, this is not discussed.

Response. Materials similar to uranium byproduct material are included in provisions for continued disposal during closure. This provision does not authorize disposal. It simply does not exclude non-byproduct material from possible disposal during closure. Requests for authorization to dispose of these materials in tailings impoundments would have to address the factors described in NRC's guidance document referred to by the commenter and would be subject to any other applicable requirements.

Comment. We recommend deletion of the parenthetical phrase "* * * (i.e., within the top three meters) * * *" from the existing text, which appears in paragraph (5) of *Criterion 6* of the proposed rule. Less than 3 meters of cover material may be required by applicable closure standards.

Response. This phrase limits the provision in this paragraph to apply to no more than the top 3 meters of cover materials. It is not intended to require at least 3 meters of cover material.

Comment. In the last sentence of paragraph (3) of *Criterion 6A*, clarify that "the average of 20 pCi/m²s" refers to the average over the impoundment as specified in footnote 2 to paragraph (1) of *Criterion 6A*.

Response. The words "averaged over the entire impoundment" now appear in the proposed rule.

Comment. Although the concept of milestones is good, experience has demonstrated some problems of implementation. Certain steps are not needed at some sites. Please consider removing the milestones altogether.

Response. The standard (in paragraph (1) of *Criterion 6A*) has been revised to include the words "if applicable", with a similar intent as the words "including as appropriate" in the definition of *reclamation plan*. Removing the milestones is not an option; it is a matter of conformance with the EPA standard.

Comment. Although there must be public participation, requiring public input every time a milestone is not reached, or cannot be reached, is unnecessary and redundant.

Response. All of the opportunities for public participation provided for in this proposed rule are in conformance with the EPA proposed standard. Even if EPA deleted this implementation detail from its final rule, these provisions would be

necessary to satisfy the settlement agreement.

Comment. It is not essential during short delays to meet the 20 pCi/m²s limit; however, NRC should include provisions for assessment of the need for control of radon emissions during prolonged delays due to circumstances beyond licensee control. Controls in this circumstance may be needed to adequately protect public health and safety.

Response. The NRC does not consider it necessary or appropriate for specific flux limits to apply during closure. This rule would add provisions to assure final radon controls are completed as expeditiously as practicable although some prolonged delays may be unavoidable because of physical constraints or other factors beyond the licensee's control. In this case, NRC has sufficient regulatory authority to require controls such as interim covers through case-by-case licensing actions.

Comment. Although it may generally be unnecessary to monitor thorium byproduct materials for radon after installation of an appropriately designed cover, the necessity for monitoring should be based on the radiochemistry of the byproduct materials, not whether they are labelled uranium or thorium byproduct materials. It would be imprudent to discount the environmental and radiation health and safety considerations related to radon-222 from the thorium byproduct materials or the potential impacts from any thorium byproduct materials piles based only on their anticipated chemistry. All 11e(2) byproduct materials should be characterized by the concentrations of radionuclides present to ascertain the need for a radon barrier and before rescission of monitoring.

Response. This proposed rule is intended to conform to proposed revisions to 40 CFR part 192, subpart D which only applies to uranium mill tailings, and does not extend to thorium mill tailings. Not extending the additional verification requirements of this proposed rule to thorium byproduct materials does not discount the environmental and radiation and health and safety considerations related to radon releases from thorium byproduct material. In the case of either uranium or thorium byproduct material disposal, the NRC considers the design standard of existing *Criterion 6* (paragraph (1) in proposed text) to be of primary importance in the control of radon releases from closed tailings impoundments. The need for a radon cover meeting the design requirements is determined by concentrations of decay products of both uranium and thorium (existing provision appearing at paragraph (6) of the proposed text of *Criterion* 6). The NRC does not consider it necessary or appropriate to require radon measurement generically for closed thorium mill tailings impoundments. The facility of concern to this State is unique in that the waste is thorium tailings with significant concentrations of radium-226. Under the provisions of section 274o of the Atomic Energy Act, the State may add further requirements in this case to address this unique situation.

A few minor clarifications were also made as a result of State comments.

Issue of Compatibility with Agreement States

The Commission proposes these changes as Division 2 matters of compatibility. Under Division 2, States must adopt the provisions of an NRC rule, but can adopt more stringent provisions. It cannot adopt less stringent ones. This designation (Division 2) is compatible with section 274o of the Atomic Energy Act (AEA).

Proposed Rule

As required by section 84a(2) of the Atomic Energy Act of 1954, as amended, the NRC is proposing to amend appendix A of 10 CFR part 40 to conform to EPA proposed amendments to 40 CFR part 192, subpart D, concerning non-operational, NRC or Agreement State licensed mill tailings sites. Existing *Criterion 6* of appendix A to part 40 requires that an earthen cover (or approved alternative cover) be placed over uranium mill tailings to control the release of radon-222 at the end of milling operations. This cover is to be designed to provide reasonable assurance that releases of radon will not exceed an average of 20 pCi/m²s and that the barrier will be effective in controlling radon releases for 1,000 years, to the extent reasonably achievable, and, in any case, for at least 200 years. The design for satisfying the longevity requirement includes features for erosion control such as the placement of riprap over the earthen cover itself. (*Criterion 6* is also applicable to thorium mill tailings. These amendments to *Criterion 6* apply to uranium mill tailings only.)

This proposed rule would amend *Criterion 6*, add a new *Criterion 6A*, and add to the definitions contained in the *Introduction* to appendix A to part 40.

Paragraphs (1), (5), (6), and (7) of revised *Criterion 6* would contain the existing requirements of *Criterion 6*. These provisions are not the subject of or affected by this rulemaking. These existing portions of *Criterion 6* appear in this notice only for the purpose of numbering the paragraphs for ease of reference to specific requirements contained within the criterion. However, minor conforming revisions have been made to Paragraph (1) of *Criterion 6* and its footnotes for clarity and consistency with the new requirements being proposed.

This proposed rule would add a requirement to *Criterion 6* for a one-time verification that the barrier, as constructed, is effective in controlling releases of radon from uranium byproduct material to levels no greater than 20 pCi/m²s. This provision, which appears at paragraph (2), would also specify a method of verification as a standard for adequate demonstration of compliance: EPA method 115, as described in 40 CFR part 61, appendix B. As would be required by the proposed amendments to 40 CFR part 192, subpart D, the licensee must use this method or another approved by the NRC as being at least as effective in demonstrating the effectiveness of the final radon barrier. A copy of 40 CFR part 61, appendix B has been made available for inspection at the NRC Public Document room, 2120 L Street, NW. (Lower Level), Washington, DC and will be provided to affected licensees.

Because of practical reasons, the verification of radon flux levels must take place after emplacement of the final radon barrier but before completion of erosion protection features. In order for the results of the verification to remain valid, erosion protection features must be completed before significant degradation of the earthen barrier occurs. The NRC will consider this in a final determination of compliance with *Criterion 6*. The NRC could require, among other things, repetition of part or all of the verification procedures on a case-by-case basis if significant delay occurs before completion of erosion protection features.

Paragraph (3) of the proposed revision of *Criterion 6* would add a requirement that, if the reclamation plan calls for phased emplacement of the final radon barrier, the verification of radon flux be performed on each portion of the pile or impoundment as the final radon barrier is completed.

Paragraph (4) would specify the reporting and recordkeeping to be made in connection with this demonstration of effectiveness of the final radon barrier. A one-time report that details the method of verification is to be made within 90 days of completion of the final determination of radon flux levels. Records would be required to be kept until license termination documenting the source of input parameters and the

results of all measurements on which they are based, the calculations and/or analytical methods used to derive values for input parameters, and the procedure used to determine compliance. These reporting and recordkeeping requirements are comparable to existing requirements in 40 CFR part 61, subpart T.

The Commission notes that the proper implementation of the design standard of paragraph (1) of *Criterion 6* is of primary importance in the control of radon releases. The addition of the requirement for verification of radon flux levels does not replace, nor detract from the importance of, the radon attenuation tailings cover design standard.

The proposed *Criterion 6A* would address the timeliness of satisfying *Criterion 6* for uranium mill tailings. The new *Criterion 6A* would require that the emplacement of the earthen cover (or approved alternative cover) be carried out in accordance with a written, Commission-approved, reclamation plan that includes enforceable dates for the completion of key reclamation milestone activities. This plan will be incorporated as a condition of the individual license. This plan must provide for the completion of the final radon barrier (and erosion protection features) as expeditiously as practicable considering technological feasibility after the pile or impoundment ceases operation. In keeping with the MOU, the implementation of this timeliness requirement will have a goal of completing the final radon barrier by December 31, 1997, for those non-operational uranium mill tailings impoundments listed in the MOU or seven years after the date on which the impoundments cease operation for all other impoundments.

For the purposes of *Criterion 6A*, definitions are proposed to be added to the *Introduction* of appendix A to part 40 (in alphabetical order with existing definitions) for: *as expeditiously as practicable considering technological feasibility, available technology, factors beyond the control of the licensee, milestone, operation,* and *reclamation plan*. These definitions are substantively the same as contained in the EPA's proposed amendment to 40 CFR part 192, subpart D. However, *reclamation plan* covers a broader range of activities than required in EPA's *(radon) tailings closure plan*. Reclamation of the tailings in accordance with appendix A to part 40 includes activities also occurring after the end of operation that are beyond those involved in the control of radon releases, such as groundwater remediation. Thus, it is appropriate and efficient for planning if these activities are addressed in a single document. (The proposed rule would also allow this reclamation plan to be incorporated into the closure plan, which includes other activities associated with decommissioning of the mill.) A definition of *final radon barrier* is added to facilitate the drafting of clear regulatory text and to eliminate any ambiguity with respect to compliance with the 20 pCi/m^{2}s "flux standard" after completion of the final earthen barrier and not as a result of any temporary conditions or interim measures. This definition excludes the erosion protection features which were not a subject of EPA's proposed rule.

Factors beyond the control of the licensee would be defined as factors proximately causing delay in meeting the schedule in the applicable reclamation plan for the timely emplacement of the final radon barrier notwithstanding the good faith efforts of the licensee to complete the barrier. Consistent with the further description in the preamble to EPA's proposed rule, these factors may include, but are not limited to:

Physical conditions at the site;

Inclement weather or climatic conditions;

An act of God;

An act of war;

A judicial or administrative order or decision, or change to the statutory, regulatory, or legal requirements applicable to the licensee's facility that would preclude or delay the performance of activities required for compliance;

Labor disturbances;

Any modifications, cessation or delay ordered by State, Federal, or local agencies;

Delays beyond the time reasonably required in obtaining necessary government permits, licenses, approvals or consent for activities described in the reclamation plan proposed by the licensee that result from agency failure to take final action after the licensee has made a good faith, timely effort to submit legally sufficient applications, responses to requests (including relevant data requested by the agencies), or other information, including approval of the reclamation plan; and

An act or omission of any third party over whom the licensee has no control.

In the definition of *available technology*, the phrase "and provided there is reasonable progress toward emplacement of a permanent radon barrier" is not included as it seems inappropriate within the definition and the concept is incorporated into the standard itself, i.e., *Criterion 6A*.

The definitions for *as expeditiously as practicable considering technological feasibility* and *reclamation plan* have been specifically identified as applying to only *Criterion 6A* to prevent any potential misapplication. This has not been done in the case of the other definitions because either the terms are not used elsewhere in appendix A or are used consistently with the definitions proposed.

The proposed rule would go beyond EPA's proposed rule by including the erosion protection barriers in activities to be completed as expeditiously as practicable considering technological feasibility. However, the proposed rule would not require that enforceable dates be established as a condition of license for completion of erosion protection. (The key reclamation activities for which enforceable dates are to be established are the same as in EPA's proposed rule.) The reason for this difference is so that NRC can assure that erosion protection is completed before the barrier could degrade significantly while allowing more flexibility in this regard than for the "key reclamation milestone activities." Allowing significant degradation of the cover before completion of other aspects of the design could violate the design basis.

As a result of the MOU, most affected licensees (those facilities that were non-operational at the time of the MOU) have voluntarily submitted reclamation plans which include proposed dates for attainment of key reclamation milestones. (Planning for reclamation activities with Commission approval is required by existing regulations.) The process of approving those reclamation plans, at least those portions dealing with control of radon emissions, and amending the licenses to make the dates for completion of key reclamation milestone activities a condition of license is nearly complete. This process is expected to be completed before it becomes mandatory through issuance of a final rule. These impoundments are in the process of being reclaimed with varying degrees of completion. Other affected NRC licensees are one whose impoundment has ceased operation since the MOU and who is in the process of preparing a reclamation plan and four with operational impoundments who will be affected at the time the impoundments cease to be operational.

Criterion 6A, paragraph (2) would specify the circumstances under which the NRC will extend the time allowed for completion of key milestone activities once enforceable dates have

been established. An opportunity for public participation would be provided in a decision to extend the time allowed. The Commission may approve an extension of the schedule for meeting milestones if it is demonstrated that radon emissions do not exceed 20 pCi/m²s averaged over the entire impoundment. The intent of this provision is that, if the radon release rates are as low as required after closure, there is no need for complex justifications for delaying completion of reclamation; however, the Commission may not necessarily extend milestones indefinitely on this basis alone. In addition, the Commission may approve an extension of the final compliance date for completion of the final radon barrier based upon cost, if the Commission finds that the licensee is making good faith efforts to emplace the final radon barrier, that the delay is consistent with the definition of *available technology*, and that the radon releases caused by the delay will not result in a significant incremental risk to the public health. If the basis for approving the delay is that the radon levels do not exceed 20 pCi/m²s, verification of radon levels will be required annually.

Paragraph (3) of *Criterion 6A* would allow for the continued acceptance of uranium byproduct material or such materials that are similar in physical, chemical, and radiological characteristics to the uranium mill tailings and associated wastes in the pile or impoundment, from other sources, for disposal into a portion of the impoundment after the end of operation but during closure activities. This authorization will also be made only after providing an opportunity for public participation. This paragraph is intended to conform with proposed 40 CFR 192.32(a)(3)(iii). "During closure activities" could include the period after emplacement of the final radon barrier. In this circumstance, the Commission may except completion of reclamation activities for a small portion of the impoundment from the deadlines established in the license. The proposed rule would specify that the verification requirements for radon releases may still be satisfied in this case, if the Commission finds that the impoundment will continue to achieve a level of radon releases not exceeding 20 pCi/m²s averaged over the entire impoundment. However, reclamation of the waste disposal area, as appropriate, would be required as expeditiously as practicable once the waste disposal operations cease.

Also, the Commission understands that EPA's use of the term "in-situ" in this paragraph means on site, that is, the material that may be accepted from other sources would be compared to the tailings or waste already in the pile or impoundment to determine suitability for disposal. Proposed paragraph (3) of *Criterion 6A* does not include this term. The Commission agrees that it must approve the disposal of materials from other sources on a number of bases, including the suitability and compatibility of the materials for disposal in the particular pile or impoundment and has incorporated the alternative wording "already in the pile or impoundment." The term "in-situ" has a particular meaning in the uranium industry and to the NRC, referring to a particular method of uranium mining. The Commission believes that use of the term otherwise in this context could be confusing.

The opportunity for public participation in the decisions made under *Criterion 6A* would be in keeping with the MOU and the settlement agreement and would be made through a notice in the **Federal Register** providing an opportunity for public comment on the proposed license amendment. This notice would also provide the opportunity to request an informal hearing in accordance with the Commission's regulations in 10 CFR part 2, subpart L.

Alternatives for Consideration

The Commission believes that one paragraph in EPA's proposed rule, 40 CFR 192.32(a)(3)(ii), raises issues of implementation. Corresponding requirements to this paragraph are contained in *Criterion 6A*, paragraph (2). The Commission understands EPA's proposal to provide mutually exclusive bases for approving extensions of milestones. A licensee may request an extension of the date for performance of milestones, including an extension of the date for emplacement of the final radon barrier, based upon a demonstration that radon levels do not exceed 20 pCi/m²s. In addition, the licensee may request an extension of the date for completion of the final radon barrier based upon cost if three specified criteria are satisfied. Paragraph 192.32(a)(3)(ii) could also be interpreted to require that even in the case of slippage of interim milestones without slippage of the date for completion of the final radon barrier, the licensee would have to demonstrate that radon emissions are controlled so as not to exceed 20 pCi/m²s during the period of delay. The Commission would prefer more flexibility in this regard in order not to compromise measures needed to provide long term stability. The point of the applicable paragraph in the settlement agreement may have been to allow extension without further justification where radon levels are already reduced to the level required of the final cover since no impact to the public would result. Nonetheless, the final amendment to 10 CFR part 40, appendix A must conform substantively to the final amendment to 40 CFR part 192, subpart D.

This conforming rule has been drafted essentially consistent with the interpretation inherent in a suggested revision provided to EPA in NRC's comments on EPA's proposal. (A copy of this letter dated August 11, 1993, is available for inspection in the NRC's Public Document Room.) The final, effective amendment to appendix A must conform to the final version of EPA's revision to 10 CFR part 192, subpart D in any case. Thus, the final rule will consider both the comments received on this proposed rule and any changes to or clarifications made in EPA's final rule amending subpart D.

Finding of No Significant Environmental Impact: Availability

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in subpart A of 10 CFR part 51, that this rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and therefore an environmental impact statement is not required. This proposed rule would require that enforceable dates be established for certain interim milestones and completion of the final radon barrier on non-operational mill tailings piles through an approved reclamation plan and that a determination of the radon flux levels be made to verify compliance with the existing design standard for the final radon barrier. It is intended to better assure that the final radon barrier is completed in a timely manner and is adequately constructed to comply with the applicable design standard. Thus, it provides an additional assurance that public health and the environment are adequately protected. Because the proposed rule is not expected to change the basic procedures or construction of the radon barrier, there should be no adverse environmental impacts. The environmental assessment and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. Single copies of the environmental assessment and finding of no significant impact are available

from Catherine R. Mattsen, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Phone: (301) 492–3638.

Paperwork Reduction Act Statement

This proposed rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). This rule has been submitted to the Office of Management and Budget for review and approval of the paperwork requirements.

Public reporting burden for this collection of information is estimated to average 156 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Information and Records Management Branch (MNBB–7714), U.S. Nuclear Regulatory Commission, Washington, DC 20555; and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB–3019 (3150–0020), Office of Management and Budget, Washington, DC 20503.

Regulatory Analysis

The Commission has prepared a draft regulatory analysis on this proposed regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. The draft analysis is available for inspection in the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. Single copies of the analysis may be obtained from Catherine R. Mattsen, U.S. Nuclear Regulatory Commission, Washington, DC 20555, (301) 492–3638.

The Commission requests public comment on the draft analysis. Comments on the draft analysis may be submitted to the NRC as indicated under the **ADDRESSES** heading.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, (5 U.S.C. 605(b)), the Commission certifies that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. There are only 19 NRC uranium mill licensees. Almost all of these mills are owned by large corporations. Although a few of the mills are partly-owned by companies that might qualify as small businesses under the Small Business Administration size standards, the Regulatory Flexibility Act incorporates the definition of small business presented in the Small Business Act. Under this definition, a small business is one that is independently owned and operated and is not dominant in its field. Because these mills are not independently owned, they do not qualify as small entities.

List of Subjects in 10 CFR Part 40

Criminal penalties, Government contracts, Hazardous materials transportation, Nuclear materials, Reporting and recordkeeping requirements, Source material, Uranium.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR part 40.

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

1. The authority citation for part 40 continues to read as follows:

Authority: Secs. 62, 63, 64, 65, 81, 161, 182, 183, 186, 68 Stat. 932, 933, 935, 948, 953, 954, 955, as amended, secs. 11e(2), 83, 84, Pub. L. 95–604, 92 Stat. 3033, as amended, 3039, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2014(e)(2), 2092, 2093, 2094, 2095, 2111, 2113, 2114, 2201, 2232, 2233, 2236, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688 (42 U.S.C. 2021); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 275, 92 Stat. 3021, as amended by Pub. L. 97–415, 96 Stat. 2067 (42 U.S.C. 2022).

Section 40.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 40.31(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 40.46 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 40.71 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

2. In appendix A, add the definitions of *as expeditiously as practicable considering technological feasibility, available technology, factors beyond the control of the licensee, final radon barrier, milestone, operation,* and *reclamation plan* to the *Introduction* in alphabetical order; revise *Criterion 6;* and add *Criterion 6A* to read as follows:

Appendix A to Part 40—Criteria Relating to the Operation of Uranium Mills and the Disposition of Tailings or Wastes Produced by the Extraction or Concentration of Source Material From Ores Processed Primarily for Their Source Material Content

Introduction.

As expeditiously as practicable considering technological feasibility, for the purposes of *Criterion 6A,* means as quickly as possible considering: the physical characteristics of the tailings and the site; the limits of available technology; the need for consistency with mandatory requirements of other regulatory programs; and factors beyond the control of the licensee. The phrase permits consideration of the cost of compliance only to the extent specifically provided for by use of the term *available technology.*

Available technology means technologies and methods for emplacing a final radon barrier on uranium mill tailings piles or impoundments. This term shall not be construed to include extraordinary measures or techniques that would impose costs that are grossly excessive as measured by practice within the industry (or one that is reasonably analogous). To determine grossly excessive costs, the relevant baseline against which cost shall be compared is the cost estimate for tailings impoundment closure contained in the licensee's approved reclamation plan, but costs beyond these estimates shall not automatically be considered grossly excessive.

* * * * *

Factors beyond the control of the licensee means factors proximately causing delay in meeting the schedule in the applicable reclamation plan for the timely emplacement of the final radon barrier notwithstanding the good faith efforts of the licensee to complete the barrier.

Final radon barrier means the earthen cover (or approved alternative cover) over tailings or waste constructed to comply with *Criterion 6* of this appendix (excluding erosion protection features).

* * * * *

Milestone means an action or event that is required to occur by an enforceable date.

* * * * *

Operation means that a uranium or thorium mill tailings pile or impoundment is being used for the continued placement of byproduct material or is in standby status for such placement. A pile or impoundment is in operation from the day that byproduct material is first placed in the pile or impoundment until the day final closure begins.

* * * * *

Reclamation plan, for the purposes of *Criterion 6A,* means the plan detailing activities to accomplish reclamation of the tailings or waste disposal area in accordance with the technical criteria of this appendix. The reclamation plan must include a schedule for key reclamation milestone activities including as appropriate, but not limited to, wind blown tailings retrieval and placement on the pile, interim stabilization (including dewatering or the removal of freestanding liquids and recontouring), and final radon barrier construction. (Reclamation of tailings must also be addressed in the closure plan; the detailed reclamation plan may be incorporated into the closure plan.)

* * * * *

Criterion 6(1)—In disposing of waste byproduct material, licensees shall place an earthen cover (or approved alternative) over tailings or wastes at the end of milling operations and shall close the waste disposal

area in accordance with a design[1] which provides reasonable assurance of control of radiological hazards to (i) be effective for 1,000 years, to the extent reasonably achievable, and, in any case, for at least 200 years, and (ii) limit releases of radon-222 from uranium byproduct materials, and radon-220 from thorium byproduct materials, to the atmosphere so as not to exceed an average[2] release rate of 20 picocuries per square meter per second (pCi/m²s) to the extent practicable throughout the effective design life determined pursuant to (1)(i) of this *Criterion*. In computing required tailings cover thicknesses, moisture in soils in excess of amounts found normally in similar soils in similar circumstances may not be considered. Direct gamma exposure from the tailings or wastes should be reduced to background levels. The effects of any thin synthetic layer may not be taken into account in determining the calculated radon exhalation level. If non-soil materials are proposed as cover materials, it must be demonstrated that these materials will not crack or degrade by differential settlement, weathering, or other mechanism, over long-term intervals.

(2) As soon as reasonably achievable after emplacement of the final cover to limit releases of radon-222 from uranium byproduct material and prior to placement of erosion protection barriers or other features necessary for long-term control of the tailings, the licensee shall verify through appropriate testing and analysis that the design and construction of the final radon barrier is effective in limiting releases of radon-222 to a level not exceeding 20 pCi/m²s using the procedures described in 40 CFR part 61, appendix B, Method 115, or another method of verification approved by the Commission as being at least as effective in demonstrating the effectiveness of the final radon barrier.

(3) When phased emplacement of the final radon barrier is included in the applicable reclamation plan, the verification of radon-222 release rates required in paragraph (2) of this criterion must be conducted for each portion of the pile or impoundment as the final radon barrier for that portion is emplaced.

(4) Within ninety days of the completion of the required verification in paragraphs (2) and (3) of this criterion, the uranium mill licensee shall report to the Commission the results of the testing and analysis, detailing the actions taken to verify that levels of release of radon-222 do not exceed 20 pCi/m²s. The licensee shall maintain records until termination of the license documenting the source of input parameters including the results of all measurements on which they are based, the calculations and/or analytical methods used to derive values for input parameters, and the procedure used to determine compliance. These records shall be kept in a form suitable for transfer to the custodial agency at the time of transfer of the site to DOE or a State for long-term care if requested.

(5) Near surface cover materials (i.e., within the top three meters) may not include waste or rock that contains elevated levels of radium; soils used for near surface cover must be essentially the same, as far as radioactivity is concerned, as that of surrounding surface soils. This is to ensure that surface radon exhalation is not significantly above background because of the cover material itself.

(6) The design requirements in this criterion for longevity and control of radon releases apply to any portion of a licensed and/or disposal site unless such portion contains a concentration of radium in land, averaged over areas of 100 square meters, which, as a result of byproduct material, does not exceed the background level by more than: (i) 5 Picocuries per gram (pCi/g) of radium-226, or, in the case of thorium byproduct material, radium-228, averaged over the first 15 centimeters (cm) below the surface, and (ii) 15 pCi/g of radium-226, or, in the case of thorium byproduct material, radium-228, averaged over 15-cm thick layers more than 15 cm below the surface.

(7) The licensee shall also address the nonradiological hazards associated with the wastes in planning and implementing closure. The licensee shall ensure that disposal areas are closed in a manner that minimizes the need for further maintenance. To the extent necessary to prevent threats to human health and the environment, the licensee shall control, minimize, or eliminate post-closure escape of nonradiological hazardous constituents, leachate, contaminated rainwater, or waste decomposition products to the ground or surface waters or to the atmosphere.

Criterion 6A (1)—For impoundments containing uranium byproduct materials, actions required to achieve compliance with *Criterion 6* must be completed as expeditiously as practicable considering technological feasibility after the pile or impoundment ceases operation. These controls must be carried out in accordance with a written, Commission-approved reclamation plan. Deadlines for completion of the final radon barrier and the following key interim reclamation milestone activities, if applicable, must be established as a condition of the individual license: Windblown tailings retrieval and placement on the pile, interim stabilization, dewatering, and recontouring.

(2) The Commission may approve a licensee's request to extend the time for performance of milestones if, after providing an opportunity for public participation, the Commission finds that the licensee has adequately demonstrated in the manner required in paragraph (2) of *Criterion 6* that releases of radon-222 do not exceed an average of 20 pCi/m²s. If the delay is approved on the basis that the radon releases do not exceed 20 pCi/m²s, a verification of radon levels, as required by paragraph (2) of *Criterion 6*, must be made annually during the period of delay. In addition, once the Commission has established the date in the reclamation plan for the milestone for completion of the final radon barrier, the Commission may extend that date based on cost if, after providing an opportunity for public participation, the Commission finds that the licensee is making good faith efforts to emplace the final radon barrier, the delay is consistent with the definition of *available technology*, and the radon releases caused by the delay will not result in a significant incremental risk to the public health.

(3) The Commission may authorize by license amendment, upon licensee request, a portion of the impoundment to accept uranium byproduct material or such materials that are similar in physical, chemical, and radiological characteristics to the uranium mill tailings and associated wastes already in the pile or impoundment, from other sources, during the closure process. This authorization may not be made if it results in a delay or impediment to emplacement of the final radon barrier over the remainder of the impoundment in a manner that will achieve levels of radon-222 releases not exceeding 20 pCi/m²s averaged over the entire impoundment. Authorization to remain accessible will only be made after providing opportunity for public participation. The verification required in paragraph (2) of *Criterion 6* may be completed with a portion of the impoundment being used for further disposal if the Commission makes a final finding that the impoundment will continue to achieve a level of radon-222 releases not exceeding 20 pCi/m²s averaged over the entire impoundment. Reclamation of the disposal area, as appropriate, must be completed as expeditiously as practicable after disposal operations cease in accordance with paragraph (1) of this *Criterion*.

Dated at Rockville, MD., this 28th day of October, 1993.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 93-26983 Filed 11-2-93; 8:45 am]

BILLING CODE 7590-01-P

[1] In the case of thorium byproduct materials, the standard applies only to design. Monitoring for radon emissions from thorium byproduct materials after installation of an appropriately designed cover is not required.

[2] This average applies to the entire surface of each disposal area over a period of at least one year, but a period short compared to 100 years. Radon will come from both byproduct materials and from covering materials. Radon emissions from covering materials should be estimated as part of developing a closure plan for each site. The standard, however, applies only to emissions from byproduct materials to the atmosphere.

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10 CFR Part 52

RIN 3150—AE87

Rulemakings to Grant Standard Design Certification for Evolutionary Light Water Reactor Designs

AGENCY: Nuclear Regulatory Commission.

ACTION: Advanced notice of proposed rulemaking (ANPR).

SUMMARY: The Nuclear Regulatory Commission is reviewing four applications for Standard Design Certifications for light water reactors under applicable regulations. These

design certifications will be granted through rulemaking by adding a separate appendix to 10 CFR part 52 for each design so certified. The Commission anticipates that two of these applications for design certification may be ready for such rulemakings in 1994. This advance notice of proposed rulemaking is issued to invite public recommendations on issues pertaining to the form and content of rules that will certify evolutionary light water reactor designs.

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

ADDRESSES: Mail written comments to: The Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Comments may also be delivered to 11555 Rockville Pike, Rockville, MD, between 7:30 a.m. and 4:15 p.m. on Federal workdays. Copies of comments received will be available for examination and copying at the NRC Public Document room at 2120 L Street NW. (Lower Level), Washington, DC. Documents listed in Appendix 1 to this advance notice of proposed rulemaking are also available for examination and copying for a fee at the NRC Public Document room at 2120 L Street NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Harry S. Tovmassian, Office of Nuclear Regulatory Research, telephone (301) 492–3634 or Jerry N. Wilson, Office of Nuclear Reactor Regulation, telephone (301) 504–3145, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

SUPPLEMENTARY INFORMATION: 10 CFR part 52, subpart B—Standard Design Certifications, provides the requirements applicable to issuing a design certification for a standard nuclear power plant design. The Nuclear Regulatory Commission is planning to promulgate several rules which will provide for certification of each evolutionary light water reactor design which it reviews and approves. These rules would be set forth in separate appendices to 10 CFR part 52.

The Nuclear Regulatory Commission is presently evaluating four applications for Standard Design Certification in accordance with subpart B of 10 CFR part 52. The most recent NRC staff estimate of the schedules for these design reviews was provided to the Commission in SECY–93–097, "Integrated Review Schedules for the Evolutionary and Advanced Light-Water Reactor Projects." These schedules project issuance of the first proposed rule certifying a standard plant design in June 1994.

The NRC staff has been developing guidance for the implementation of subpart B of 10 CFR part 52 following the issuance of part 52 in 1989. The proposed guidance has been set forth in several Commission (SECY) Papers and Staff Requirements Memoranda (SRM) referenced in appendix 1. One of these papers, SECY–92–287, "Form and Content for a Design Certification Rule," dated August 18, 1992, included a draft-proposed design certification rule which the NRC staff believes is prototypical of the type of rule that should be promulgated. This draft-proposed design certification rule has been revised in accordance with Commission guidance and provided as appendix 2 to focus comments on this ANPR. The elements contained in this prototype are those that the Commission believes should be included in a design certification rule.

This ANPR is published to provide the public an early opportunity to give advice and recommendations to the Commission on the form and content of a rule that would certify evolutionary nuclear power plant designs in accordance with 10 CFR part 52, subpart B. The NRC is particularly interested in the public's views concerning the following topics:

1. The acceptability of a two-tiered design certification rule structure;
2. The acceptability of the process and standards for changing Tier 2 information;
3. The acceptability of a Tier 2 exemption;
4. The acceptability of using a change process similar to the one in 10 CFR 50.59 applicable to operating reactors ("§ 50.59-like") prior to the issuance of a combined license that references a certified design;
5. The acceptability of identifying selected technical positions from the Safety Evaluation Report as "unreviewed safety questions" that cannot be changed under a "§ 50.59-like" change process;
6. Need for modifications to § 52.63(b)(2) if the two-tiered structure for the design certification rule is approved;
7. Whether the Commission should either incorporate or identify the information in Tier 1 or Tier 2 or both in the combined license;
8. The acceptability of using design-specific rulemakings rather than generic rulemaking for the technical issues whose resolution exceeds current requirements. These "applicable regulations" will become part of the Commission's baseline of regulations for the specific certified design that are applicable and in effect at the time the certification is issued; and
9. The appropriate form and content of a design control document.

In addition to the publication of this ANPR, the Commission's Office of Nuclear Regulatory Research will mail a copy of this ANPR to domestic nuclear power plant vendors and other known interested persons to ensure that they are aware of this ANPR.

List of Subjects in 10 CFR Part 52

Administrative practice and procedure, Antitrust, Backfitting, Combined license, Early site permit, Emergency planning, Fees, Inspection, Limited work authorization, Nuclear power plants and reactors, Probabilistic risk assessment, Prototype, Reactor siting criteria, Redress of site, Reporting and recordkeeping requirements, Standard design, Standard design certification.

The authority citation for this document is: Sec. 161, Pub. L. 83–703, 68 Stat. 948, as amended (42 U.S.C. 2201); Sec. 201, Pub. L. 93–438, 88 Stat. 1242, as amended (42 U.S.C. 5841).

Dated at Rockville, Maryland, this 28th day of October 1993.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

Appendix 1—References

1. SECY–90–377, November 8, 1990, "Requirements for Design Certification under 10 CFR Part 52."
2. SRM dated February 15, 1991, "SECY–90–377—Requirements for Design Certification under 10 CFR Part 52."
3. SECY–92–287, August 18, 1992, "Form and Content for a Design Certification Rule."
4. SRM dated September 30, 1992, "SECY–92–287—Form and Content for a Design Certification Rule."
5. SECY–92–287A, March 26, 1993, "Form and Content for a Design Certification Rule."
6. SRM dated June 23, 1993, "SECY–92–287/287A—Form and Content for a Design Certification Rule."
7. SECY–93–087, April 2, 1993, "Policy, Technical, and Licensing Issues Pertaining to Evolutionary and Advanced Light-Water Reactor Designs."
8. SRM dated, July 21, 1993, "SECY–93–087—Policy, Technical, and Licensing Issues Pertaining to Evolutionary and Advanced Light-Water Reactor Designs."

9. Letter from Dennis M. Crutchfield, Associate Director for Advanced Reactors and License Renewal, Office of Nuclear Reactor Regulation, Nuclear Regulatory Commission to Patrick W. Marriott, Manager, Licensing & Consulting Services, GE Nuclear Energy, August 26, 1993, "Guidance on the Form and Content of a Design Control Document."

Appendix 2—Draft-Proposed Standard Design Certification Rule

10 CFR Part 52, Appendix A

A.1 Scope

This Appendix constitutes the standard design certification for the *Evolutionary Light Water Reactor (ELWR)* design, in accordance with 10 CFR Part 52, Subpart B (Section 52.54). The applicant for the certification of the *ELWR* design was _____.

A.3 Definitions

As used in this appendix:

Design control document (DCD) is the master document that contains the Tier 1 and Tier 2 design-related information that is incorporated by reference into this design certification rule.

Tier 1 is the portion of the design-related information contained in the DCD that is certified by this rule. This information consists of the Tier 1 design descriptions, the inspections, tests, analyses, and acceptance criteria (ITAAC), the site parameters, and the interface requirements.

Tier 2 is the remainder of the design-related information contained in the DCD that is approved by this rule. Tier 2 contains detailed information on the *ELWR* design that supports the information provided in Tier 1. Tier 2 includes safety analyses for the *ELWR* design and supporting details on the inspections, tests, and analyses that will be performed to demonstrate that the acceptance criteria in the ITAAC have been met.

A.4 Information Collection Requirements: OMB Approval

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this appendix to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). OMB has approved the information collection requirements contained in the appendix under control number 3150 ____.

(b) The approved information collection requirements contained in this appendix appear in section A.15.

A.5 Contents of the ELWR Design Certification

(a) The following documents, which have been approved by the Office of the Federal Register for incorporation by reference, are deemed to be part of the *ELWR* design certification:

(1) *ELWR* DCD dated_____.

(The following are examples of secondary references)

(2) ASME Boiler and Pressure Vessel Code, Section III, Subsection NE, Division 1, Class MC.

(3) ANSI Standard A58.1, Minimum Design Loads for Buildings and Other Structures, American National Standards Institute.

(4) Regulatory Guide 1.59, Rev. 2, "Design Basis Floods for Nuclear Power Plants."

(5) Other documents considered necessary.

(b) An applicant for a construction permit or license that references this standard design certification must reference both tiers of information in the *ELWR* DCD.

(c) If there is a conflict between the information in the *ELWR* DCD and the application for standard design certification or the Final Safety Evaluation Report on the application and supplements thereto, then the *ELWR* DCD is the controlling document.

A.7 Regulations Applicable to the ELWR Design Certification

The following were considered to be regulations that are applicable to the *ELWR* design certification, including the regulations identified in § 52.48, and were in effect at the time this design certification was issued for the purposes of §§ 52.48, 52.54, 52.59, and 52.63:

(The following are examples of applicable regulations)

(a) The standard design must include features that reduce the potential for and effect of interactions with molten core debris by:

(1) Providing reactor cavity floor space to promote core debris spreading;

(2) Providing a means to flood the reactor cavity to assist in the cooling process; and

(3) Protecting the containment liner and other structural members from direct contact by molten core debris.

(b) An application for design certification must contain:

(1) The description of the reliability assurance program used during the initial *ELWR* design that includes, scope, purpose, and objectives;

(2) The methodology used to evaluate and prioritize the structures, systems, and components in the *ELWR* design, based upon their degree of risk-significance;

(3) The structures, systems, and components designated as risk-significant; and

(4) For those structures, systems, and components designated as risk-significant:

(i) The methodology used to determine dominant failure modes that considered industry experience, analytical models, and existing requirements;

(ii) The key reliability assumptions and risk insights; and

(iii) Operation, maintenance, and monitoring activities to be performed by a licensee that references the *ELWR* design.

(c) Other applicable regulations considered necessary.

A.9 Issue Resolution for the ELWR Design Certification

(a) All radiological safety issues necessarily associated with approval of the information set forth in the *ELWR* DCD are "resolved in connection with the issuance or renewal of a design certification" within the meaning of 10 CFR 52.63(a)(4).

(b) All environmental issues necessarily associated with approval of the information set forth in the *ELWR* DCD, and the Environmental Impact Statement or Environmental Analysis for this design are "resolved in connection with the issuance or renewal of a design certification" within the meaning of 10 CFR 52.63(a)(4).

A.11 Duration of the ELWR Design Certification

This standard design certification may be referenced for a period of 15 years from December 3, 1993, except as provided for in §§ 52.55(b) and 52.57(b). This standard design certification will remain valid for an applicant or licensee that references this certification until their application is withdrawn or their license expires.

A.13 Change Process

(a) For rule changes, refer to § 52.63(a)(1) for generic changes to this appendix or Tier 1 information.

(b) For changes to this appendix or Tier 1 information, for plants that reference the *ELWR* design certification:

(1) Refer to § 52.63(a)(3) for NRC mandated changes; and

(2) Refer to § 52.63(b)(1) for exemptions.

(c) For Tier 2 rule changes:

(1) Notwithstanding any provision in 10 CFR 50.109, while *the ELWR* design certification is in effect under § 52.55 or 52.61, the Commission may not modify, rescind, or impose new requirements on *Tier 2 information*, whether on its own

motion or in response to a petition from any person, unless the Commission determines in a rulemaking that a modification is necessary either to bring the *Tier 2 information* or the referencing plants into compliance with the Commission's regulations applicable and in effect at the time *the ELWR design* certification was issued, or to ensure adequate protection of the public health and safety or the common defense and security. The rulemaking procedures must provide for notice and comment and an opportunity for the party which applied for the certification to request an informal hearing which uses the procedures described in § 52.51.

(2) Any modification the NRC imposes under *A.13(c)(1)* will be applied to all plants referencing the *ELWR* design, except those to which the modification has been rendered technically irrelevant by action taken under A.13(d).

(d) For Tier 2 changes, for plants that reference the *ELWR* design certification:

(1) While *the ELWR* design certification is in effect under Section 52.55 or 52.61, unless

(i) A modification is necessary to secure compliance with the Commission's regulations applicable and in effect at the time the *ELWR design* certification was issued, or to assure adequate protection of the public health and safety or the common defense and security, and

(ii) Special circumstances as defined in 10 CFR 50.12(a) are present, the Commission may not impose new requirements by plant-specific order on *the Tier 2 information* of a specific plant referencing the *ELWR* design certification.

(2) An applicant or licensee who references *the ELWR* design certification may request an exemption from *the Tier 2 information.* The Commission may grant such a request only if it determines that the exemption will comply with the requirements of 10 CFR 50.12(a).

(3) An applicant or licensee who references the ELWR design certification may make changes to the Tier 2 information, without prior NRC approval, unless the proposed change involves a change to this appendix or the Tier 1 information, the technical specifications, or an unreviewed safety question as defined in 10 CFR 50.59(a)(2) or identified below. These Tier 2 changes will no longer be considered "matters resolved in connection with the issuance or renewal of a design certification" within the meaning of 10 CFR 52.63(a)(4).

(The following are examples of identified unreviewed safety questions)

(i) The fuel and control rod design criteria for the *ELWR* design; the first cycle fuel, control rod, and core design; and the methods used to analyze these components.

(ii) The *ELWR* human-system interface design implementation process.

(iii) Other identified unreviewed safety questions.

A.15 Recordkeeping

(a) An applicant or licensee that references the *ELWR* design certification must maintain records of all changes resulting from Section A.13(b) or (d). These records must describe the changes, discuss the need for the change, and, as applicable, discuss any decrease in safety that may result from the reduction in standardization caused by the change, as required by 10 CFR 52.63.

(b) An applicant or licensee that references the *ELWR* design certification must maintain and submit quarterly reports of all changes to the facility under Section A.13(d)(3) until the applicant or licensee receives either an operating license under 10 CFR Part 50 or the Commission makes its findings under 10 CFR 52.103. Records must be maintained and submitted in accordance with the recordkeeping requirements of 10 CFR 50.59 thereafter.

(c) An applicant or licensee that references the *ELWR* design certification must maintain all records required by this section in an auditable form and make them available for inspection until their application is withdrawn or their license expires.

[FR Doc. 93–26984 Filed 11–2–93; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91–ANE–45]

Airworthiness Directives; General Electric Company CF6 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to General Electric Company (GE) CF6–80A series turbofan engines, that would have required a one-time inspection for cracks in the stage 1 high pressure turbine (HPT) disk rim bolt holes in accordance with GE Commercial Engine Service Memorandum No. 27, dated September 27, 1991. That proposal was prompted by a report of an uncontained stage 1 HPT disk failure, which resulted in an aborted takeoff. This action revises the proposed rule by requiring an inspection for cracks in the stage 1 HPT disk rim bolt holes in accordance with the revised inspection program described in GE CF6–80A Service Bulletin No. 72–604, Revision 3, dated April 8, 1993. The actions specified by this proposed AD are intended to prevent an uncontained stage 1 HPT disk failure, which could result in an inflight engine shutdown, aborted takeoff, or damage to the aircraft.

DATES: Comments must be received by December 3, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91–ANE–45, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from General Electric Aircraft Engines, CF6 Distribution Clerk, room 132, 111 Merchant Street, Cincinnati, OH 45246. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Robert J. Ganley, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7138; fax (617) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may

be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 91–ANE–45." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91–ANE–45, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations to add an airworthiness directive (AD), applicable to General Electric Company (GE) CF6–80A series turbofan engines, was published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on January 9, 1992 (57 FR 857). That NPRM proposed a one-time inspection for cracks in the stage 1 high pressure turbine (HPT) disk rim bolt holes in accordance with GE Commercial Engine Service Memorandum (CESM) No. 27, dated September 27, 1991. That NPRM was prompted by a report of an uncontained stage 1 HPT disk failure, which resulted in an aborted takeoff. That condition, if not corrected, could result in an uncontained stage 1 HPT disk failure, which could result in an inflight engine shutdown, rejected takeoff, or damage to the aircraft.

Since the issuance of that NPRM, GE has issued CF6–80A Service Bulletin (SB) No. 72–604, Revision 3, dated April 8, 1993, which revises the inspection program based on additional investigation findings on the reported disk failure. This supplemental proposed rule requires the inspection for cracks in the stage 1 HPT disk rim bolt holes to be accomplished in accordance with GE CF6–80A SB No. 72–604, Revision 3, dated April 8, 1993.

A compliance end date of December 31, 1993, is proposed for disks which have accumulated 4,000 cycles since new (CSN) or more, but less than 9,500 CSN on the effective date of this AD. Disks that fall within this cyclic interval have been identified as having the highest probability of a crack, and therefore, require a compliance end date that ensures timely compliance.

The reported disk failure has been attributed to cracks in the rim bolt holes which initiated from damage caused by the drill and ream procedures used during manufacture of the rim bolt holes. Other stage 1 HPT disks were manufactured using the same drill and ream procedures, and therefore are susceptible to similar damage and cracking.

The FAA has also received reports that during routine inspections, three additional HPT disks on other GE CF6 series engines were found cracked in either the rim or inner bolt holes. All three of these disks were removed from service, and the cracks have been attributed to the same manufacturing process which resulted in the reported rim separation.

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

One comment recommends that the compliance end-date of December 31, 1995, be extended to December 31, 1996, to eliminate forced engine removals. The FAA does not concur. The compliance end-date of December 31, 1995, is no longer applicable since this supplemental proposed rule requires the inspection to be accomplished in accordance with GE CF6–80A SB No. 72–604, Revision 3, dated April 8, 1993. The inspection program in GE CF6–80A SB No. 72–604, Revision 3, dated April 8, 1993, does not have a compliance end-date for disks that have accumulated less than 4,000 cycles since new (CSN), or 9,500 CSN or more on the effective date of this AD. For disks that have accumulated 4,000 CSN or more, but less than 9,500 CSN on the effective date of this AD, the compliance end-date is December 31, 1993. This supplemental proposed rule has been changed to reference GE CF6–80A SB No. 72–604, Revision 3, dated April 8, 1993.

One comment recommends that "zero time" disks be exempted from the December 31, 1995, compliance end-date. The FAA concurs. The compliance end-date of December 31, 1995, is no longer applicable since this supplemental proposed rule requires the inspection to be accomplished in accordance with GE CF6–80A SB No. 72–604, Revision 3, dated April 8, 1993. The inspection program in GE CF6–80A SB No. 72–604, Revision 3, dated April 8, 1993, does not have a compliance end-date for "zero time" disks. "Zero time" disks will not require inspection until the next engine shop visit after accumulating 3,000 CSN. This supplemental proposed rule has been changed to reference GE CF6–80A SB No. 72–604, Revision 3, dated April 8, 1993.

One comment states that GE CESM No. 27, dated September 27, 1991, has been superseded by GE CF6–80A SB No. 72–604, Revision 3, dated April 8, 1993, and recommends that the AD be revised to reflect this SB. The FAA concurs. This supplemental proposed rule has been changed to reference GE CF6–80A SB No. 72–604, Revision 3, dated April 8, 1993.

One comment states that the number of work hours required to accomplish GE CESM No. 27, dated September 27, 1991, is different than that required to accomplish GE CF6–80A SB No. 72–604, Revision 3, dated April 8, 1993. The FAA concurs. The economic analysis section of this supplemental proposed rule has been revised to reflect the costs associated with GE CF6–80A SB No. 72–604, Revision 3, dated April 8, 1993.

One comment recommends that the compliance section should indicate that disks already inspected in accordance with GE CESM No. 27, dated September 27, 1991, meet the intent of GE CF6–80A SB No. 72–604, Revision 3, dated April 8, 1993, and do not require reinspection. The FAA concurs in part with this comment. Inspections performed in accordance with GE CESM No. 27, dated September 27, 1991, meet the intent of GE CF6–80A SB No. 72–604, Revision 3, dated April 8, 1993, but only if the disks CSN at the time of inspection was 3,000 or more. This supplemental proposed rule has been revised accordingly.

One comment suggests that low cycle/high time operators could be adversely affected by the proposed compliance end-date of December 31, 1995. The FAA does not concur. The compliance end-date of December 31, 1995, is no longer applicable since this supplemental proposed rule requires the inspection to be accomplished in accordance with GE CF6–80A SB No. 72–604, Revision 3, dated April 8, 1993. The inspection program outlined in GE CF6–80A SB No. 72–604, Revision 3, dated April 8, 1993, is a cyclically driven program, and as such, low cycle/high time operators will not be adversely affected. This supplemental

proposed rule has been changed to reference GE CF6–80A SB No. 72–604, Revision 3, dated April 8, 1993.

One comment states that the time when Part Number (P/N) 9362M58 disks must be inspected is unclear, and gives suggested wording to clarify the compliance time. The FAA concurs. The inspection program has been revised in this supplemental proposed rule, and the comment's concern and suggested wording is no longer applicable.

One comment suggests that the time when P/N 9234M67 and 9367M45 disks must be inspected should be changed to avoid forced engine removals, and gives suggested wording. The FAA concurs. The inspection program has been revised in this supplemental proposed rule, and the comment's concern and suggested wording is no longer applicable.

Since this change expands the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

There are approximately 154 GE CF6–80A series engines of the affected design in the worldwide fleet. The FAA estimates that 48 engines installed on aircraft of U.S. registry would be affected by this AD, that it would take approximately 232 work hours per engine to accomplish the required actions, and that the average labor rate would be $55 per work hour. Required parts would cost approximately $172,800 per engine. Based on these figures, and assuming all inspected disks require replacement, the total cost impact of the proposed AD on U.S. operators is estimated to be $8,906,880.

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

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

General Electric Company: Docket No. 91–ANE–45.

Applicability: General Electric Company (GE) CF6–80A series turbofan engines installed on but not limited to, Boeing 767 series and Airbus A310 series aircraft.

Compliance: Required as indicated, unless previously accomplished.

To prevent an uncontained stage 1 high pressure turbine (HPT) disk failure, which could result in an inflight engine shutdown, rejected takeoff, or damage to the aircraft, accomplish the following:

(a) Eddy current inspect (ECI) for cracks stage 1 HPT disks, Part Numbers (P/N) 9234M67G12, 9234M67G13, 9234M67G14, 9234M67G15, 9234M67G16, 9234M67G22, 9234M67G24, 9367M45G01, 9367M45G02, 9367M45G03, and 9367M45G04, regardless of serial number; and stage 1 HPT disks, P/N 9362M58G02, with serial numbers listed in paragraph 1.A. of GE CF6–80A Service Bulletin (SB) No. 72–604, Revision 3, dated April 8, 1993; in accordance with the accomplishment instructions of GE CF6–80A SB No. 72–604, Revision 3, dated April 8, 1993, as follows:

(1) For disks that have accumulated less than 3,000 cycles since new (CSN) on the effective date of this AD, ECI the rim bolt holes at the next engine shop visit after accumulating 3,000 CSN, but not to exceed 4,500 CSN.

(2) For disks that have accumulated 3,000 CSN or more, but less than 4,000 CSN on the effective date of this AD, ECI the rim bolt holes at the next engine shop visit, but not to exceed 4,500 CSN.

(3) For disks that have accumulated 4,000 CSN or more, but less than 9,500 CSN on the effective date of this AD, ECI the rim bolt holes at the next engine shop visit, or prior to December 31, 1993, whichever occurs earlier.

(4) For disks that have accumulated 9,500 CSN or more on the effective date of this AD, ECI the rim bolt holes at the next engine shop visit.

(b) ECI stage 1 HPT disks, P/N 9362M58G02, with serial numbers *not* listed in paragraph 1.A. of GE CF6–80A SB No. 72–604, Revision 3, dated April 8, 1993, in accordance with the accomplishment instructions of GE CF6–80A SB No. 72–604, Revision 3, dated April 8, 1993, at the next exposure of the stage 1 HPT disk at the piece part level.

(c) Remove from service disks found cracked, and replace with serviceable parts. Inspect replacement disks in accordance with paragraph (a) or (b) of this AD, if applicable.

(d) Disks referenced in paragraph (a) or (b) of this AD that have been inspected in accordance with Commercial Engine Service Memorandum No. 27, dated September 27, 1991, or any revision level of GE CF6–80A SB No. 72–604, prior to the effective date of this AD, and whose CSN at the time of inspection was 3,000 or more, meet the inspection requirements of paragraphs (a) and (b) of this AD.

(e) For the purpose of this AD, an engine shop visit is defined as the induction of an engine into a shop for maintenance involving the separation of any major flange.

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note: Information concerning the existence of approved alternate methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

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

Issued in Burlington, Massachusetts, on October 14, 1993.

Jay J. Pardee,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 93–26973 Filed 11–2–93; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 39

[Docket No. 93–ANE–47]

Airworthiness Directives; Pratt & Whitney Canada PW100 Series Turboprop Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to Pratt & Whitney Canada PW100 series turboprop engines, that currently requires rework or replacement of the intercompressor case (ICC), and replacement of the low pressure rotor speed (NL) sensor port sealing tube and the external air tube connecting the P2.5/P3 switching valve to the rear inlet case. This action would also require installation of an airflow deflector bracket nozzle assembly, or modification of the No. 5 bearing pressure air system. Finally, this action would require installation of a No. 5 bearing vent tube assembly and allow extension of the compliance interval for reworking or replacing the ICC. This proposal is prompted by the development of additional hardware that will further reduce the risk of internal oil fires in the ICC. The actions specified by the proposed AD are intended to prevent fire in the engine ICC and nacelle cavities, inflight engine shutdown, and aircraft damage.

DATES: Comments must be received by January 3, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 93–ANE–47, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Pratt & Whitney Canada, Technical Publications Department, 1000 Marie Victorin, Longueuil, Quebec J4G 1A1. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Marc Bouthillier, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7135, fax (617) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93–ANE–47." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 93–ANE–47, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

Transport Canada, which is the airworthiness authority for Canada, recently notified the Federal Aviation Administration (FAA) that an unsafe condition may exist on Pratt & Whitney Canada (PWC) PW118A, PW123, PW124B, PW125B, and PW126A turboprop engines. Transport Canada advises that they have received reports of internal oil fires in the intercompressor case (ICC). There have been 13 ICC fire events due to ignition of oil that had accumulated in the P2.5 air cavity. The ICC fire melts the brazing on the external air-tube connected to the P2.5/P3 switching-valve, and on the low pressure rotor speed (NL) sensor port sealing tube, allowing both to disengage. The ICC fire then migrates into the engine nacelle cavity resulting in inflight engine shutdown and potential aircraft damage.

On December 14, 1992, the FAA issued AD 92–22–01, Amendment 39–8387 (58 FR 6191, January 27, 1993), to require rework or replacement of the existing ICC and replacement of the NL sensor port sealing tube and the external air tube connecting the P2.5/P3 switching valve to the rear inlet case.

Since the issuance of that AD, the manufacturer has developed additional hardware that will further reduce the risk of internal oil fires in the ICC.

PWC has issued the following service bulletins (SB): SB No. 21112, dated February 13, 1992; SB No. 20914, Revision 3, dated October 15, 1991; SB No. 21113, Revision 1, dated May 4, 1992; SB No. 21111, Revision 1, dated June 22, 1992; SB No. 21088, Revision 1, dated November 12, 1991; and SB No. 21097, dated November 8, 1991. These SB's describe procedures for replacing the NL sensor port sealing tube and the external air tube connecting the P2.5/P3 switching valve to the rear inlet case.

In addition, PWC has issued the following SB's: SB No. 20957, Revision 5, dated August 10, 1992, and SB No. 20962, Revision 4, dated August 10, 1992, that describe procedures for reworking the existing 2 hole internal air passage ICC to a 19 hole design.

PWC has also issued the following SB's: SB No. 21065, Revision 4, dated February 1, 1993, that describes procedures for installing an airflow deflector bracket nozzle assembly; SB No. 21211, dated January 28, 1993, that describes procedures for modifying the No. 5 bearing pressure air system; and SB No. 21053, Revision 2, dated December 9, 1991, that describes procedures for installing a No. 5 bearing vent tube assembly.

This engine model is manufactured in Canada and is type certificated for operation in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, Transport Canada has kept the FAA informed of the situation described above. Transport Canada issued AD's No. CF–91–26R1, CF–92–03R1, and CF–92–06, mandating the accomplishment of the above service bulletins. The FAA has examined the findings of Transport Canada, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design installed on aircraft registered in the United States, the proposed AD would supersede AD 92–22–01 to retain the requirements for rework or replacement of the existing ICC and replacement of the NL sensor port sealing tube and the external air tube connecting the P2.5/P3 switching

valve to the rear inlet case. This proposed AD would extend the compliance end date for rework or replacement of the ICC to December 31, 1995, based upon fleet utilization rates and parts availability. In addition, this proposed AD would require installation of an airflow deflector bracket nozzle assembly, or modification of the No. 5 bearing pressure air system. Finally, this proposed AD would require installation of a No. 5 bearing vent tube assembly. The actions would be required to be accomplished in accordance with the service bulletins described previously.

The FAA estimates that 85 engines installed on aircraft of U.S. registry would be affected by this proposed AD, that it would take approximately 8 work hours per engine to accomplish the proposed actions, and that the average labor rate is $55 per work hour. The manufacturer advises the FAA that required parts would be supplied at no cost to the operator. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $37,400.

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

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§39.13 [AMENDED]

2. Section 39.13 is amended by removing amendment 39–8387 (58 FR 6191, January 27, 1993) and by adding a new airworthiness directive to read as follows:

Pratt & Whitney Canada: Docket No. 93–ANE–47. Supersedes AD 92–22–01, Amendment 39–8387.

Applicability: Pratt & Whitney Canada (PWC) PW118A, PW123, PW124B, PW125B, and PW126A turboprop engines installed on but not limited to Embraer EMB–120, DeHavilland Dash 8 Series 300, Aerospatiale ATR 72, Fokker 50, and British Aerospace ATP aircraft.

Compliance: Required as indicated, unless accomplished previously.

To prevent fire in the engine intercompressor case (ICC) and nacelle cavities, inflight engine shutdown, and aircraft damage, accomplish the following:

(a) Replace the low pressure rotor speed (NL) sensor port sealing tube and the external air tube connecting the P2.5/P3 switching valve to the rear inlet case at the next engine shop visit, but not [insert date 90 days after the effective date of this AD] later than as follows:

(1) For PW118A engines, in accordance with PWC Service Bulletin (SB) No. 21112, dated February 13, 1992, and SB No. 20914, Revision 3, dated October 15, 1991.

(2) For PW123 engines, in accordance with PWC SB No. 21113, Revision 1, dated May 4, 1992.

(3) For PW124B engines, in accordance with PWC SB No. 21111, Revision 1, dated June 22, 1992.

(4) For PW125B engines, in accordance with PWC SB No. 21088, Revision 1, dated November 12, 1991.

(5) For PW126A engines, in accordance with PWC SB No. 21097, dated November 8, 1991.

(b) Install an airflow deflector bracket nozzle assembly in accordance with PWC SB No. 21065, Revision 4, dated February 1, 1993, or modify the No. 5 bearing pressure air system in accordance with SB 21211, dated January 28, 1993, at the next engine shop visit, but not later than December 31, 1995.

(c) Install a No. 5 bearing vent tube assembly in accordance with PWC SB No. 21053, Revision 2, dated December 9, 1991, at the next engine shop visit, but not later than December 31, 1995.

(d) For engines incorporating the modifications specified by any revision level of PWC SB No. 20237, rework the existing 2 hole internal air passage ICC to a 19 hole design, or replace the existing ICC, in accordance with PWC SB No. 20957, Revision 5, dated August 10, 1992, or PWC SB No. 20962, Revision 4, dated August 10, 1992, at the next engine shop visit, but not later than December 31, 1995.

(e) For the purpose of this AD, an engine shop visit is defined as when any major module is separated.

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Manager, Engine Certification Office.

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

Issued in Burlington, Massachusetts, on October 25, 1993.

Jay J. Pardee,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 93–26974 Filed 11–2–93; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 93–270, RM–8323, RM–8339]

Radio Broadcasting Services; Cordele, Dawson & Montezuma, GA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on two interrelated petitions. The first petition filed by Radio Cordele, Inc., licensee of Station WKKN(FM), Channel 252A, Cordele, Georgia, seeks the substitution of Channel 236A for Channel 252A at Cordele, Georgia, and the modification of Station WKKN(FM)'s license to specify channel 236A, and the substitution of Channel 290A for Channel 236A at Montezuma, Georgia, and the modification of the construction permit to specify Channel 290A. The second petition filed by John F. Tuck and Phonso Donaldson, Bankruptcy Court Appointed Receivers for Dawson Broadcasting Company, licensee of Station WAZE(FM), Channel 251A, Dawson, Georgia, seeking the substitution of Channel 251C3 for

Channel 251A at Dawson, Georgia, which also requires the substitution of Channel 236A for Channel 252A at Cordele, Georgia, and the substitution of Channel 290A for Channel 236A at Montezuma, Georgia. The coordinates for Channel 236A at Cordele's authorized site are North Latitude 31–57–26 and West Longitude 83–46–08. The coordinates for Channel 290A at the construction permit site at Montezuma are North Latitude 32–17–53 and West Longitude 84–02–02. The Coordinates for Channel 251C3 at Dawson are North Latitude 31–40–03 and West Longitude 84–16–37.

DATES: Comments must be filed on or before Dec. 20, 1993, and reply comments on or before January 4, 1994.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: James W. Jennings, Vice President, Radio Cordele, Inc., 910 20th Avenue East, P.O. Box 460, Cordele, GA 31015; and John F. Tuck & Phonso Donaldson, Receivers of Dawson Broadcasting Company, c/o Truitt Martin, Jr. Esq., P.O. Box 683, Dawson, GA 31742.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 93–270, adopted Sept. 30, 1993, and released October 28, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1919 M Street, NW., room 246, or 2100 M Street, NW., suite 140, Washington, DC 20037.

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* contacts.

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.

Victoria M. McCauley,

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

[FR Doc. 93–26943 Filed 11–2–93; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 93–269, RM–8318]

Radio Broadcasting Services; Denison and Pilot Point, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Davis Family Trust, licensee of Station KTCY–FM, Channel 285C2, Denison, Texas, seeking the reallotment of Channel 285C2 to Pilot Point, Texas, and modification of Davis' authorization to specify Pilot Point as the station's community of license. Channel 285C2 can be allotted to Pilot Point in compliance with the Commission's minimum distance separation requirements with a site restriction of 16.0 kilometers (9.9 miles) north to accommodate Davis' desired site. The coordinates for Channel 285C2 at Pilot Point are 33–32–20 and 96–57–15. In accordance with § 1.420(i) of the Commission's Rules, we will not accept competing expressions of interest in use of Channel 285C2 at Pilot Point or require the petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties.

DATES: Comments must be filed on or before December 20, 1993, and reply comments on or before January 4, 1994.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Richard M. Riehl, Esq., Haley, Bader & Potts, 4350 North Fairfax Drive, suite 900, Arlington, Virginia 22203–1633 (Counsel for petitioner).

FOR FURTHER INFORMATION CONTACT: Pamela Blumenthal, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 93–269, adopted September 30, 1993, and released October 28, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (room 239), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street NW., suite 140, Washington, DC 20037.

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* contacts.

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.

Victoria M. McCauley,

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

[FR Doc. 93–26945 Filed 11–2–93; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 93–271; RM–8345]

TV Broadcasting Services; Walla Walla, WA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Broad Spectrum Communications, Inc., proposing the substitution of VHF Channel 9+ for vacant UHF Channel 14– at Walla Walla, Washington, as its first local television broadcast service. Channel 9+ can be substituted at Walla Walla in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for Channel 9+ at Walla Walla are North Latitude 46–04–12 and West Longitude 118–19–48.

DATES: Comments must be filed on or before December 20, 1993, and reply comments on or before January 4, 1994.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Margaret L. Tobey, Akin,

Gump, Strauss, Hauer & Feld, LLP, 1333 New Hampshire Ave., NW., suite 400, Washington, DC 20036 (Counsel for Petitioner).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 93–271, adopted September 30, 1993, and released October 28, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

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* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

Victoria M. McCauley,

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

[FR Doc. 93–26944 Filed 11–2–93; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF DEFENSE

48 CFR Part 235

Defense Federal Acquisition Regulation Supplement; Streamlined Research and Development Contracting Procedures

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule and request for comments.

SUMMARY: The Defense Acquisition Regulations (DAR) Council is proposing changes to the Defense FAR Supplement to provide streamlined research and development procedures to improve the efficiency of the contracting process for complex, detailed statements of work that are inappropriate for the Board Agency Announcement process.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before January 3, 1994, to be considered in the formulation of the final rule. Please cite DAR Case 92–D034 in all correspondence related to this issue.

ADDRESSES: Interested parties should submit written comments to: Defense Acquisition Regulations Council, ATTN: Mrs. Linda W. Neilson, OUSD(A), 3062 Defense Pentagon, Washington, DC 20301–3062.

FOR FURTHER INFORMATION CONTACT: Mrs. Linda W. Neilson (703) 697–7266.

SUPPLEMENTARY INFORMATION:

A. Background

These test procedures are the result of a 1987 Defense Science Board summer group recommendation that called for streamlined research and development contracting procedures. The Lab Demo Contracting Subgroup of the Lab Demo project proposed streamlined R&D contracting procedures which provide a standard contract format for use by all of the military department laboratories, and a streamlined procedure for solicitation and award of certain R&D contracts. The proposed procedures entail the use of a streamlined solicitation, used in lieu of a traditional Request for Proposals, consisting of a solicitation summary published in the Commerce Business Daily (CBD); applicable terms and conditions incorporated by reference; a supplemental package, if necessary, which is mailed to all interested parties who provide address information; and any amendments. The statement of work may be published in the CBD with the solicitation summary or may be included in a supplemental package. The use of a standard contract is intended to make the contracting process easier on industry, because offerors can expect laboratories for all three military departments to use the same contract format.

B. Regulatory Flexibility Act

The proposed rule is not expected to have significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* because it uses only existing provisions and clauses. The proposed procedures merely provide a streamlined method by which information is communicated to interested parties. An initial regulatory flexibility analysis has therefore not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected DFARS Subpart will also be considered in accordance with Section 610 of the Act. Such comments must be submitted separately and cite DAR case 93–610 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed rule does not impose any new recordkeeping, information collection requirements, or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 235

Government procurement.

Claudia L. Naugle,

Deputy Director, Defense Acquisition Regulations Council.

Therefore, it is proposed that 48 CFR part 235 be amended as follows:

1. The authority citation for 48 CFR part 235 continues to read as follows:

Authority: 41 U.S.C. 421 and FAR Subpart 1.3.

PART 235—RESEARCH AND DEVELOPMENT CONTRACTING

2. Subpart 235.7X is added as follows:

Subpart 235.7X Research and Development Streamlined Contracting Procedures

Sec.
235.7XX1 Scope.
235.7XX2 Definitions.
235.7XX3 Applicability.
235.7XX4 The Research and Development Streamlined Solicitation (RDSS).
235.7XX5 The Research and Development Standard Contract (RDSC).
235.7XX6 The Research and Development Streamlined Contracting Menu.
235.7X Research and Development Streamlined Contracting Procedures.

Subpart 235.7X Research and Development Streamlined Contracting Procedures

235.7XX1 Scope.

This section prescribes streamlined policies, procedures, and documents for acquiring research and development as defined in FAR 35.001 and DFARS 235.001. This streamlined procedure uses the Research & Development Streamlined Solicitation and the Research & Development Standard Contract in lieu of a conventional Request for Proposal (RFP) and contract.

235.7XX2 Definitions.

Research and Development Standard Contract (RDSC). The RDSC is the contract that results from the use of the Research and Development Streamlined Solicitation (RDSS), or other solicitation

procedures that meet the criteria for use of the RDSS. The RDSC contains clauses and provisions selected from a standard menu. Use of other clauses and provisions is discouraged.

Research and Development Streamlined Solicitation (RDSS). The RDSS is a streamlined solicitation, used in lieu of a conventional RFP, which consists of the solicitation summary, published in the Commerce Business Daily (CBD); applicable terms and conditions incorporated by reference; a supplemental package, if necessary; and any amendments.

Solicitation Summary. The solicitation summary is part of the streamlined solicitation. It is published in the CBD and contains a statement of work, proposal submission instructions and incorporation by reference of the applicable terms and conditions.

Supplemental Package. The supplemental package contains necessary information too lengthy to be included in the solicitation summary.

235.7XX3 Applicability.

(a) Consider using the RDSS and RDSC award procedures when the acquisition:

(1) Will result in a cost reimbursement type contract that is valued at $10,000,000 or less, and meets the criteria for Research and Development as defined in FAR 35.001 and DFARS 235.001; or

(2) Meets the criteria for use of the short form research contract described at 235.015–71.

(b) Do not use the procedures of this section to contract for "engineering development", "operational system development" or "management and support" as defined in DFARS 235.001; or for laboratory supplies and equipment, base support services, or other services identified in FAR 37.101 (a) through (h).

(c) Regardless of whether or not the RDSS is used, the contracting officer may use the RDSC award procedures for any competitive or sole source acquisitions or broad agency announcements that meet the criteria of 235.7XX3(a).

235.7XX4 The Research and Development Streamlined Solicitation (RDSS).

(a) The RDSS process consists of:

(1) *Synopsis.* The first CBD notice is the synopsis containing the information required by FAR 5.203(a). Include a requirement for potential offerors to provide address information to the office issuing the solicitation package in order to be included on the mailing list for any supplemental packages and/or amendments.

(2) *Solicitation Summary.* The second CBD notice is the solicitation summary which provides solicitation information to potential offerors, in lieu of a conventional RFP. The solicitation summary consists of the information listed at 235.7XX6, part I, section A, including the statement of work, and incorporates by reference the appropriate terms and conditions in the menu at 235.7XX6. FAR 5.207 limits submissions to the CBD to 12,000 textual characters (approximately 3½ single-spaced pages).

(3) *Supplemental Package.* Use a supplemental package if the solicitation summary must exceed 3½ single-spaced pages, or to provide forms or other printed material to potential offerors. Make the supplemental package available, on or after the date the solicitation summary is published in the CBD, to all interested parties who provide address information.

(4) *Amendments.* Amend the RDSS as set forth at 235.7XX4(b)(6).

(b) *Solicitation procedures.* (1) Publish the synopsis as soon as the information required at FAR 5.203 is available.

(2) Publish the solicitation summary no earlier than 15 days after publication of the synopsis and provide, as a minimum, a reference to the synopsis plus the information required at 235.7XX6, part I, section A.

(3) Make any supplemental package available, on or after the date the solicitation summary is published in the CBD, to all interested parties who provide address information.

(4) Require submission of offers no earlier than 45 days after publication of the synopsis required at 235.7XX4(a)(1).

(5) Request cost and technical proposals from all offerors. To encourage preparation of better cost proposals, consider allowing a delay between the due dates for technical and cost proposals.

(6) Amend the solicitation, if necessary, by forwarding an SF 30, Amendment of Solicitation/ Modification of Contract, to all interested parties who provided address information in response to the synopsis.

(7) Post copies of all CBD notices in accordance with FAR 5.101(a)(2).

(c) *Proposal evaluation and contract award procedures.* (1) Evaluate proposals in accordance with FAR 15.6, as supplemented by departmental procedures and this subpart.

(2) Select the proposal which offers the greatest value in terms of the evaluation factors set forth in the RDSS and, if applicable, any modifications to those factors contained in the solicitation summary.

(3) Prior to award, require the apparent successful offeror(s) to submit the certifications and representations set forth in section K of the RDSS.

(4) Whenever appropriate, award without discussion pursuant to 52.215–16, Alt (III).

235.7XX5 The Research and Development Standard Contract (RDSC).

(a) *The RDSC.* The RDSC is the standard contract that results from the use of the RDSS or other solicitation procedures that meet the criteria for use of the RDSS.

(b) Include the following in RDSCs:

(1) Standard Form (SF) 33, Solicitation, Offer and Award, or SF 26, Award/Contract;

(2) Sections B through J of the RDSS or other solicitation, with applicable fill-ins completed and clause dates added.

235.7XX6 Research and Development Streamlined Contracting Menu.

The clauses and provisions in this menu are mandatory unless they are marked with an asterisk (*). Clauses and provisions marked with an asterisk are for use as applicable to the instant solicitation. Include only those items from this menu that apply to the instant solicitation and resulting contract. In the solicitation summary, list the numbers of the asterisked clauses and provisions that are not applicable (see 235.7XX6, part I, section A(3)).

Part I—The Schedule

Section A. Section A (the solicitation summary) includes:

(1) A solicitation number;

(2) A notice that award shall be made in accordance with DFARS 235.7X, Research and Development Streamlined Contracting Procedures.

(3) A statement specifying that the solicitation consists of:

(i) The solicitation summary, which incorporates DFARS 235.7XX6 by reference, and any amendments, or

(ii) The solicitation summary, which incorporates DFARS 235.7XX6 by reference, a supplemental package, and any amendments.

(4) Instructions for obtaining any supplemental package, including use of Electronic Bulletin Boards, as appropriate;

(5) A statement that all of the clauses and provisions in this section are incorporated by reference, except for a list of the numbers of the asterisked clauses and provisions that are not applicable. (For example: "All of the clause and provisions at DFARS 235.7XX6, Research and Development Streamlined Contracting Menu, are incorporated by reference, except for: B4, B5, C1, E3, 52.210–5, 52.210–7");

(6) A statement providing the date of the applicable FAR and DFARS editions, including the numbers and dates the currently effective FACs and DACs;

(7) A statement that the standard evaluation factors at Section M of this section, or, if they do not apply, the applicable evaluation factors. If the standardized evaluation factors are modified in any way, the modifications must be clearly expressed so that the result is unambiguous. Additions to and deletions from Section M must be clearly annotated.

(8) Identification of data requirements by including either:

(i) A summary of the data requirements that identifies all deliverable data items, and specifies number of copies and frequency of delivery; or

(ii) A notice that DD Form 1423, Contract Data Requirements List, will be included in the supplemental package;

(9) Type of cost contract contemplated;

(10) Estimated period of performance;

(11) Notice of pre-proposal conference, if applicable, with location, date, and time;

(12) Statement of small business or other set aside, if applicable;

(13) Statement of place, date, and time technical and cost proposals are due;

(14) Number of copies of technical and cost proposals required;

(15) Proposal page limitations;

(16) Whether multiple awards are contemplated;

(17) Name and telephone number of contracting office point of contact;

(18) Any applicable numbered CBD notes

(19) Statement that a DD Form 254, Contract Security Classification Specification, will be included in the supplemental package, if appropriate.

(20) The statement of work, or statement that it is contained in a supplemental package;

Section B

Supplies or Services and Prices/Costs (Use appropriate CLIN structure.)

(*—Use as applicable.)

B.1 Type Contract and Form

This is a $_____contract.

*B.2. Estimated Cost

(Use when no fee will be paid)

The total estimated cost for this contract is $_____.

*B.3. Cost Plus Fixed Fee

(Applicable to fee-bearing contracts)

The total estimated cost for this contract is $_____.

The total fixed fee for this contract is $_____.

*B.4. Cost-Sharing Costs

(Applicable to cost sharing contracts)

(a) Subject to and in accordance with the Limitation of Cost/Limitation of Funds clause of this contract, the parties agree to share the cost of performance of this contract as follows:

(1) The total estimated cost of CLINs _____and _____of this contract is $_____or _____%. Of this amount the Government's share is $_____or _____% and the contractor's share is _____or _____%.

(2) The Government will reimburse the contractor, from time to time during performance of this contract, a proportion of allowable costs incurred in performance of this contract equivalent to the ratio of the Government share to the total estimated cost of performance as set forth in section (a)(1).

(3) Except as set forth in section (a)(2), the billing payment and other provisions of the Allowable Cost and Payment Clause of this contract remain unchanged.

(4) All costs incurred by the contractor in performance of this contract in excess of the amount reimbursed by the Government as set forth in paragraph B.4.(a)(1), shall not be charged to this contract as either direct, indirect, overhead, general and administrative or any other costs for the purpose of reimbursement by the Government.

(b) In the event this contract is terminated pursuant to the Termination clause of this contract, the cost sharing and reimbursement provisions set forth in paragraph B.4. shall not apply to termination cost, described in FAR clause 52.249–6(g) (2) and (3). Except as specifically set forth in paragraph B.4., nothing in paragraph B.4. shall affect the Government's right under the Termination clause of this contract.

*B.5. Award Fee

(Applicable to award fee-type contracts)

In addition to the profit/fee set forth elsewhere in the contract, the contractor may earn an award fee up to $_____ on the basis of performance during the performance periods, and in the amount specified in the award fee plan.

(a) *Monitoring of performance.* The contractor's performance will be continually monitored by the Award Fee Review Board (AFRB), which is comprised of a chairperson and other designated members.

(b) *Award fee plan.* This plan provides necessary administrative information, including the evaluation criteria and schedule, for the purpose of implementing the award fee provision. Upon contract award, the contractor will be provided the award fee plan subject to any withholdings authorized by the _____ (insert appropriate contracting official).

(c) *Modification of award fee plan.* Before the start of an evaluation period the Government may unilaterally:

(1) Modify the award fee performance evaluation criteria and areas applicable to the evaluation period, and

(2) Revise the distribution of the remaining award fee dollars among the remaining periods. The contracting officer will notify the contractor in writing of the changes and modify the award fee plan accordingly.

(d) The following standards of performance shall be employed in determining whether and to what extent the contractor has earned or may be entitled to receive any award fee:

(1) *Excellent performance:* Contractor performance of virtually all contract task requirements is uniformly well above standard and exceeds the standard by a substantial margin in numerous significant tangible or intangible benefits to the Government (i.e., improved quality, responsiveness, increased timeliness, or generally enhanced effectiveness of operations). There are few areas for improvement; these areas are all minor; there are no recurring problems; and management has initiated effective corrective action whenever needed.

(2) *Very good performance:* The contractor's performance of most contract task requirements is uniformly well above standard and exceeds the standard in many significant areas. Although some areas may require improvements, these are minor and are more than offset by better performance in other areas. Few, if any, recurring deficiencies have been noted in the contractor's performance and the contractor has demonstrated/taken satisfactory corrective action. Innovative management actions have resulted in tangible or intangible benefits to the Government (i.e., improved quality, responsiveness, increased quantity, increased timeliness, or generally enhanced effectiveness of operations).

(3) *Good performance:* Contractor's performance of most contract task requirements meets the standard, and it exceeds the standard in several significant areas. While the remainder of the contractor's effort generally meets contract requirements, areas requiring improvement are more than offset by better performance in other areas. Management actions taken or initiated have resulted in some demonstrated benefits to the Government (i.e., improved quality, responsiveness, timeliness, or effectiveness of operations).

(4) *Marginal performance:* Contractor performance meets most contract standards. Although there are areas of good or better performance, these are more or less offset by lower rated performance in other areas. Little additional tangible benefit is observable due to contractor effort or initiative.

(5) *Submarginal performance:* Contractor performance is below standard in several areas. Contractor performance in accordance with requirements is inconsistent. Quality, responsiveness, timeliness, and/or economy in many areas require attention and action. Corrective actions have not been taken, or are ineffective. Overall submarginal performance shall not be given award fee.

(e) *Maximum payable award fee.* The maximum payable award fee in any evaluation period shall be determined based on the amount set forth in the applicable contract line items and a percentage based on the Government's evaluation on the contractor's performance as follows:

Performance	Percent of maximum award fee payable
Excellent	___% to ___%.
Very Good	___% to ___%.
Good	___% to ___%.
Marginal	___% to ___%.
Submarginal	0%

(f) *Self-evaluation.* The contractor may submit to the Contracting Officer (CO) within five (5) working days after the end of each award fee evaluation period, a brief written self-evaluation of its performance for the period. This statement may contain information which may be used to assist the AFRB in its evaluation of the contractor's performance during the period.

(g) *Disputes.* The decision of the FDO on the amount of award fee will not be subject to the "Disputes" clause.

(h) *Award fee payment.*

(1) As determined by the FDO, payment of any award fee will not be subject to the "Allowable Cost and Payment" and "Termination (Cost Reimbursement)" clauses of this contract.

(2) The contractor may submit vouchers for the award fee immediately upon receipt of the CO's written award notification.

*B.6. Target Cost and Fee

(Applicable to incentive fee-type contracts.)

The target cost is $_____.

The target fee is $_____.

The minimum fee the contractor may receive $_____.

The maximum fee the contractor may receive $_____.

*B.7. Payment of Fixed Fee on Completion-Type Contract

(Applicable to fee-bearing, completion-type contracts.)

The fixed fee shall be paid in monthly installments based upon the percentage of completion of work as determined by the Administrative Contracting Officer, subject to the withholding provisions of the Contract.

*B.8. Payment of Fixed Fee on Term-Type Contracts

(Applicable to fee-bearing, term-type contracts.)

Pursuant to the clause at FAR 52.216–8, "Fixed Fee", and subject to withholding provisions contained therein or elsewhere in the contract, fixed fee shall be paid to the Contractor based upon the percentage of hours completed as related to the total hours set forth in the contract. Each voucher submitted by the Contractor shall certify to the level of effort expended during that period. The Government technical representative shall sign a statement on the certificate that the work performed during the period has been performed satisfactorily.

*B.9. Options

(Applicable to contracts with option(s).)

The Government is granted the right to obtain the performance of the work required by CLIN _____. If the Government exercises this option, the Contractor shall perform at the estimated cost and fee, if applicable, set forth below. The Contracting Officer shall provide written notice to this Contractor on or before _____.

Estimated Cost	$_____
or	
Estimated Cost	$_____
Fixed Fee	$_____
Total	$_____

Section C

Description/Specifications/Work Statements

(*—Use as applicable)

*C.1. Classified Work Statement

(Applicable if Section C is classified.)

The description/specifications/work statement entitled, "_____", classified _____, dated _____ is incorporated– herein by reference. A copy may be obtained from the Contracting Officer, if a need-to-know is established and appropriate security clearance has been granted.

*C.2. Unclassified Work Statement

(Applicable if Section C is unclassified and is attached to the contract.)

The description/specifications/work statement is included as Attachment _____.

*C.3. Contractor's Technical Proposal

(Applicable if portions of the Contractor's proposal are incorporated by reference. Include only those portions of the proposal that are in direct response to the solicitation.)

The Contractor's proposal entitled, "_____", pages _____, dated _____, is incorporated herein by reference.

Section D

Packaging and Marking

D.1. Commercial Packaging

Preservation, packaging and packing shall provide adequate protection against physical damage during shipment for all deliverable items in accordance with standard commercial practices.

Section E

Inspection and Acceptance

(*—Use as applicable)

Federal Acquisition Regulation Clauses

*E.1 52.246–8 Inspection of Research and Development—Cost Reimbursement

*E.2 52.246–8 Inspection of Research and Development—Cost Reimbursement (Alternate I)

*E.3 52.246–9 Inspection of Research and Development (Short Form)

Department of Defense Federal Acquisition Regulation Clauses

*E.4 252.246–7000 Material Inspection and Receiving Report

Other

E.5. Inspection and Acceptance

Inspection and acceptance of any and all deliverables under this contract will be accomplished by the technical representative designated in Section G of this contract.

Section F

Deliveries or Performance

*F.1. FAR 52.212–13 Stop Work Order—Alternate I

F.2. Delivery of Reports

(a) All data shall be delivered in accordance with the delivery schedule shown on the Contract Data Requirements List, attachments, or as incorporated by reference.

(b) All reports and correspondence submitted under this contract shall include the contract number and project number and be forwarded prepaid. A copy of the letters of transmittal shall be delivered to the Procuring Contracting Officer (PCO) and the Administrative Contracting Officer (ACO). The addresses are set forth on the Contract Award Cover Page. All other address(es) and code(s) for consignee(s) are as set forth in the contract or incorporated by reference.

Section G

Contract Administration Data

*G.1. Contractor Payment Address

(To be filled in at time of contract award. Applicable if the Contractor has specified a payment address other than the address shown on the cover page of the contract.)

Contract Payment Address:

_____

_____

_____

*G.2. Incremental Funding

(Applicable to incrementally funded contracts.)

This contract is incrementally funded pursuant to the "Limitation of Funds" clause, FAR 52.232–22. Funds are hereby obligated in the amount of $_____and it is estimated that they are sufficient for contract performance through _____.

From time to time, additional funds will be allotted to the contract in accordance with FAR 52.232–22.

*G.3. Request for Equal Opportunity Preaward Clearance of Subcontracts

(Applicable to contracts over $1 million)

To provide the Contracting Officer with adequate time to process the Contractor's request for preaward clearance of subcontracts as required by FAR 52.222–28, the prime contractor shall request preaward clearance through the Contracting Officer at least thirty (30) calendar days before the proposed award date, unless the cognizant Department of Labor Compliance Office agrees to a shorter time.

G.4. Contracting Officer's Representative

(To be filled in at time of contract award)

The Contracting Officer's Representative for this contract is:

_____

_____

_____

*G.5. Technical Directions

(Applicable if specified in the solicitation summary/contract.)

a. Performance of the work hereunder is subject to the technical direction of the Contracting Officer's Representative (COR) designated in this contract. For the purposes of this provision, technical direction includes the following:

(1) Direction to the Contractor which shifts emphasis between work areas or tasks, requires pursuit of certain lines of inquiry, fills in detail or otherwise serves to accomplish the objectives described in the statement of work.

(2) Guidelines to the Contractor which assist in the interpretation of drawings, specifications or technical portions of work description.

b. Technical direction must be within the general scope of work stated in the contract. Technical direction may not be used to:

(i) Assign additional work under the contract;

(ii) Direct a change as defined in the contract clause entitled "Changes";

(iii) Increase or decrease the estimated contract cost, the fixed fee, or the time required for contract performance; or

(iv) Change any of the terms, conditions or specifications of the contract.

c. The only individual authorized to in any way amend or modify any of the terms of the this contract shall be the Contracting Officer. When, in the opinion of the Contractor, any technical direction calls for effort outside the scope of the contract or inconsistent with this special provision, the Contractor shall notify the Contracting Officer in writing within ten workings days after its receipt. The Contractor shall not proceed with the work affected by the technical direction until the Contractor is notified by the Contracting Officer that the technical direction is within the scope of the contract.

d. Nothing in paragraphs G.5. (a), (b) and (c) may be construed to excuse the Contractor from performing that portion of the work statement which is not affected by the disputed technical direction.

Section H

Special Contract Requirements

H.1. Incorporation of Section K by Reference

Purusant to Federal Acquisition Regulation (FAR) 15.406–1(b), Section K of the solicitation is hereby incorporated by reference.

*H.2. Rent-Free Use of Government Property

The Contractor may use on a rent-free, non-interference basis, as necessary for the performance of this contract, the Government property accountable under Contract(s) _____. The Contractor is responsible for scheduling the use of all property covered by the above referenced contract(s) and the Government shall not be responsible for conflicts, delays, or disruptions to any work performed by the Contractor due to use of any or all such property under this contract or any other contracts under which use of such property is authorized.

*H.3. Government Furnished Property

The Government will furnish to the Contractor for use in the performance of the contract on a rent-free basis the Government-owned property listed in an attachment to this contract, subject to the provisions of the Government Property Clause of the Contract Clauses.

*H.4. Overhead Ceiling (Educational/Nonprofit)

Notwithstanding any other provisions of this contract, reimbursement to the contractor for allowable indirect costs under this contract for the period _____through _____shall not exceed a rate of ____% of modified total direct costs.

*H.5 Indirect Costs Ceiling

For purposes of billing and provisional payment under the contract, the rates of ____% overhead on direct labor costs and ____% for general and administrative expense shall be used. Final payment shall be based on the application of the applicable audited rates. However, in no event shall rates in excess of ____% overhead on direct labor costs and ____% for general and administrative expense be allowed.

H.6. Scientific Technical Information

If not already registered, the Contractor shall register for Defense Technical Information Center (DTIC) service by contacting the following:

Defense Technical Information Center, Attn: Registration Section (DTIC–BCS), Bldg. 5, Cameron Station, Alexandria, VA 22304–6135, (703) 274–6871.

To avoid duplication of effort and conserve scientific and technical resources, the Contractor shall search existing sources in DTIC to determine the current state of the art concepts, studies, etc.

*H.7. Title to Equipment Having an Acquisition Cost of $5,000 or More

In the implementation of paragraph (c) of the Government Property Clause set forth in Section I of this contract, and pursuant to the provisions of FAR 35.014(b)(2), title to equipment and other tangible personal property having an acquisition cost of $5,000 or more, purchased with funds available for the conduct of research, shall, as determined by the Administrative Contracting Officer:

(i) Vest in the Contractor upon acquisition without further obligation to the Government;

(ii) Vest in the Contractor, subject to the Government's right to direct transfer of the title to the Government or a third party within 12 months after the contract's completion or termination (transfer of title to the Government or third party shall not be the basis for any claim by the Contractor); or

(iii) Vest in the Government, if the Contracting Officer determines that vesting of title in the Contractor would not further the objectives of the agency's research program.

H.8. List of Data To Be Provided With Other Than Unlimited Rights

With the exception of the technical data or computer software set our below technical data and computer software to be delivered under this contract shall be furnished with unlimited rights as defined in Section I clause DFARS 252.227.7013.

Items, components, processes or computer software	Drawing/document number or title	Government's rights
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....

*H.9. Phase Authorization

(Applicable if specified in solicitation/contract)

The estimated cost and fee, if applicable, to each phase is as follows:

Phase I
Estimated Cost _____
(Use when no fee will be paid)
Estimated Cost _____
Fixed Fee _____
Total _____
Government Share _____
Contractor Share _____
Total _____
Estimated Cost _____
Base Fee _____
Award Fee _____
Total _____
Target Cost _____
Target Fee _____

Phase II
Estimated Cost _____
(Use when no fee will be paid)
Estimated Cost _____
Fixed Fee _____
Total _____
Government Share _____
Contractor Share _____
Total _____
Estimated Cost _____
Base Fee _____
Award Fee _____
Total _____
Target Cost _____
Target Fee _____

The Contractor shall not proceed to each succeeding phase before obtaining the written approval of the Contracting Officer. In the event the Contracting Officer does not provide such approval, the Contractor agrees to a unilateral contract modification reducing the contract estimated cost and fee, if applicable, by the amounts set forth in this phase authorization.

Part II—Contract Clauses

Contract clauses are mandatory unless they are marked with an asterisk (*). Asterisked clauses are for use as applicable to the instant solicitation/contract. Include only those items from this menu that apply to the instant solicitation and resulting contract. In the solicitation summary list the numbers of the asterisked clauses that are not applicable (see 235.7XX6, Part I, Section A(3)).

Section I

FAR 52.252–2 Clauses incorporated by reference

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available.

I. Federal Acquisition Regulation Clauses

52.202–1 Definitions

52.203–1 Officials not to Benefit
52.203–3 Gratuities
52.203–5 Convenant Against Contingent Fees
52.203–7 Anti-Kickback Procedures
*52.203–9 Requirement for Certificate of Procurement Integrity Modification
52.203–10 Price or Fee Adjustment for Illegal or Improper Activity
*52.203–12 Limitation on Payments to Influence Certain Federal Transactions
*52.204–2 Security Requirements
52.209–6 Protecting the Government's Interest When Subcontracting With Contractors Debarred, Suspended, or Proposed for Debarment
*52.210–5 New Material
*52.210–7 Used or Reconditioned Material, Residual Inventory, and Former Government Surplus Property
52.212–8 Defense Priority and Allocation Requirements
52.215–1 Examination of Records by Comptroller General
52.215–2 Audit—Negotiation
*52.215–22 Price Reduction for Defective Cost or Pricing Data
*52.215–23 Price Reduction for Defective Cost or Pricing Data-Modifications
*52.215–24 Subcontractor Cost or Pricing Data
*52.215–25 Subcontractor Cost or Pricing Data-Modifications
*52.215–27 Termination of Defined Benefit Pension Plans
52.215–30 Facilities Capital Cost of Money
*52.215–31 Waiver of Facilities Capital Cost of Money
52.215–33 Order of Precedence
52.215–39 Reversion or Adjustment of Plans for Postretirement Benefits Other Than Pensions (PRB)
*52.216–7 Allowable Cost and Payment
*52.216–8 Fixed Fee
*52.216–10 Incentive Fee
*52.216–11 Cost Contract-No Fee—Alternate I
*52.216–12 Cost-Sharing Contract-No Fee—Alternate I
*52.216–15 Predetermined Indirect Cost Rates
*52.219–6 Notice of Total Small Business Set-Aside—Alternate I
*52.219–7 Notice of Partial Small Business Set-Aside
52.219–8 Utilization of Small Business Concerns and Small Disadvantaged Business Concerns
*52.219–9 Small Business and Small Disadvantaged Business Subcontracting Plan
52.219–13 Utilization of Women-owned Small Businesses
*52.219–14 Limitation on Subcontracting
*52.219–16 Liquidated Damages—Small Business Subcontracting Plan
52.220–3 Utilization of Labor Surplus Area Concerns
*52.220–1 Preference for Labor Surplus Concerns
52.220–4 Labor Surplus Area Subcontracting Program
*52.222–2 Payment for Overtime Premiums
52.222–3 Convict Labor
52.222–26 Equal Opportunity
*52.222–28 Equal Opportunity Preaward Clearance of Subcontracts
52.222–35 Affirmative Action for Special Disabled and Vietnam Era Veterans
52.222–36 Affirmative Action for Handicapped Workers
52.222–37 Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era
*52.223–2 Clean Air and Water
*52.223–3 Hazardous Material Identification and Material Safety Data
52.223–6 Drug-Free Workplace
52.223–7 Notice of Radioactive Materials
*52.225–3 Buy American Act—Supplies
*52.225–10 Duty Free Entry
52.225–11 Restrictions on Certain Foreign Purchases
*52.226–1 Utilization of Indian Organizations and Indian Owned Economic Enterprises
52.227–1 Authorization and Consent—Alternate I
52.227–2 Notice and Assistance Regarding Patent and Copyright Infringement
*52.227–10 Filing of Patent Applications—Classified Subject Matter
*52.227–11 Patent Rights—Retention by the Contractor (Short Form)
*52.227–12 Patent Rights—Retention by the Contractor (Long Form)
52.228–7 Insurance Liability to Third Persons—Alternate
I—Alternate II
*52.229–2 North Carolina State & Local Sales and Use Tax
*52.229–10 State of New Mexico Gross Receipts and Compensating Tax
52.230–2 Cost Accounting Standards
52.230–3 Disclosure and Consistency of Cost Accounting Practices
*52.230–5 Administration of Cost Accounting Standards
52.230–5 Disclosure and Consistency of Cost Accounting Practices
52.232–9 Limitation on Withholding of Payments
*52.232–17 Interest
*52.232–20 Limitation of Cost
*52.232–22 Limitation of Funds
52.232–23 Assignment of Claims
*52.232–23 Assignment of Claims—Alternate I
52.232–25 Prompt Paymemt
52.232–28 Electronic Funds Transfer Payment Methods
52.233–1 Disputes
52.233–3 Protest After Award—Alternate I
*52.237–2 Protection of Government Buildings, Equipment and Vegetation
52.242–1 Notice of Intent to Disallow Costs
52.242–13 Bankruptcy
52.243–2 Changes Cost Reimbursement—Alternate V
52.243–6 Change Order Accounting
*52.243–7 Notification of Changes
52.244–2 Subcontracts (Cost-Reimbursement and Letter Contracts)
52.244–5 Competition in Subcontracting
*52.245–5 Government Property (Cost-Reimbursement, Time-and-Material, or Labor-Hour Contracts)
*52.245–19 Government Property Furnished "As Is"
52.246–23 Limitation of Liability
52.247–1 Commercial Bill of Lading Notations
*52.247–63 Preference for U.S. Flag Air Carriers
*52.249–5 Termination for Convenience of the Government (Educational and Other Nonprofit Institutions)
*52.249–6 Termination (Cost-Reimbursement)
52.249–14 Excusable Delays
*52.251–1 Government Supply Sources
52.253–1 Computer Generated Forms

II. Defense Federal Acquisition Regulation Supplement Clauses

252.201–7000 Contracting Officer's Representative
*252.203–7000 Statutory Prohibition on Compensation to Former Department of Defense Employees
252.203–7001 Special Prohibition on Employment
*252.203–7002 Display of DOD Hotline Poster
252.203–7003 Prohibition Against Retaliatory Personnel Actions
252.204–7000 Disclosure of Information
*252.204–7002 Payment for Subline Items Not Separately Priced
252.204–7003 Control of Government Personnel Work Product
*252.205–7000 Provision of Information to Cooperative Agreement Holders
252.209–7000 Acquisitions From Subcontractors Subject to On-Site Inspection Under the Intermediate-Range Nuclear Forces (INF) Treaty
*252.215–7000 Pricing Adjustments
*252.215–7002 Cost Estimating System Requirements
*252.215–7032 Waiver of United Kingdom Levies
*252.219–7002 Notice of Small Disadvantage Business Set-Aside
*252.219–7003 Small Business and Small Disadvantaged Business Subcontracting Plan (DOD Contracts)
*252.219–7005 Incentive for Subcontracting With Small Businesses and Small Disadvantaged Businesses, Historically Black Colleges and Universities and Minority Insitutions—Alternate I
*252.219–7006 Notice of Evaluation Preference for Small Disadvantaged Business Concerns—Alternate I
252.219–7008 Pilot Mentor-Protege Program
*252.223–7001 Hazard Warning Labels
*252.223–7002 Safety Precautions for Ammunition and Explosives
*252.223–7003 Change in Place of Performance—Ammuinition and Explosives
*252.223–7004 Drug-Free Work Force
*252.225–7014 Preference for Domestic Specialty Metals
252.225–7025 Foreign Source Restrictions
*252.225–7026 Reporting of Overseas Subcontracts
*252.226–7000 Notice of Historically Black College or University and Minority Institution Set-Aside
252.227–7013 Rights in Technical Data and Computer Software
252.227–7018 Restrictive Markings on Technical Data
*252.227–7026 Deferred Delivery of Technical Data or Computer Software
*252.227–7027 Deferred Ordering of Technical Data or Computer Software

252.227-7029 Identification of Technical Data
252.227-7030 Technical Data—Withholding of Payment
252.227-7031 Data Requirements
*252.227-7034 Patents Subcontracts
252.227-7036 Certification of Technical Data Conformity
252.227-7037 Validation of Restrictive Markings on Technical Data
*252.227-7039 Patents—Reporting of Subject Inventions
252.231-7000 Supplement Cost Principles
*252.231-7001 Penalties for Unallowable Costs
*252.232-7000 Advance Payment Pool
252.232-7006 Reduction or Suspension of Contract Payments Upon Finding of Fraud
*252.233-7000 Certification of Claims and Requests for Adjustment or Relief
252.235-7003 Animal Welfare
252.235-7009 Restriction on Printing
252.242-7000 Postaward Conference
252.242-7001 Certification of Indirect Costs
252.242-7002 Submission of Commercial Freight Bills for Audit
*252.242-7004 Material Management and Accounting System
252.247-7023 Transportation of Supplies by Sea
*252.247-7024 Notification of Transportation of Supplies by Sea
*252.249-7001 Notification of Substantial Impact on Employment
*252.251-7000 Ordering From Government Supply Sources
*252.270-7000 Recovery of Nonrecurring Costs and Royalty Fees on Commercial Sales

Part III—List of Documents, Exhibits, and Other Attachments

Section J

A. List of Attachments:
B. List of Exhibits:

(Use attachments and exhibits to inform the contractor of local requirements such as:

(i) Procedures for laboratory access;
(ii) Laboratory hours of operation;
(iii) Special procedures related to unique laboratory working environment which are not covered by FAR/DFARS; and departmental guidance.
(iv) Base support or government property information.)

Part IV—Section K

Representations, Certifications and Other Statements of Offerors

The following solicitation provisions require representations, certifications or the submission of other information by offerors. They are included herein by reference. Full text copies of these provisions are available from the Contracting Officer and must be completed and certified to prior to contract award.

I. Federal Acquisition Regulation Provisions

52.203-4 Contingent Fee Representation and Agreement
52.203-8 Requirement for Certificate of Procurement Integrity Alternate I
52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions
52.204-3 Taxpayer Identification
52.209-5 Certification Regarding Debarment, Suspension, Proposed Debarment and other Responsibility Matters
52.215-6 Type of Business Organization
52.215-11 Authorized Negotiators
52.215-20 Place of Performance
52.219-1 Small Business Concern Representation
52.219-3 Women-Owned Small Business Representation
52.219-15 Notice of Participation by Organizations for the Handicapped
52.219-22 SIC Code and Small Business Standard
52.222-21 Certification of Nonsegregated Facilities
52.222-22 Previous Contracts and Compliance Reports
52.222-25 Affirmative Action Compliance
52.223-1 Clean Air and Water Certification
52.223-5 Certification Regarding a Drug-Free Workplace
52.227-6 Royalty Information
52.230-1 Cost Accounting Standards Notices and Certification (National Defense)

II. Defense Federal Acquisition Regulation Supplement Solicitation Provisions

252.209-7001 Disclosure of Ownership or Control by a Foreign Government That Supports Terrorism
252.219-7000 Small Disadvantaged Business Concern Representation (DOD Contracts)
252.225-7031 Secondary Arab Boycott of Israel
252.226-7001 Historically Black College or University and Minority Institution Set-Aside
252.227-7028 Requirement for Technical Data Representation
252.247-7022 Representation of Extent of Transportation by Sea

III. Contract Administration Information

Payment Address

Indicate address to which payment should be mailed if such address is different from that shown on the cover page of the contract

Part IV—Section L

Instructions, Conditions, and Notices to Offerors

52.252-1 Solicitation Provisions Incorporated by Reference

This solicitation incorporates one or more solicitation provisions by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available.

Solicitation provisions are mandatory unless they are marked with an asterisk (*). Asterisked provisions are for use as applicable to the instant solicitation. Include only those items from this menu that apply to the instant solicitation and resulting contract. In the solicitation summary list the numbers of the asterisked provisions that are not applicable (see 235.7XX6, Part I, Section A(3)).

I. Federal Acquisition Regulation Solicitation Provisions

52.204-4 Contractor Establishment Code
52.209-7 Organizational Conflict of Interest Certificate Marketing Consultants
52.210-2 Availability of Specifications Listed in the DOD Index of Specifications and Standards (DODISS)
52.215-5 Solicitation Definitions
52.215-7 Unnecessarily Elaborate Proposals or Quotations
52.215-8 Amendments to Solicitations
52.215-9 Submission of Offers
52.215-10 Late Submissions, Modifications, and Withdrawals of Proposals
52.215-12 Restriction on Disclosure and Use of Data
52.215-13 Preparation of Offers
52.215-14 Explanation to Prospective Offerors
52.215-15 Failure to Submit Offer
52.215-16 Contract Award
*52.215-16 Alternate III
52.216-1 Type of Contract
*52.217-7 Notice of Priority Rating for National Defense Use
52.222-24 Preaward On-site Equal Opportunity Compliance Review
52.228-6 Insurance—Immunity From Tort Liability
52.233-2 Service of Protest
52.237-1 Site Visit

II. Defense Federal Acquisition Regulation Supplement Solicitation Provisions

252.204-7001 Commercial and Government Entity (Cage) Code Reporting
252.227-7019 Identification of Restricted Rights Computer Software

III. Other Instructions, Conditions, and Notices to Offerors

L. (1) Government Furnished Property

No material, labor, or facilities will be furnished by the Government unless provided for in the solicitation.

L. (2) Proposal Preparation and Submission Instructions

(a) Page Limitation, Format.

(1) A proposal shall be prepared in separate volumes with the page limit and number of copies specified below. The table of contents and tabs are exempt from the page limits. No cross-referencing between volumes for essential information is permitted except where specifically set forth in this provision. The following volumes of material will be submitted:

Title	Copies	Maximum page limits
Cost	As specified in solicitation summary.	*50
Technical	As specified in solicitation summary.	100

*The 50 page cost proposal is a goal not a limit. The Contractor may use additional pages if necessary to comply with public law.

(2) Any technical proposal pages submitted which exceed the page limitations set forth

above will not be read or evaluated. Proposal pages failing to meet paragraph 4 format will not be read or evaluated.

(3) No program cost data or cross-reference to the cost proposal will be included in any other volume.

(4) Format of the above proposal volumes shall be as follows:

(i) Proposals will be prepared on 8½ x 11 inch paper except for foldouts used for charts, tables, or diagrams, which may not exceed 11 x 17 inches. Foldouts will not be used for text. Pages will have a one-inch margin.

(ii) A page is defined as one face of a sheet of paper containing information. Two pages may be printed on one sheet.

(iii) Type size will be no smaller than 10 point character height (vertical size) and no more than an average of 12 characters per inch. Use of type-setting techniques to reduce type size below 10 points or to increase characters beyond 12 per inch is not permitted. Such techniques are construed as a deliberate attempt to circumvent the intent of page limitations set forth above.

(iv) Proposal must lie flat when opened, elaborate binding is not desirable.

(v) No models, mockups or video tapes will be accepted.

(vi) Technical proposal will be prepared in the same sequence as the statement of work.

(b) Content

All proposal must be complete and respond directly to the requirements of the solicitation. The factors and subfactors listed in section M of the solicitation shall be addressed.

L. (3) Pricing Information—Over $500,000

(a) When the offeror is required to submit a cost proposal, a completed SF Form 1411 is required. The form will be completed in its entirety, as detailed in the instructions contained at FAR 15.804–6, with supporting breakdown and backup information, adequately cross-referenced, and suitable for detailed analysis.

(b) At the completion of negotiations, if the proposed contract meets the criteria expressed in Public Law 87–653 and FAR 15.804–2, the Contractor shall be required to submit a completed Certificate of Current Cost or Pricing Data. The requisite certification is at FAR 15.804–4.

L. (4) Cost Breakdown in Support of Proposal—$500,000 and Under

Offerors shall submit, with the cost proposal, a cost breakdown suitable and adequate for, an elemental analysis of proposed costs for the purpose of determining reasonableness of such proposed costs. This breakdown shall include those necessary and reasonable costs which in the judgment of the offeror will properly be incurred in the efficient performance of the contract.

Part IV—Section M

Evaluation Factors for Award

(Applicable as specified in the solicitation summary).

1. Evaluation of Options. (Applicable if the solicitation indicated that options are anticipated in the resulting contract. When this provision is included, evaluation criteria for options shall be included in section M.)

FAR 52.217–5 Evaluation of Options

2. Proposal Evaluation Procedures and Basis for Award

Proposals will be evaluated and award made as follows:

A. Basis for Award

The basis for award is technical and cost in that order. The award decision will be based on evaluation of all factors and subfactors set forth in this solicitation. The Government may select the source whose proposal offers the greatest value in terms of cost or price and other factors set forth in the solicitation. The source selected may or may not have the lowest proposed total costs.

B. Evaluation Factors

Proposals will be evaluated in accordance with the following factors. The technical factor is more important than the cost factor. The technical subfactors listed in (1) below are in descending order of importance unless otherwise stated in the solicitation. The cost subfactors listed in (2) below are of equal weight.

(1) Technical

(a) Technical Approach

The soundness of the offeror's technical approach, including the offeror's demonstrated understanding of the technical requirement.

(b) Qualification

The experience and qualifications of the proposed personnel relevant to the proposed task. The quantity and quality of the offeror's corporate experience relevant to the proposed task.

(c) Management

The degree to which the offeror demonstrates the ability to effectively and efficiently manage and administer the program to a successful conclusion.

(d) Facilities

Adequacy of offeror's facilities for the proposed effort.

(2) Cost

(a) Reasonableness

Proposed estimated cost and fee (if any).

(b) Completeness

The adequacy of the identification, estimation and documentation of all relevant costs.

(c) Realism

The consistency of the cost proposal with the technical effort proposed, the organizational structure, method of operations and cost accounting practices.

[FR Doc. 93–26605 Filed 11–2–93; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 215, 216, and 222

[Docket No. 930404–3104; I.D. 102693B]

RIN 0648–AD11

Protected Species Special Exception Permits; Public Hearings

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

ACTION: Notice of public hearings and change in public briefing location.

SUMMARY: NMFS will hold three public hearings to give interested members of the public an opportunity to provide comments on the proposed rule to revise regulations for public display, scientific research, and enhancement permits, published in the **Federal Register** (58 FR 53320) on Thursday, October 14, 1993. The building and room number of the public briefing scheduled for November 3, 1993, has been changed.

DATES: Hearings will be held on the proposed revised permit regulations in Washington, DC, on December 3, 1993; in Oakland, CA, on December 6, 1993; and in Chicago, IL, on December 8, 1993. The hearings will be held between 10 a.m. and 4 p.m. A public briefing on the proposed revised permit regulations will be held in Silver Spring, MD, on November 3, 1993, from 1 p.m. to 5 p.m. Written comments on the proposed rule must be postmarked or received by December 13, 1993.

ADDRESSES: Written comments on the proposed rule should be mailed to Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Clearly mark the outside of the envelope "Proposed Rule Comments." A copy of the proposed rule may be obtained by writing to the same address, or by sending a facsimile to Ann Terbush at 301–713–0376. Addresses for the public hearings are: NOAA Auditorium, 1301 East-West Highway, Silver Spring, MD; Oakland Federal Building, Auditorium, 2nd Floor, 1301 Clay Street, Oakland, CA; and Dirksen Federal Building, room 2525, 219 South Dearborn St., Chicago, IL. The public briefing will be held in room 4527, Building #SSMC 3, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Jeannie Drevenak, Ann Terbush, or Art Jeffers at 301–713–2289. Please notify

Jeannie Drevenak at 301–713–2289 at least 7 days in advance of the hearing if you wish to testify. If you need accommodations to attend the hearings, please call Ann Hochman at least 10 business days in advance of the hearing on 301–713–2289 (voice). People who are deaf or hearing impaired may place a call through the Maryland Relay Service on 1–800–735–2258.

List of Subjects

50 CFR Part 215

Administrative practice and procedure, Marine mammals, Penalties, Pribilof Islands, Reporting and recordkeeping requirements.

50 CFR Part 216

Administrative practice and procedure, Imports, Indians, Marine mammals, Penalties, Reporting and recordkeeping requirements, Transportation.

50 CFR Part 222

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

Dated: October 28, 1993.

William W. Fox, Jr.,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 93–26971 Filed 10–29–93; 11:00 am]

BILLING CODE 3510–22–M

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50 CFR Part 652

[Docket No. 931072–3272; I.D. No. 092193C]

Atlantic Surf Clam and Ocean Quahog Fisheries

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

ACTION: Proposed 1994 fishing quotas for surf clams and ocean quahogs.

SUMMARY: NMFS proposes quotas for the Atlantic surf clam and ocean quahog fisheries for 1994. These quotas were selected from a range defined as optimum yield (OY) for each fishery. The intent of this action is to establish allowable harvests of surf clams and ocean quahogs from the exclusive economic zone in 1994.

DATES: Public comments must be received on or before December 2, 1993.

ADDRESSES: Copies of the Mid-Atlantic Fishery Management Council's analysis and recommendations are available from David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council, room 2115, Federal Building, 300 South New Street, Dover, DE 19901.

Send comments to: Richard B. Roe, Regional Director, Northeast Region, NMFS, 1 Blackburn Drive, Gloucester, MA 01930. Please mark on the outside of the envelope, "Comments–1994 Surf Clam and Ocean Quahog quotas."

FOR FURTHER INFORMATION CONTACT: Myles Raizin (Resource Policy Analyst) 508–281–9104.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fisheries (FMP) directs the Secretary of Commerce (Secretary), in consultation with the Mid-Atlantic Fishery Management Council (Council), to specify quotas for surf clams and ocean quahogs on an annual basis from a range to represent the OY for each fishery.

For surf clams, the quota must fall within the OY range of 1.85 million bushels and 3.40 million bushels. For ocean quahogs, the quota must fall within the range of 4.00 million bushels and 6.00 million bushels.

In proposing the quotas, the Secretary considered the latest available stock assessments prepared by NMFS, data reported by harvesters and processors, and other relevant information concerning exploitable biomass and spawning biomass, fishing mortality rates, stock recruitment, projected effort and catches, and areas closed to fishing. This information was presented in a written report prepared by the Council and adopted by the Regional Director, Northeast Region, NMFS.

The Council has proposed quotas of 2.85 million bushels for surf clams and 5.4 million bushels for ocean quahogs which are unchanged from the levels recommended by the Council and implemented by NMFS in 1993.

Surf Clams

The 1994 proposed quota for surf clams of 2.85 million bushels is identical to the base quota for the Mid-Atlantic region and Nantucket Shoals combined areas for the years 1986 through 1990. The potential harvest of 300,000 bushels for the Georges Bank area was not added to this proposed quota on the assumption that the area east of 69° west longitude will be closed to fishing in 1994 due to the continued danger of paralytic shellfish poisoning. Under the current FMP, the Mid-Atlantic, Nantucket Shoals, and Georges Bank areas are combined. Therefore, the 300,000 bushels could be harvested safely in the areas west of 69° west longitude. However, with the decline in abundance of surf clams in the Mid-Atlantic area and the absence of a significant year class since 1976 off New Jersey and since 1977 off Delmarva, the conservation of the resource is best served by maintaining the current quota of 2.85 million bushels.

Ocean Quahogs

The 1994 proposed quota for ocean quahogs is 5.4 million bushels. Since only 2 percent of the minimum biomass estimate is removed each year, this level of quota is conservative with regard to biological restrictions. The Council considered an increase in the quota for the 1994 fishery but decided it had the potential to cause disruptions to the quahog market at a time when a new management regime (individual transferable quotas) had recently been put into place. If the quahog quota were to be set significantly in excess of current market demand, it would result in a segment of the industry being unable to sell part or all of its allocation, as vertically integrated operations would buy preferentially from their own boats.

The proposed quotas for the 1994 Atlantic surf clam and ocean quahog fisheries are as follows:

1994 SURF CLAM/OCEAN QUAHOG QUOTAS

Fishery	1994 proposed quotas (in bushels)
Surf clam	2,850,000
Ocean quahog	5,400,000

Other Matters

This action is taken under authority of 50 CFR part 652.

List of Subjects in 50 CFR Part 652

Fisheries, Recordkeeping and reporting requirements.

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

Dated: October 29, 1993.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 93–27020 Filed 11–2–93; 8:45 am]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 58, No. 211
Wednesday, November 3, 1993

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

DEPARTMENT OF COMMERCE

Agency Forms Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Application for Commission Into the NOAA Commissioned Corps.

Agency Form Number: NOAA 56–42.

OMB Approval Number: 0648–0047.

Type of Request: Extension of the expiration date of a currently approved collection.

Burden: 462 hours.

Number of Respondents: 185.

Avg Hours Per Response: 2 hours for application form; 10 minutes for reference form.

Needs and Uses: This information collection is used to apply for a commission in the NOAA Corps. Applicants must also provide references who are asked to complete an evaluation form on the applicant. All of the information is used to determine the service potential of applicants.

Affected Public: Individuals.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Don Arbuckle, (202) 395–7340.

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Report of Transmitting Antenna Construction, Alteration, or Removal.

Agency Form Number: NOAA 76–10.

OMB Approval Number: 0648–0096.

Type of Request: Revision of a currently approved collection.

Burden: 195 hours.

Number of Respondents: 780 (2 responses per respondent).

Avg Hours Per Response: 7.5 minutes.

Needs and Uses: Under the Air Commerce and Federal Aviation Acts, DOC is required to produce aeronautical charts to be used in air commerce. In order to fulfill this mandate, information is needed on the construction, alteration, or removal of transmitting antennas, which can affect navigable airspace. Without this information, cartographers would be unable to produce accurate charts, thus jeopardizing the safety of the National Airspace System.

Affected Public: State or local governments, businesses or other for–profit organizations, federal agencies, non–profit institutions, and small businesses or organizations.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Don Arbuckle, (202) 395–7340.

Copies of the above information collection proposals can be obtained by calling or writing Edward Michals, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, room 5327, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collections should be sent to Don Arbuckle, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: October 28, 1993

Edward Michals,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 93–27028 Filed 11–2–93; 8:45 am]

BILLING CODE 3510–CW–F

Foreign-Trade Zones Board

[Order No. 661]

Global Power Co., (Nuclear Power Plant Equipment), Hartsville and Phipps Bend, TN; Time Extension of Subzone Status, Subzones 78C and 78D

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Resolution and Order.

After consideration of the request of the Metropolitan Nashville Port Authority, grantee of Foreign-Trade Zone 78, filed with the Foreign-Trade Zones (FTZ) Board (the Board) on August 5, 1993, requesting an extension of the time limits (to 10/25/98) on Subzones 78C and 78D at the Global Power Company's nuclear equipment storage facilities in Hartsville and Phipps Bend, Tennessee, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the request.

Approval is subject to the FTZ Act and the FTZ Board's regulations, including section 400.28.

Signed at Washington, DC, this 21st day of October, 1993, pursuant to Order of the Board.

Joseph A. Spetrini,

Acting Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 93–27030 Filed 11–2–93; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of opportunity to request administrative review of antidumping or countervailing duty order, finding, or suspended investigation.

BACKGROUND: Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party as defined in section 771(9) of the Tariff Act of 1930, as amended, may request, in accordance with § 353.22 of § 355.22 of the Commerce Regulations, that the Department of Commerce ("the Department") conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

OPPORTUNITY TO REQUEST A REVIEW: Not later than November 30, 1993, interested parties may request administrative review of the following orders, findings, or suspended investigations, with

anniversary dates in November for the following periods:

Antidumping duty proceedings	Period
Argentina: Barbed wire and barbless fencing wire (A–357–405)	11/01/92–10/31/93
Argentina: Steel wire rod (A–357–007)	11/01/92–10/31/93
Brazil: Circular welded non-alloy steel pipe (A–351–809)	04/28/92–10/31/93
Germany: Drycleaning machinery (A–428–037)	11/01/92–10/31/93
Japan: Bicycle speedometers (A–588–038)	11/01/92–10/31/93
Japan: Light scattering instruments (A–588–813)	11/01/92–10/31/93
Japan: Titanium sponge (A–588–020)	11/01/92–10/31/93
Korea: Circular welded non-alloy steel pipe (A–580–809)	04/28/92–10/31/93
Mexico: Circular welded non-alloy steel pipe (A–201–805)	04/28/92–10/31/93
Taiwan: Circular welded non-alloy steel pipe (A–583–814)	04/28/92–10/31/93
The People's Republic of China: Tungsten ore concentrates (A–570–811)	11/01/92–10/31/93
The Republic of Singapore: Rectangular pipes and tubes (A–559–502)	11/01/92–10/31/93
Venezuela: circular welded non-alloy steel pipe (A–307–805)	04/28/92–10/31/93
Suspension agreements:	
Japan: Certain small motors (A–588–090)	11/01/92–10/31/93
Countervailing duty proceedings:	
Argentina: Certain textiles and textile products (C–357–048)	01/01/92–12/31/93
Argentina: Oil country tubular goods (C–357–403)	01/01/92–12/31/93
Peru: Deformed steel concrete reinforcing bar (C–333–502)	01/01/92–12/31/93

In accordance with §§ 353.22(a) and 355.22(a) of the Commerce regulations, an interested party may request in writing that the Secretary conduct an administrative review. For antidumping reviews, the interested party must specify for which individual producers or resellers covered by an antidumping finding or order it is requesting a review, and the requesting party must state why the person desires the Secretary to review those particular producers or resellers. If the interested party intends for the Secretary to review sales of merchandise by a reseller (or a producer if that producer also resells merchandise from other suppliers) which was produced in more than one country of origin, and each country of origin is subject to a separate order, then the interested party must state specifically which reseller(s) and which countries of origin for each reseller the request is intended to cover.

Seven copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B–099, U.S. Department of Commerce, Washington, DC 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping Compliance, Attention: Pamela Woods, in room 3069–A of the main Commerce Building. Further, in accordance with § 353.31(g) or 355.31 of the Commerce Regulations, a copy of each request must be served on every party on the Departments' service list.

The Department will publish in the **Federal Register** a notice of "Initiation of Antidumping (Countervailing) Duty Administrative Review", for requests received by November 30, 1993.

If the Department does not receive, by November 30, 1993, a request for review of entries covered by an order or finding listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute, but is published as a service to the international trading community.

Dated: October 25, 1993.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 93–27029 Filed 11–2–93; 8:45 am]

BILLING CODE 3510–DS–M

[A–427–812]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Calcium Aluminate Cement and Cement Clinker From France and Notice of Negative Preliminary Determination of Sales at Less Than Fair Value: Calcium Aluminate Flux From France

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: November 3, 1993.

FOR FURTHER INFORMATION CONTACT: Jim Cunningham, Office of Antidumping Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–4207.

Preliminary Determination

We preliminarily determine that calcium aluminate cement and cement clinker (CA cement and clinker) from France are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act). The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Also, we preliminarily determine that calcium aluminate flux (CA flux) from France is not being, nor is likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Act.

Case History

Since the initiation of these investigations on April 20, 1993 (58 FR 21971, April 26, 1993), the following events have occurred.

On May 17, 1993, the U.S. International Trade Commission (ITC) issued an affirmative preliminary injury determination. On May 19, 1993, the Department selected Lafarge Fondu International (LFI), the sole producer and exporter of the subject merchandise, as a respondent. (See May 19, 1993, memorandum from Program Manager James P. Maeder to Division Director David L. Binder).

On June 14, 1993, the Department preliminarily determined that CA flux is a separate class or kind of merchandise than CA cement and clinker. (See June 14, 1993, memorandum from the team to Deputy Assistant Secretary Barbara R. Stafford).

On June 23, 1993, the Department presented the antidumping duty questionnaire for CA cement and clinker to LFI and its U.S. subsidiary, Lafarge Calcium Aluminates (LCA), (collectively, Lafarge). On June 29, 1993, Lehigh Portland Cement Company (petitioner) amended its petition to include CA flux and provided pricing data on this class or kind of merchandise.

Lafarge submitted responses to the Department's antidumping duty questionnaire for CA cement and cement clinker on July 15, August 13, and August 19, 1993. Lafarge submitted responses to the Department's antidumping duty questionnaire for CA flux on August 27, and September 21, 1993. Lafarge submitted responses to the Department's supplemental questionnaire for CA cement and cement clinker on September 28, 1993.

On August 4, 1993, the Department decided to not require Lafarge to report U.S. sales of downstream products, including Alag and pre-mix concretes. (See August 4, 1993, memorandum from Office Director Richard Moreland to Deputy Assistant Secretary Barbara R. Stafford). On August 5, 1993, the Department accepted petitioner's amendment regarding CA flux (see August 5, 1993, memorandum from Office Director Richard Moreland to Deputy Assistant Secretary Barbara R. Stafford). On August 6, petitioner requested that the Department postpone the preliminary determinations. On August 16, 1993, (58 FR 44493, August 23, 1993), the Department postponed the preliminary determinations until no later than October 27, 1993.

Scope of Investigations

The products in these investigations constitute two separate classes or kinds of merchandise: (1) CA cement and cement clinker and (2) CA flux. The products covered by these investigations include calcium aluminate cement and cement clinker, other than white, high purity calcium aluminate cement and cement clinker. The products included in these investigations contain by weight more than 32 percent but less than 65 percent alumina and more than one percent each of iron and silica. Clinker is the primary raw material used in the cement production process.

Calcium aluminate cement, cement clinker and flux covered by the scope of these investigations are currently classifiable under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 2523.30.0000 (for aluminous cement) and 2523.10.0000 (for cement clinker and flux). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of these investigations is dispositive.

Period of Investigation

The period of investigation (POI) is October 1, 1992, through March 31, 1993.

Such or Similar Comparisons

We have determined for purposes of the preliminary determination for the CA cement and cement clinker class or kind of merchandise that the product covered by this investigation comprises two "such or similar" categories of merchandise: CA cement and CA cement clinker. Since this investigation was initiated during a period in which certain simplification procedures were in effect (see June 15, 1992, memorandum from Deputy Assistant Secretary Francis J. Sailer to Assistant Secretary Alan M. Dunn), we conducted the home market viability test based on the class or kind of merchandise and determined that the home market was viable for CA cement and clinker, in accordance with the simplification procedures set forth in the June 15, 1992, memorandum. Where there were no sales of such or similar merchandise to unrelated parties in the home market to compare to U.S. sales, we made comparisons on the basis of Constructed Value (CV) (See Fair Value Comparisons), in accordance with section 773(a)(2) of the Act.

We have determined for purposes of the preliminary determination for the CA flux class or kind of merchandise that the product covered by this investigation comprises one "such or similar" category of merchandise and that the home market is viable. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, and where the difference in merchandise adjustment between the U.S. product and the home market product exceeded 20 percent, we made our comparisons on the basis of CV (see Fair Value Comparisons), in accordance with section 773(a)(2) of the Act.

Fair Value Comparisons

To determine whether sales of calcium aluminate cement, cement clinker, and flux from France 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 "Constructed Value" sections of this notice.

United States Price

For CA cement and cement clinker and for CA flux, since sales to the first unrelated purchaser always took place after importation into the United States, we based USP on exporter's sales price (ESP), in accordance with section 772(c) of the Act.

For sales of both classes or kinds of merchandise, we made deductions, where appropriate, the following movement charges: Foreign brokerage and handling, foreign inland freight, marine insurance, ocean freight, U.S. brokerage and handling, including harbor maintenance fees and customs processing fees, unloading charges and U.S. inland freight.

For sales of both classes or kinds of merchandise, we also deducted credit expenses, U.S. indirect selling expenses (including warehousing), inventory carrying costs, and premiums for product liability insurance.

For sales of CA cement and cement clinker, we also deducted rebates and warranty expenses. We revised reported inventory carrying costs to reflect the inventory carrying costs between the date of production in France and the date of sale to the first unrelated customer in the United States. Where respondent did not report credit expense, we applied, as best information available (BIA), the highest credit expense for the class or kind of merchandise during the POI.

For CA flux, we also deducted commissions. Where respondent did not report credit expense, we applied, as BIA, the highest credit expense for the class or kind of merchandise during the POI. We recalculated U.S. incurred indirect selling expenses based on respondent's narrative questionnaire response.

In addition, for both classes or kinds of merchandise, we made deductions, where appropriate, for all value added in the United States, pursuant to section 772(e)(3) of the Act. The value added consists of the costs associated with the production of the further manufactured products, other than the costs associated with the imported products, and a proportional amount of any profit related to the further manufacture. Profit was calculated by deducting all applicable costs, charges, adjustments and expenses from the sales price. The total profit was then allocated proportionally to all components of cost. Only the profit attributable to the value added in the United States was deducted. In determining the costs incurred to produce the further manufactured products, the Department included: (1) The costs of manufacture;

(2) movement and packing expenses; and (3) general expenses, including selling, general and administrative expenses, and interest expenses.

Foreign Market Value

Constructed Value

For CA cement and cement clinker, we based FMV on CV because there was an inadequate number of sales to unrelated parties. For CA flux, we based FMV on CV because the difference in merchandise adjustments between the U.S. products and the home market products exceeded 20 percent in all cases. We calculated CV based on the sum of the cost of materials, fabrication, general expenses (excluding direct and indirect selling expenses), and U.S. packing cost. We included the company's reported general expenses (excluding direct and indirect selling expenses) in CV since these expenses were greater than the statutory minimum of ten percent of the cost of manufacture. For profit, we used, as BIA, an adverse figure derived from respondent's submitted financial information because respondent did not provide home market profit for the class or kind of merchandise, as requested twice. We adjusted the reported annualized variable cost figures to reflect variable costs during the POI because we disagree with respondent's assertion that variable costs fluctuate with the claimed maintenance expenditures (see Concurrence Memorandum). We accepted fixed costs reported on an annualized basis given respondent's claim that fixed costs vary significantly month to month due to periodic shutdowns.

Currency Conversion

We made currency conversions based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Verification

As provided in section 776(b) of the Act, we will verify the information used in making our final determinations.

Suspension of Liquidation

In accordance with section 733(d)(1) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of calcium aluminate cement and cement clinker from France, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. The Customs Service shall require a cash deposit or posting of a bond equal to the estimated preliminary dumping margins, as shown below. The suspension of liquidation will remain in effect until further notice. The weighted-average dumping margins are shown below. In accordance with 19 CFR 353.6, we are not directing the U.S. Customs Service to suspend liquidation of entries of calcium aluminate flux from France because the margins are *de minimis*.

Manufacturer/producer/exporter	Weighted-average margin percentage
CA Cement and Clinker:	
Lafarge Fondu International and Lafarge Calcium Aluminates Inc..	7.92%.
All Others	7.92%.
CA Flux:	
Lafarge Fondu International and Lafarge Calcium Aluminates Inc..	0.14% de minimis.
All Others	0.14% de minimis.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determinations.

If our final determinations are affirmative, the ITC will determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry before the later of 120 days after the date of these preliminary determinations or 45 days after our final determinations.

Public Comment

In accordance with 19 CFR 353.38, case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than December 10, 1993, and rebuttal briefs no later than December 15, 1993. We request that parties in this case provide with briefs an executive summary of no more than 2 pages on the major issues to be addressed. Further, briefs should contain a table of authorities. Citations to Commerce determinations and court decisions should include the page number where cited information appears. In preparing the briefs, please begin each issue on a separate page. In accordance with 19 CFR 353.38(b), we will hold a public hearing, if requested, to give interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on December 21, 1993, at 9:30 a.m. at the U.S. Department of Commerce, Room 4830, 14th Street and Constitution Avenue, N.W., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, room B–099, within ten days of the publication of this notice in the **Federal Register**. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. In accordance with 19 CFR 353.38(b), oral presentations will be limited to issues raised in the briefs.

These determinations are published pursuant to section 733(f) of the Act and 19 CFR 353.15(a)(4).

Dated: October 27, 1993.

Barbara R. Stafford,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–27031 Filed 11–2–93; 8:45 am]

BILLING CODE 3510–DS–M

National Institute of Standards and Technology

Computer System Security and Privacy Advisory Board; Meeting

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App., notice is hereby given that the Computer System Security and Privacy Advisory Board will meet Wednesday, December 8, 1993, and Thursday, December 9, 1993, from 9 a.m. to 5 p.m. The Advisory Board was established by the Computer Security Act of 1987 (Pub. L. 100–235) to advise the Secretary of Commerce and the Director of NIST on security and privacy issues pertaining to Federal computer systems. All sessions will be open to the public.

DATES: The meeting will be held on December 8 and 9, 1993, from 9 a.m. to 5 p.m.

ADDRESSES: The meeting will take place at Hyatt Regency Reston, 1800 Presidents Street, Reston, VA 22090.

AGENDA:

—Welcome and Update
—Overview of Meeting
—Cryptographic Standards Update
—Common Criteria Update
—Virus & Emergency Response Issues
—Technology Briefing
—Public Participation
—Board Discussion
—Pending Business
—Close.

PUBLIC PARTICIPATION: The Board agenda will include a period of time, not to exceed thirty minutes, for oral comments and questions from the public. Each speaker will be limited to five minutes. Members of the public who are interested in speaking are asked to contact the Board Secretariat at the telephone number indicated below. In addition, written statements are invited and may be submitted to the Board at any time. Written statements should be directed to the Computer System Security and Privacy Advisory Board, Computer Systems Laboratory, Building 225, room B154, National Institute of Standards and Technology, Gaithersburg, MD 20899. It would be appreciated if fifteen copies of written material could be submitted for distribution to the Board by November 17, 1993. Approximately 20 seats will be available for the public and media.

FOR FURTHER INFORMATION CONTACT: Mr. Lynn McNulty, Associate Director for Computer Security, Computer Systems Laboratory, National Institute of Standards and Technology, Building 225, room B154, Gaithersburg, MD 20899, telephone: (301) 975–3240.

Dated: October 26, 1993.

Samuel Kramer,

Associate Director.

[FR Doc. 93–26946 Filed 11–2–93; 8:45 am]

BILLING CODE 3510–CN–M

National Oceanic and Atmospheric Administration

Marine Mammals

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

ACTION: Permit No. 628 Modification No. 2: Indianapolis Zoo (P409).

Notice is hereby given that pursuant to the provisions of §§ 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), public display Permit No. 628 issued to the Indianapolis Zoological Society, Inc., on April 13, 1988 (53 FR 12801) modified on October 5, 1989 (54 FR 42321) is further modified as follows:

Add to: Section B. 1.

"No false killer whales (*Pseudorca crassidens*) may be imported unless sufficient information has been provided for the Assistant Administrator for Fisheries to make a determination in advance of the importation on whether the animals were taken in a humane manner, consistent with the provisions and policies of the Act, and a determination has been made that the taking is consistent with the permit."

This modification is effective upon publication in the **Federal Register.**

Documents pertaining to the permit and modification are available for review by appointment in the following offices:

Office of Protected Resources, NMFS, NOAA, 1335 East-West Highway, Silver Spring, MD 20910 (301/713–2289);

Director, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802 (310/980–4016); and

Director, Northeast Region, NMFS, NOAA, One Blackburn Drive, Gloucester, MA 01930 (508/281–9300).

Dated: October 28, 1993.

William W. Fox, Jr.,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 93–26972 Filed 11–2–93; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Denial of Participation in the Special Access and Special Regime Programs

October 28, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs denying the right to participate in the Special Access and Special Regime Programs.

EFFECTIVE DATE: November 1, 1993.

FOR FURTHER INFORMATION CONTACT: Lori E. Goldberg, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Committee for the Implementation of Textile Agreements (CITA) has determined that the Tollgate Garment Company is in violation of the requirements set forth for participation in the Special Access and Special Regime Programs.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs, effective on November 1, 1993, to deny the Tollgate Garment Company the right to participate in the Special Access and Special Regime Programs, for a period of three months, from November 1, 1993 to February 1, 1994.

Requirements for participation in the Special Access Program are available in **Federal Register** notices 51 FR 21208, published on June 11, 1986; 52 FR 26057, published on July 10, 1987; and 54 FR 50425, published on December 6, 1989.

Requirements for participation in the Special Regime Program are available in **Federal Register** notices 53 FR 15724, published on May 3, 1988; 53 FR 32421, published on August 25, 1988; 53 FR 49346, published on December 7, 1988; and 54 FR 50425, published on December 6, 1989.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 28, 1993.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: The purpose of this directive is to notify you that the Committee for the Implementation of Textile Agreements has determined that the Tollgate Garment Company is in violation of the requirements for participation in the Special Access and Special Regime Programs.

Effective on November 1, 1993, you are directed to prohibit the Tollgate Garment Company from further participation in the Special Access and Special Regime Programs, for a period of three months, from November 1, 1993 to February 1, 1994. Goods accompanied by Form ITA–370P which are presented to U.S. Customs for entry under the Special Access and Special Regime Programs will no longer be accepted. In addition, for the period November 1, 1993 to February 1, 1994, you are directed not to sign ITA–370P forms for export of U.S.-formed and cut fabric for the Tollgate Garment Company.

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93–26967 Filed 11–2–93; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. QF94–9–000]

Bayside Cogeneration, L.P.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

October 28, 1993.

On October 20, 1993, Bayside Cogeneration, L.P. of 1230 Columbia Street, Suite 500, San Diego, California 92101–3543, submitted for filing an

application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207(b) of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

According to the applicant, the topping-cycle cogeneration facility, which will be located in National City, California, will consist of a combustion turbine, a heat recovery steam generator and a steam turbine with a maximum net electric power production capacity of 49.9 MW. The facility is expected to be operational in May of 1995.

Any person desiring to be heard or objecting to the granting of qualifying status should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed within 30 days after the date of publication of this notice in the **Federal Register** and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to this proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–26955 Filed 11–2–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. JD94–00689T Tennessee–3]

State of Tennessee; NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formation

October 28, 1993.

Take notice that on October 26, 1993, the Tennessee Oil & Gas Board (Tennessee) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Mississippian Monteagle Formation, underlying a portion of Anderson County, Tennessee, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The area occupies approximately 68,000 acres under all or parts of Township 4 South, Ranges 62 East and 63 East, Township 5 South, Ranges 61 East, 62 East, and 63 East, and Township 6 South, Ranges 62 East and 63 East in Anderson County, Tennessee.

The notice of determination also contains Tennessees' findings that the referenced portion of the Mississippian Monteagle Formation meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 93–26956 Filed 11–2–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–29–000]

Boundary Gas, Inc.; Proposed Changes in FERC Gas Tariff

October 28, 1993.

Take notice that on October 25, 1993, Boundary Gas, Inc. (Boundary) tendered for filing proposed changes to its FERC Gas Tariff, First Revised Volume No. 1, First Revised Tariff Sheet Nos. 35–A and 39, Second Revised Tariff Sheet Nos. 2, 6, 37 and 42, Third Revised Tariff Sheet Nos. 8, 9, 38, 40 and 41, and Fourth Revised Tariff Sheet Nos. 3, 4 and 35 to supersede Original Tariff Sheet Nos. 35–A and 39, First Revised Tariff Sheet Nos. 2, 6, 37 and 42, Second Revised Tariff Sheet Nos. 8, 9, 38, 40 and 41, and Third Revised Tariff Sheet Nos. 3, 4 and 35.

Boundary states that the principal purpose of this filing is to reflect the decision of Granite State Gas Transmission, Inc. (Granite State) to assign its Gas Sales Agreement with Boundary to Granite State's affiliates, Bay State Gas Company (Bay State) and Northern Utilities, Inc. (Northern Utilities). Granite State, an interstate pipeline regulated by the Commission, is assigning this Agreement to Bay State and Northern Utilities as part of the restructuring of its operations which it has undertaken in response to the Commission's restructuring of the natural gas industry. In addition, this tariff filing is also intended to correct information on one sheet, which was inadvertently left unchanged in a previous tariff filing. The revised tariff sheets are proposed to become effective on November 1, 1993, the effective date of Granite State's Order No. 636 restructuring in Docket No. RS93–1–000.

Boundary states that copies of the filing have been served upon each of the Boundary Repurchasers and their respective state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's rules and Regulations. All such petitions or protests should be filed on or before November 4, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 93–26957 Filed 11–2–93; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 7019–025]

City of Forsyth, Georgia; Application for Transfer of License and Opportunity To File Competing Applications

October 28, 1993.

Take notice that the City of Forsyth, Georgia (City) filed an amended application on October 18, 1993, under the Federal Power Act, 16 U.S.C. 791(a)–825(r), to transfer its license[1] for the East Juliette Power Project No. 7019, located on the Ocmulgee River, in Jones County, Georgia. The City proposes to transfer the license to PK Ventures, Inc. (PK). The City has concluded that it cannot operate the project economically, and PK believes that it can.

The City is a municipality under the Federal Power Act, while PK is a non-municipal entity. In *City of Fayetteville Public Works Commission*, 16 FERC ¶ 61,209 (1981), the Commission decided that an application filed jointly by a municipality and a non-municipal entity is not eligible for municipal preference under section 7(a) of the Federal Power Act, 16 U.S.C. 800(a). The City received its license for Project No. 7019 on February 28, 1986, almost 5 years after the *Fayetteville* decision. In a variety of orders since the Fayetteville decision, the Commission has dealt with the problem of possible abuse of municipal preference by closely

[1] 34 FERC ¶ 62,438 (1986).

scrutinizing dealings between municipalities and non-municipalities when approving licenses and transfer of licenses. In its amended application, the City has voluntarily and unconditionally stated its agreement to transfer its license to any transferee selected by the Commission.

The Commission, by this notice, offers to qualified license applicants the opportunity to compete for the license for this project. Any such applicant must file, by the end of the comment period set out below, a notice of its intent to compete for the license. No later than 45 days after the close of the comment period, the applicant shall file its license application.

All applications filed must contain: (a) A clear statement of the applicant's willingness to accept the license as now in effect; (b) a showing of its ability to proceed with development of the project in a timely manner; (c) identification of the applicant's prospective power purchaser and evidence of that purchaser's interest in the project power; (d) its plans for project financing; and (e) any other information the applicant believes would be helpful in making a decision on this application. Applicants shall describe their qualifications to hold the license and operate the project, in accordance with 18 CFR 9.2 (1993). Applications submitted shall be subscribed and verified in accordance with 18 CFR 385.2005. The Commission emphasizes that it is not entertaining proposals by applicants that seek to become a partner with the City, but rather those that wish to be designated as a wholly new licensee.

Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211 and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date.

Any filings must bear in all capital letters the title "NOTICE OF INTENT TO COMPETE FOR LICENSE," "COMMENTS," "PROTEST," or "MOTION TO INTERVENE," as applicable, and the project number. Filings must be made by providing the original and 8 copies to:

The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

All filings in response to this notice must be served on:

C. Robert Melton, Haygood, Lynch, Harris & Melton, P.O. Box 657, 87 North Lee Street, Forsyth, GA 31020.

Mr. Robert L. Rose, President, PK Ventures, Inc., P.O. Box 261628, Tampa, FL 33685–1628.

The comment period for this notice closes 30 days following its publication date in the **Federal Register.**

Lois D. Cashell,

Secretary.

[FR Doc. 93–26958 Filed 11–2–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP94–39–000]

Panhandle Eastern Pipe Line Company; Request Under Blanket Authorization

October 28, 1993.

Take notice that on October 22, 1993, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas, 77251–1642, filed in Docket No. CP94–39–000 a request pursuant to sections 157.205 and 157.212 of the Regulations under the Natural Gas Act for authorization to modify the measurement facilities at the existing delivery point for Citizens Gas Fuel Company (Citizens) in Lanawee County, Michigan under the certificate issued in Docket No. CP83–83–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Panhandle states that deliveries of less than 1,000 Mcf per day of natural gas cannot be accurately measured at the existing Citizens delivery point. Panhandle indicates that it anticipates making deliveries of less than 1,000 Mcf per day in the near future because of the expiration of the firm transportation agreements between Panhandle and Citizens on November 1, 1993. Consequently, Panhandle proposes to replace approximately 10 feet of 4-inch diameter pipe with 10-inch diameter pipe and install a 2-inch turbine meter, flow control and necessary materials for low flow measurement at the Citizens delivery point.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the date after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7(c) of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 93–26959 Filed 11–2–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GT94–3–000]

Panhandle Eastern Pipe Line Co.; Proposed Changes in FERC Gas Tariff

October 28, 1993.

Take notice that on October 20, 1993, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, with a proposed effective date of November 1, 1993:

First Revised Sheet No. 236
First Revised Sheet No. 237

Panhandle states that on October 4, 1993 the Commission issued Order No. 559, the final rule in Docket No. RM93–8–000. By this order, the Commission states it is amending certain regulations and removing certain other regulations which were promulgated to implement section 5 of the Outer Continental Shelf Lands Act (OCSLA). Section 5 of the OCSLA requires open-access, nondiscriminatory transportation of natural gas on the Outer Continental Shelf (OCS). The pertinent regulations were promulgated in Order No. 509 and are contained in subpart K of part 284 of the Commission's Regulations. Among other things, the Commission is removing the regulations governing the OCSLA capacity allocation program and the regulation which provides for abandonment authority.

Pursuant to Order No. 559, Panhandle states that it submits the above-captioned tariff sheets to remove provisions from its currently effective General Terms and Conditions which specifically implement certain regulations promulgated in Order No. 509.

Panhandle respectfully requests that the Commission grant such waivers as may be necessary for the acceptance of the tariff sheets submitted herewith, to become effective November 1, 1993, as previously described.

Panhandle states that copies of this letter and enclosures were served on all customers subject to the tariff sheets and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions and protests should be filed on or before November 4, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 93-26960 Filed 11-2-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GT94-3-001]

Panhandle Eastern Pipe Line Co.; Proposed Changes in FERC Gas Tariff

October 28, 1993.

Take notice that on October 22, 1993, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, with a proposed effective date of November 1, 1993:

First Revised Sheet No. 252
First Revised Sheet No. 255A

Panhandle states that two of its tariff sheets are affected by the proposed tariff sheets Panhandle filed on October 20, 1993, in Docket No. GT94-3-000 to implement Order No. 559, as more fully described below. Accordingly, Panhandle proposes the two revised tariff sheets contained in the instant filing.

Panhandle states that on October 4, 1993 the Commission issued Order No. 559, the final rule in Docket No. RM93-8-000. By this order, the Commission states it is amending certain regulations and removing certain other regulations which were promulgated to implement section 5 of the Outer Continental Shelf Lands Act (OCSLA). Section 5 of the OCSLA requires open-access, nondiscriminatory transportation of natural gas on the Outer Continental Shelf (OCS). The pertinent regulations were promulgated in Order No. 509 and are contained in subpart K of part 284 of the Commission's Regulations. Among other things, the Commission is removing the regulations governing the OCSLA capacity allocation program and the regulation which provides for abandonment authority.

Pursuant to Order No. 559, Panhandle states that it submits the above-captioned tariff sheets to remove provisions from its currently effective General Terms and Conditions which specifically implement certain regulations promulgated in Order No. 509.

Panhandle respectfully requests that the Commission grant such waivers as may be necessary for the acceptance of the tariff sheets submitted herewith, to become effective November 1, 1993, as previously described.

Panhandle states that copies of this letter and enclosures were served on all customers subject to the tariff sheets and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions and protests should be filed on or before November 4, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 93-26961 Filed 11-2-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP88-262-022, RP88-262-023, RP88-262-026, and RP88-262-027]

Panhandle Eastern Pipe Line Co.; Technical Conference

October 28, 1993.

Take notice that a technical conference has been scheduled in the above-captioned proceedings for 10 a.m. on Tuesday, November 30, 1993, in a hearing room at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC 20426. The purpose of this conference is to allow the participants to discuss issues related to Panhandle Eastern Pipe Line Company's general refund liability in Docket No. RP88-262, and its liability for refunds arising from its customers' conversions from firm sales service to firm transportation service (the D-2 refund issue). All interested persons and Staff are permitted to attend.

Lois D. Cashell,

Secretary.

[FR Doc. 93-26962 Filed 11-2-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP80-55-015 and RP85-167-007]

Sea Robin Pipeline Co.; Filing of Pipeline Refund Report

October 28, 1993.

Take notice that Sea Robin Pipeline Company (Sea Robin) on October 21, 1993, tendered for filing a revised proposal to (1) effectuate the reversal of refunds previously made during the period June 1, 1980 through June 30, 1985, and (2) a proposal for collection of amounts for the period between July 1, 1985, and July 1, 1988. Sea Robin states that this filing is being made in compliance with the Commission's order issued September 21, 1989, in Docket Nos. RP80-55-013, *et al.* Sea Robin further states that this proposal supplements a previously incomplete proposal filed November 9, 1990, in Docket Nos. RP80-55-14 and RP85-167-068.

Sea Robin states that copies of the refund report is being mailed to all parties to this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 (1993)). All such protests should be filed on or before November 4, 1993. Protests will be considered by the Commission but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93-26963 Filed 11-2-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP93-34-000]

Transwestern Pipeline Co.; Informal Settlement Conference

October 28, 1993.

Take notice that an informal settlement conference will be convened in this proceeding on November 3 and 4, 1993, at 10 a.m., at the offices of the

Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC, for the purpose of exploring the possible settlement of the issues in this proceeding.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact Kenneth M. Ende (202) 208–0583 or Kathleen M. Dias at (202) 208–0524.

Lois D. Cashell,

Secretary.

[FR Doc. 93–26964 Filed 11–2–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP93–109–000]

Williams Natural Gas Co.; Informal Settlement Conference

October 28, 1993.

Take notice that an informal settlement conference will be convened in this proceeding on November 9, 1993, at 10 a.m., at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC, for the purpose of exploring the possible settlement of the issues in this proceeding.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact Russell B. Mamone (202) 208–0744 or Sandra J. Delude (202) 208–0738.

Lois D. Cashell,

Secretary.

[FR Doc. 93–26965 Filed 11–2–93; 8:45 am]

BILLING CODE 6717–01–M

Western Area Power Administration

Loveland Area Projects—Amounts of Energy With Capacity Under Contract and Reserved for Project and Special Use in the Post-1989 Period

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of amounts of energy with capacity under firm electric service contracts for the Loveland Area Projects: Pick-Sloan Missouri Basin Program-Western Division and Fryingpan-Arkansas Project.

SUMMARY: The Post-1989 General Power Marketing and Allocation Criteria; Pick-Sloan Missouri Basin Program-Western Division (Criteria) were published in the **Federal Register** on January 31, 1986 (51 FR 4012). The allocations of power from the Pick-Sloan Missouri Basin Program-Western Division (P–SMBP–WD) and Fryingpan-Arkansas Project (Fry-Ark) were published in the **Federal Register** on January 23, 1987 (52 FR 2597). A total of 3.999 megawatts (MW) of capacity for the winter season and 3.116 MW of capacity for the summer season and 6 megawatthours (MWh) of energy were not allocated. Since January 1987, several changes have occurred which affect the amount of energy with capacity the Western Area Power Administration (Western) has under contract with its customers and reserved for project and special use. Allottees either declined their energy with capacity allocations, were not able to obtain transmission arrangements, merged or contracted with other entities, or requested a reduction in their allocation. Western has also obtained an additional resource from the Spirit Mountain Energy Dissipator. Western reserved a portion of the available energy with capacity to meet project and special use requirements. The remaining available power will be held by Western to reduce energy purchases and enhance operational flexibility. The following table summarizes the changes which have taken place since January 1987.

	Winter		Summer	
	Energy (MWh)	Capacity (MW)	Energy (MWh)	Capacity (MW)
Unallocated power	1	3.999	5	3.116
Power returned	23,171	29.574	25,684	22.863
Additional resources	18,076	4.292	20,668	4.500
Less project and Special use	(1,479)	(20.407)	(2,677)	(20.783)
Available power	39,769	[1]17.458	43,680	[1]9.696

[1]The capacity identified is for the peak months of December and July. The capacity in the other months is lower, depending on the scheduled unit maintenance in that month.

This notice summarizes and describes these changes and lists the amounts of energy with capacity which the Loveland Area Office (LAO) has contracted for under its firm electric service contracts and reserved for project and special use.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen A. Fausett, Area Manager, Loveland Area Office, Western Area Power Administration, P.O. Box 3700, Loveland, CO 80539–3003,(303) 490–7201.

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Appendix A—Derivation of Marketable Resources

I. Regulatory Procedural Requirements

The authority upon which Western allocates and contracts for electric service is based upon the provisions of the Reclamation Act, approved June 17, 1902 (ch. 1093, 32 Stat. 388); the

Reclamation Project Act of 1939, approved August 4, 1939 (43 U.S.C. 485h(c)); the Department of Energy Organization Act, approved August 4, 1977 (42 U.S.C. 7152, 7191); the Flood Control Act of 1944, approved December 22, 1944 (58 Stat. 887); the Fryingpan-Arkansas Project Acts of 1962 and 1974, approved August 16, 1962 (Pub. L. 87–590, 76 Stat. 389) and October 27, 1974 (Pub. L. 93–493, 88 Stat. 1497); and acts amending or supplementing the foregoing legislation.

II. Background

Power produced within Western's Loveland Area had previously been marketed under three separate marketing plans: the P–SMBP–WD power marketing plan which went into effect in 1962, the Fry-Ark power marketing plan published in the **Federal Register** on June 23, 1981 (46 FR 32491), and the power marketing plan for the sale of P–SMBP–WD Excess Capacity published in the **Federal Register** on August 30, 1982 (47 FR 38187). Most of the firm electric service contracts within the Loveland Area executed under these power marketing plans expired on the last day of the September billing period in 1989.

The Proposed Post-1989 General Power Marketing Criteria (Proposed Criteria) were published in the **Federal Register** on August 23, 1983 (48 FR 38279). Under these Proposed Criteria, the capacity and energy originally marketed under the three separate power marketing plans were combined and offered under a single marketing plan for the Loveland Area Projects (LAP). Also included in these Proposed Criteria was a request for Applicant Profile Data from parties interested in receiving an allocation of energy with capacity from LAP.

The Criteria considered the comments which were made on the Proposed Criteria and the conclusions made by Western. The Criteria established the available resources, the energy allocation procedures, and required interested parties to request a load factor for the determination of the capacity to be associated with their energy allocation.

The Proposed Post-1989 Allocation of Power; Pick-Sloan Missouri Basin Program-Western Division and Fryingpan-Arkansas Project was published in the **Federal Register** on May 27, 1986 (51 FR 19080).

The Final Post-1989 Allocation of Power; Pick-Sloan Missouri Basin Program-Western Division and Fryingpan-Arkansas Project (Allocation) was published in the **Federal Register** on January 23, 1987 (52 FR 2597).

III. Summary of Changes

A. City of Alma, Kansas

The city of Alma, Kansas, declined its allocation and did not execute a contract for firm electric service.

B. City of Garden City, Kansas

The city of Garden City, Kansas (Garden City), executed a firm electric service contract on September 21, 1987. One provision of the contract states that Western has the right to terminate the contract in its entirety if the contractor has not acquired the means to receive and distribute the power by September 30, 1988. Garden City was unable to negotiate a transmission contract by this date and on October 1, 1988, Western rescinded Garden City's allocation.

C. City of Horton, Kansas

The city of Horton, Kansas, declined its allocation and did not execute a contract for firm electric service.

D. City of Hugoton, Kansas

The city of Hugoton, Kansas, declined its allocation and did not execute a contract for firm electric service.

E. City of Jetmore, Kansas

The city of Jetmore, Kansas, declined its allocation and did not execute a contract for firm electric service.

F. City of Johnson City, Kansas

The city of Johnson City, Kansas, declined its allocation and did not execute a contract for firm electric service.

G. City of Kansas City, Kansas

The city of Kansas City, Kansas (Kansas City), received an allocation and executed a firm electric service contract on September 21, 1987. Kansas City later joined the Kansas Municipal Energy Agency (KMEA). Kansas City's firm electric service contract was subsequently assigned to KMEA on October 30, 1987.

H. City of Leoti, Kansas

The city of Leoti, Kansas, declined its allocation and did not execute a contract for firm electric service.

I. City of Powell, Wyoming

The city of Powell, Wyoming (Powell), received an allocation as a new customer under the Criteria. Powell joined the Wyoming Municipal Power Agency (WMPA) as a principal during the time period between the publication of the Criteria and the publication of the allocations. Powell's allocation was included with the other principals of WMPA and a firm electric service contract was executed with WMPA on September 21, 1987.

J. City of Russell, Kansas

The city of Russell, Kansas, declined its allocation and did not execute a contract for firm electric service.

K. City of Syracuse, Kansas

The city of Syracuse, Kansas, declined its allocation and did not execute a contract for firm electric service.

L. City of Tribune, Kansas

The city of Tribune, Kansas, declined its allocation and did not execute a contract for firm electric service.

M. Colorado-Ute Electric Association, Inc.

In the allocation, Colorado-Ute Electric Association, Inc. (Colorado-Ute), received a capacity allocation of 52.756 MW for the winter season and 41.756 MW for the summer season.

During the negotiation of its electric service contract, Colorado-Ute requested that Western reduce its capacity allocation to 43.000 MW for the winter season and 38.000 MW for the summer season. Western granted this request and Colorado-Ute's firm electric service contract was executed on October 1, 1987.

After publication of the allocations, Colorado-Ute filed for bankruptcy under Chapter 11 of the United States Bankruptcy Code. A Joint Plan of Reorganization of the Colorado-Ute Electric Association, Inc. (Reorganization Plan), was accepted by the court on April 15, 1992, Case No. 90 B 03761 C, United States Bankruptcy Court, Colorado District. This Reorganization Plan provides, among other things, that Colorado-Ute's Federal allocation be divided among Tri-State Generation and Transmission Association, Inc. (Tri-State), and four independent members. Ten of the former 14 members of Colorado-Ute elected to join Tri-State. The remaining four members elected to remain independent entities of which only Intermountain Rural Electric Association (Intermountain REA) is within the LAP marketing area. The remaining three independent members are outside of the LAP marketing area and were not eligible for a LAP allocation. As a result of the Reorganization Plan and requests by Tri-State and the other four independents, one-half of the Colorado-Ute LAP allocation was assigned to Tri-State and one-half was assigned to Intermountain REA.

N. Department of Energy; Rocky Flats

In the allocation, the Department of Energy; Rocky Flats (Rocky Flats) received a capacity allocation of 7.353 MW for the winter season and 5.995 MW for the summer season. Rocky Flats requested that Western reduce its capacity allocations to 3.250 MW in the winter season and 3.280 MW in the summer season. Western granted this request, and the contract was amended on November 29, 1991.

O. Goshen Irrigation District

Initially, 0.014 MW and 24.000 MWh were reserved for the winter season and 0.011 MW and 10.800 MWh for the summer season as special use for the Goshen Irrigation District (Goshen I.D.). However, further research into this load showed that Goshen I.D. had used as much as 0.024 MW during both the winter and summer seasons. In an effort to continue to provide for Goshen I.D.'s energy needs and limited load growth, Western has reserved 110 percent of Goshen I.D.'s maximum historical load for use by Goshen I.D. Contract No. 89–LAO–508 was executed between Western and Goshen I.D. on December 27, 1990, with the stipulation that if its load increased above this reserved amount, Western would require Goshen I.D. to obtain an auxiliary non-Federal power supply to serve such additional load.

P. Kansas Municipal Energy Agency

A total of 38 municipalities in Kansas originally entered into a pooling arrangement with KMEA and authorized KMEA to act as their agent for the purchase of LAP energy with capacity. KMEA executed a firm electric service contract on October 1, 1987. Kansas City later assigned its allocation to KMEA on October 30, 1987 (see section III.G). In addition to combining the Kansas municipalities' allocations into a single firm electric service contract, KMEA requested a reduction of 2.248 MW for the winter season and 2.407 MW for the summer season for more efficient scheduling across Western's Virginia Smith Converter Station. Western granted this request and executed an amendment to its firm electric service contract with KMEA on September 11, 1989. If any of the 39 municipalities terminates its pooling agreement with KMEA, Western will reinstate that municipality's firm electric service contract and reduce KMEA's energy and capacity allocations accordingly.

Q. Lowry Air Force Base, Colorado

Lowry Air Force Base, Colorado (Lowry AFB), executed its firm electric service contract on October 1, 1987. One provision of the contract states that Lowry AFB had to acquire the means to receive and distribute the power by September 30, 1988. Lowry AFB requested and received an extension of this deadline to September 29, 1989. Lowry AFB proceeded with negotiations for the delivery of Federal power; however, these negotiations failed to produce a transmission contract, and on October 1, 1989, Western rescinded Lowry AFB's allocation.

R. Midvale Irrigation District

Initially, 0.048 MW and 125.743 MWh were reserved as special use for the winter season and 0.032 MW and 73.124 MWh for the summer season for the Midvale Irrigation District (Midvale I.D.). However, further research into this load showed that Midvale I.D. had used as much as 0.076 MW during the winter season and 0.054 MW for the summer season. In an effort to continue to provide for Midvale I.D.'s energy needs and limited load growth, Western has reserved 110 percent of Midvale I.D.'s maximum historical load for use by Midvale I.D. Contract No. 89–LAO–503 was executed between Western and Midvale I.D. on July 5, 1990, with the stipulation that if its load increased above this reserved amount, Western would require Midvale I.D. to obtain an auxiliary non-Federal power supply to serve such additional load.

S. Municipal Energy Agency of Nebraska

A total of 18 municipalities who received an allocation entered into agreements for purchasing agent services with the Municipal Energy Agency of Nebraska (MEAN). MEAN executed a new firm electric service contract with Western to reflect these purchasing agent services. Each of the municipalities requested that its firm electric service contracts be placed in suspense. If any of the municipalities terminates its agreement with MEAN, Western will reinstate the municipality's firm electric service contract and reduce MEAN's energy and capacity allocations accordingly.

T. Municipal Subdistrict; Northern Colorado Water Conservancy District

In the allocation, the Municipal Subdistrict; Northern Colorado Water Conservancy District (NCWCD) received an allocation of 3.193 MW of capacity and 5,146 MWh of energy for the summer season and executed an electric service contract on September 25, 1987. After execution of the contract, NCWCD and Tri-State entered into an agreement whereby Tri-State would become purchasing agent for NCWCD. NCWCD and Tri-State requested that Western place NCWCD's firm electric service contract in suspense and add its allocation to Tri-State's allocation. Western granted this request and Tri-State's firm electric service contract was amended on April 3, 1992. If NCWCD terminates its agreement with Tri-State, Western will reinstate NCWCD's firm electric service contract and reduce Tri-State's energy and capacity allocations accordingly.

U. Project Use

Western initially reserved a maximum of 0.781 MW of capacity for the winter season and 3.472 MW for the summer season and 50,896.988 MWh of energy for the winter season and 28,503.945 MWh for the summer season for project use. Since the publication of the Criteria, Western and the Bureau of Reclamation (Reclamation) have continued to evaluate the resources reserved for project use in the Criteria. This evaluation has revealed that insufficient power was reserved for these uses. Under a memorandum of understanding between Western and Reclamation dated September 30, 1980, Western is required to meet Reclamation's project use power needs to the extent it is able to do so. The following changes have taken place which affect the power Western has reserved for project use.

Footnote 3 of table 2 of appendix A of the Criteria states that the P–SMBP–WD pumps are operated only during off-peak hours; therefore, no capacity was reserved for operating these pumps. Further investigation has shown that at times these pumps are operated during both on-peak and off-peak hours. Therefore, an additional 19 MW has been reserved for these pumps. Also, no power had been reserved for the operation of the Diamond Creek pumps since they were not in operation at the time the Criteria was published. Since the publication of the Criteria, Reclamation has requested that Western provide a maximum of 0.560 MW of capacity and an additional 2,200 MWh of energy for the operation of these pumps.

Initially, 0.012 MW and 19.600 MWh were reserved as project use for the winter season and 2.625 MWh were reserved for the summer season for the Burlington Northern Railroad (Burlington R.R.). On October 2, 1992, Burlington R.R. requested that Reclamation terminate Burlington R.R.'s electric service contract and discontinue electric service to the fanhouse near Boysen Dam. On March 15, 1993, Reclamation requested that Western remove this reserved capacity with

energy from project use. Western agreed to this request and on April 7, 1993, Western and Reclamation executed Letter Agreement No. 93–LAO–720 to reflect the change in project use power.

Initially, 0.206 MW and 253.269 MWh were reserved as special use for the winter season and 0.141 MW and 212.131 MWh were reserved for the summer season for the National Park Service (Park Service). Further research into this load showed that the Park Service had used as much as 0.535 MW and 1,209.600 MWh during the winter season and 0.465 MW and 699.300 MWh during the summer season. In a letter dated August 27, 1992, Reclamation requested that Western consider this load to be project use. Western agreed to this request, and on November 9, 1992, Western and Reclamation executed Letter Agreement No. 92–LAO–704 to reflect the change in project use power.

As listed in section VI.C. of the Criteria, the Highland Hanover Irrigation District (Highland Hanover I.D.), Owl Creek Irrigation District (Owl Creek I.D.), and Upper Bluff Irrigation District (Upper Bluff I.D.) loads are considered to be project use loads. Initially, Western reserved 0.290 MW and 8.992 MWh for the winter season and 1.833 MW and 4,612.991 MWh for the summer season for Highland Hanover I.D.; 0.304 MW and 26.560 MWh for the winter season and 1.163 MW and 2,943.680 MWh for the summer season for Owl Creek I.D.; and 0.077 MW and 7.502 MWh for the winter season and 0.353 MW and 2,092.915 MWh for the summer season for Upper Bluff I.D. Further investigation into these loads has revealed that these project use figures are insufficient to meet the historical loads. Therefore these project use reservations have been increased to meet actual operating usage. The final project use reservations are listed in section VII of this Federal Register.

For these reasons, Western has reserved an additional 19.738 MW of capacity and 2,142.996 MWh of energy for the winter season and 20.537 MW of capacity and 12,805.485 MWh of energy for the summer season for project use.

V. Rushmore Electric Power Cooperative and Basin Electric Power Cooperative

Western executed a firm electric service contract with Rushmore Electric Power Cooperative (Rushmore) on behalf of Tri-County Electric Association, Inc., Wyoming, on June 30, 1987. Rushmore later assigned its firm electric service contract to Basin Electric Power Cooperative effective May 19, 1989.

W. United States Forest Service

Initially, 0.098 MW and 253.269 MWh were reserved as special use for the winter season and 0.123 MW and 212.131 MWh for the summer season for the Arapahoe & Roosevelt National Forests (Forest Service). However, further research into this load showed that the Forest Service had used as much as 0.282 MW and 694.800 MWh during the winter season and 0.202 MW and 324.900 MWh during the summer season. In an effort to continue to provide for the Forest Service's energy needs and limited load growth, Western has reserved 110 percent of the Forest Service's maximum historical load for use by the Forest Service. An Interagency Agreement was executed between Western and the Forest Service on February 7, 1992, with the stipulation that if its load increased above this reserved amount, Western would require the Forest Service to obtain an auxiliary non-Federal power supply to serve such additional load.

X. University of Wyoming

The University of Wyoming declined its allocation and did not execute a contract for firm electric service.

IV. Spirit Mountain Energy Dissipator

The Spirit Mountain Energy Dissipator is an additional resource that has been added to the LAP generation resources, and when completed, will add a maximum of 4.5 MW and a total of 19,800 MWh to the existing available resources. The Spirit Mountain Energy Dissipator is part of the Buffalo Bill Dam modifications and will be installed on the Shoshone River Siphon Penstock. This resource will likely be operated at a 50-percent load factor similar to the Heart Mountain powerplant.

V. Revision of Line Loss Factors

The loss factors for use of the Public Service Company of Colorado (Public Service) and LAP transmission systems have been revised. On February 3, 1987, Western notified its customers that the loss factor for transmission of energy across its transmission system had changed from 7 percent to 6 percent. At the time the Criteria were published, the loss factor for the transmission of Fry-Ark energy by Western across Public Service's transmission system was 5 percent. On December 31, 1990, Public Service and Western executed a transmission service contract which provides that, among other things, the loss factor for transmission of Fry-Ark energy across Public Service's transmission system is 6 percent. These loss factors are used to calculate the 'At Plant Total Energy' numbers listed in table 1 of appendix A (see footnote 4 of that table).

VI. List of Western's Firm Electric Service Contracts and Special Use

	Winter		Summer	
	Energy (MWh)	Capacity (MW)	Energy (MWh)	Capacity (MW)
Colorado				
Municipalities:				
Burlington	1,626.000	1.120	2,584.000	1.548
Center	687.000	0.270	514.000	0.225
Colorado Springs	101,636.000	59.663	115,759.000	63.356
Fort Morgan	13,811.000	15.610	17,238.000	15.842
Frederick	450.000	0.167	460.000	0.170
Holyoke	2,245.000	1.548	3,509.000	2.102
Julesburg	740.000	0.508	1,144.000	0.710
Wray	2,804.000	1.923	5,682.000	4.013
Government Agencies:				
Department of Energy, Rocky Flats	10,727.000	3.250	9,662.000	3.280
Peterson Air Force Base	14,568.000	4.388	13,918.000	4.401
United States Air Force Academy	5,812.000	1.823	5,542.000	1.753
Joint action agencies, cooperatives, or others:				
Arkansas River Power Authority	32,586.000	23.285	44,744.000	29.661

	Winter		Summer	
	Energy (MWh)	Capacity (MW)	Energy (MWh)	Capacity (MW)
Denver Water Board	2,946.000	2.215	4,114.000	2.843
Intermountain REA	42,170.500	21.500	41,722.000	19.000
Platte River Power Authority	58,296.000	33.282	54,901.000	31.566
Tri-State Generation and Transmission Association, Inc.[1]	384,398.500	297.434	549,190.000	367.884
Subtotal Colorado	675,503.000	467.986	870,683.000	548.356
Kansas				
Joint action agencies cooperatives, or others:				
Kansas Electric Power Cooperative	43,958.000	13.329	46,098.000	13.976
Kansas Municipal Energy Agency	42,685.000	27.010	53,773.000	30.956
Subtotal Kansas	86,643.000	40.339	99.871.000	44.932
Nebraska				
Municipalities:				
Lodgepole	126.000	0.087	132.000	0.079
Wauneta	1,452.000	1.000	1,702.000	1.020
Joint action agencies cooperatives, or others:				
Municipal Energy Agency of Nebraska[2]	52,797.000	42.285	61,303.000	43.485
Nebraska Public Power District	5,808.000	2.278	8,341.000	4.007
Subtotal Nebraska	60,183.000	45.650	71,478.000	48.591
Wyoming				
Municipalities:				
Gillette	12,872.000	4.210	14,175.000	4.611
Torrington	6,447.000	3.514	6,128.000	3.322
Government Agencies: Warren Air Force Base	8,415.000	3.300	8,415.000	3,300
Joint action agencies cooperatives, or others:				
Basin Electric Power Cooperative	42,978.000	25.359	42,164.000	24.871
Willwood Light and Power Company	261.000	0.117	204.000	0.092
Wyoming Municipal Power Agency	16,069.000	14.420	16,491.000	12.413
Subtotal Wyoming	87,042.000	50.920	87,577.000	48.609
Subtotal Firm: Electric Service	903,371.000	604.895	1,129,609.000	690.488
Special use:				
U.S. Forest Service	764.280	0.310	357.390	0.222
Goshen I.D.	26.400	0.026	11.880	0.026
Midvale I.D.	138.317	0.084	80.436	0.059
Subtotal special use	928.997	0.420	449.706	0.307
Total Firm Electric Service and Special Use	910,299.997	605.340	1,130,058.706	690.795

[1] The allocation to Tri-State is delivered at several points of interconnection between Western and Tri-State for use within the LAP Marketing Area and by the Tri-State members.

[2] The allocation to MEAN is for use within the LAP Marketing Area and by the MEAN customers.

VII. List of Project Use

	Winter		Summer	
	Energy (MWh)	Capacity (MW)	Energy (MWh)	Capacity (MW)
Colorado River Improvement Pumps	160.784	0.424	164.742	0.424
Highland-Hanover I.D.	0.000	.000	4,662.181	2.000
National Park Service	1,209.600	.535	699.300	0.465
Owl Creek I.D.	0.000	.000	3,037.932	1.200
Upper Bluff I.D.	0.000	.000	2,114.875	0.360
P-SMBP-WD Pumps:				
Flatiron	23,800.821	.000	7,990.303	0.000
Granby	26,629.619	10.000	12,937.803	10.000
Willow Creek	869.560	9.000	7,871.894	9.000
Diamond Creek Pumps	369.600	.560	1,830.400	0.560
Subtotal project use	53,039.984	20.519	41,309.430	24.009

VIII. Allocation Summary

	Winter		Summer	
	Energy (MWh)	Capacity (MW)	Energy (MWh)	Capacity (MW)
Firm Electric Service	909,371.000	604.895	1,129,609.000	690.488
Special use	928.997	0.420	449.706	0.307
Project use	53,039.984	20.519	41,309.430	24.009
Total	963,339.981	625.834	1,171,368.136	714.804

The additional 39,769 MWh of energy and 17.458 MW of capacity for the winter season and the 43,680 MWh and 9.696 MW for the summer season which have been added to Western's available resources or which have been returned to Western and have not been reassigned for project and special use will be held by Western to reduce power purchases and enhance operational flexibility. Preliminary analysis of historic generation reports indicates that power resources did not materialize as projected. The resource will however be sufficient to meet current contractual commitments. The Criteria allows Western to adjust allocations in 1999 if resource projections indicate that resources have decreased. Western must notify customers of its intentions by 1996. This long-term need, coupled with continued short-term, drought-related purchase costs, reinforces Western's initial decision not to reallocate this power.

Issued at Golden, Colorado, October 20, 1993.

William H. Clagett,

Administrator.

Appendix A.—Table 1.—Energy Capability With Operational Integration of P–SMBP–WD and FRY–ARK, (MWh)

	At plant energy P–SMBP–WD [1 2]	At plant energy FRY–ARK [3]	At plant total energy	Total energy at load [4]	Project use loads	Special use loads	Total marketable energy at load	Percent of total
October	174,056	5,957	180,013	169,505	8,895	157	160,453	16.9
November	175,420	5,617	181,037	170,490	8,925	157	161,408	17.0
December	190,356	5,542	195,898	184,513	9,811	172	174,531	18.4
January	186,156	5,504	191,660	180,517	9,594	167	170,756	18.0
February	145,940	5,429	151,369	142,511	7,578	132	134,801	14.2
March	159,784	5,429	165,213	155,571	8,237	144	147,190	15.5
Winter total	1,031,712	33,478	1,065,190	1,003,107	53,040	929	949,140	100.0
April	188.020	4,562	192,582	181,438	6,102	66	175,270	14.7
May	200,528	1,093	201,621	190,150	6,332	69	183,750	15.4
June	220,992	3,732	224,724	211,804	7,253	79	204,473	17.6
July	274,528	4,939	279,467	263,384	9,041	99	254,245	21.9
August	219,828	5,844	225,672	212,586	7,240	79	205,266	17.6
September	160,692	4,599	165,291	155,689	5,342	58	150,289	12.8
Summer total	1,264,588	24,769	1,289,357	1,215,051	41,309	450	1,173,293	100.0
Total	2,296,300	58,247	2,354,547	2,218,158	94,349	1,379	2,122,432	

[1] From Table 10, Task No. 2 Report. Annual energy of 80,100 MWh has been added to column (1) figures and subsequently added to the figures in column (5). This is the load of the P–SMBP–WD pumps.

[2] Includes a total of 19.8 MWh from Spirit Mountain feature of the Buffalo Bill Dam Project patterned after historical Heart Mountain generation.

[3] Based on long-term hydrology study performed by Bureau of Reclamation—Fryingpan-Arkansas Project Office.

[4] Total energy at load = [(col 2/1.06) + col 1]/1.06.

Table 2.—Capacity With Operational Integration of P–SMBP–WD and FRY–ARK (MWh)

	P–SMBP–WD capacity at 90 percent probability [1]	FRY–ARK capacity	Maintenance required	Reserves required [2]	Project use required	Special use required	Marketable capacity	Percent maximum
October	488.292	200	67.7	48	20.519	0.420	575.653	92.5
November	481.292	200	70.3	48	20.519	.420	566.053	91.0
December	487.292	200	20.0	48	20.519	.420	622.353	[3] 100.0
January	482.292	200	32.0	48	20.519	.420	605.353	97.3
February	470.085	200	64.5	48	20.519	.420	560.646	90.1
March	484.085	200	131.8	48	20.519	.420	507.346	81.5
April	471.362	200	50.0	48	24.009	.307	573.046	81.8
May	501.500	200	115.0	48	24.009	.307	538.184	76.9
June	521.500	200	23.1	48	24.009	.307	650.084	92.8
July	561.500	200	13.0	48	24.009	.307	700.184	[3] 100.0
August	535.500	200	73.9	48	24.009	.307	613.284	87.6

TABLE 2.—CAPACITY WITH OPERATIONAL INTEGRATION OF P–SMBP–WD AND FRY–ARK (MWh)—Continued

	P–SMBP–WD capacity at 90 percent probability [1]	FRY–ARK capacity	Maintenance required	Reserves required [2]	Project use required	Special use required	Marketable capacity	Percent maximum
September	509.500	200	65.6	48	24.009	.307	595.584	85.1

[1] Includes a maximum 4.5 MW of capacity available from the Spirit Mountain feature of the Buffalo Bill Dam Project patterned after historical Heart Mountain generation.

[2] Total reserve requirement is 48 MW—half of this total required to be spinning; therefore, only half, or 24 MW depletes the available water supply and only half is subtracted from the available capacity.

[3] In December and July, the Contractor's monthly capacity entitlement will equal its seasonal capacity entitlement. In other months it will be the indicated percentage of the appropriate seasonal entitlement.

[FR Doc. 93–27011 Filed 11–02–93; 8:45 am]

BILLING CODE 8450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–4797–1]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before December 3, 1993.

FOR FURTHER INFORMATION OR A COPY OF THIS ICR CONTACT: Sandy Farmer at EPA, (202) 260–2740.

SUPPLEMENTARY INFORMATION:

Office of Solid Waste and Emergency Response

Title: Information Requirements for Boilers and Industrial Furnaces: General Hazardous Waste Facility Standards, Specific Unit Requirements, and Part B Permit Application and Modification Requirements (EPA ICR #1361.04; OMB No. 2050–0073). This ICR is a renewal and revision of a currently approved information collection.

Abstract: Owners and operators of boilers and industrial furnaces (BIFs) burning hazardous waste as fuel are required to prepare and maintain records and reports on a full range of activities including notification, waste analysis, monitoring, inspections, compliance burns, contingency plans, and closure and financial requirements. This revised ICR provides a comprehensive description of the requirements applicable to owners and operators of BIFs, incorporating general facility and permitting requirements that apply to facilities with BIFs. The Agency has also updated its burden estimates based on three years of program history. EPA uses these data to ensure compliance with the standards.

Burden statement: The estimated average annual public burden per respondent for this collection of information is: 1,596 hours for reporting and 1,558 hours for recordkeeping for new permitted facilities; 1,476 reporting and 1,555 recordkeeping hours for existing permitted facilities; 267 reporting and 1,551 recordkeeping hours for existing interim status facilities; 2 reporting and 15 recordkeeping hours for metal recovery and smelting, melting, and refining furnaces; and 13 reporting and 11 recordkeeping hours for small quantity on-site burners. These estimates include all aspects of the information collection, including time for reviewing instructions, gathering and maintaining the data needed, and preparing, reviewing, and submitting the collection of information.

Respondents: Owners/operators of boilers and industrial furnaces burning hazardous waste.

Estimated number of respondents: 179.

Frequency of collection: On occasion.

Estimated number of responses per respondent: Varies.

Estimated total annual burden on respondents: 342,119.

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223Y), 401 M Street, SW., Washington, DC 20460;

and

Jonathan Gledhill, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th St., NW., Washington, DC 20503.

Dated: October 27, 1993.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 93–26995 Filed 11–2–93; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4797–2]

Committee on Hazardous Waste Identification; Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Hazardous Waste Identification Committee will meet on November 17th to discuss work accomplished since the July 20–21 meeting and to identify appropriate next steps. The meeting is open to the public without need for advance registration. The public is advised that the Committee may break into non-plenary workgroup sessions in the afternoon.

DATES: The Committee will meet on November 17. The meeting will begin at 9 a.m. and run until completion.

ADDRESSES: The Committee will meet at the Hyatt Regency Hotel, 2799 Jeff Davis Highway, Crystal City, Arlington, Virginia, (703) 418–1234.

FOR FURTHER INFORMATION CONTACT:

For further information on substantive matters, call Al Collins of EPA's Office of Solid Waste at (202) 260–4791. For further information on procedural matters, call Denise Madigan, the Committee Co-Facilitator, at (202) 467–0443.

Dated: October 29, 1993.

Chris Kirtz,

Director, Consensus and Dispute Resolution Program.

[FR Doc. 93–26993 Filed 11–2–93; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

[GEN Docket No. 90-314 and DA 93-1278]

Broadband Personal Communications Devices (Unlicensed)

October 22, 1993.

In a petition filed on September 13, 1993, Apple Computer, Inc. (Apple) addressed certain issues related to operation of unlicensed Personal Communication Service (PCS) devices in the 2 GHz band. Subsequently, on September 23, 1993, the Commission adopted a *Second Report and Order* in GEN Docket No. 92-314 allocating the 1890-1930 MHz band for unlicensed devices and dividing the band equally between isochronous (principally voice) and asynchronous (data) operations. Technical rules also were adopted that are based upon a proposal submitted by WINForum, an industry group consisting of representatives of both data and voice unlicensed proponents. The rules adopted are intended to facilitate efficient use of the 2 GHz unlicensed band by both data and voice users and to minimize in-band and out-of-band interference. Further, the Commission selected the Unlicensed PCS Ad Hoc Committee for 2 GHz Microwave Transition and Management (UTAM), an industry group interested in the development of unlicensed devices, to coordinate the deployment of unlicensed devices with incumbent fixed microwave operations.

Apple's petition was filed three days before operation of the Commission's Sunshine Rule prohibited interested parties from filing additional comment on the proceeding as a whole, including on the Apple petition. See 47 CFR 1.1203 *et seq.* Consequently, parties generally did not have an opportunity to file comments supporting or opposing the petition.[1] While the Commission adopted rules that respond to and consider the issues raised by Apple in its petition, the Commission stated in the *Second Report and Order* in this proceeding that it would be in the public interest to obtain comment on the petition in order that the Commission may be fully informed by all interested parties on these issues. Therefore, in the *Second Report and Order* the Commission said it would treat Apple's "Emergency Petition" as a Petition for Reconsideration and delayed for an additional 30 days the effective date of its adopted rules that relate to the issues addressed in Apple's petition for the purpose of obtaining comment on these issues.

Parties desiring to file comments addressing the issues raised in Apple's petition must reference GEN Docket No. 90-314 on the cover of their comments. Comments must be submitted by November 8, 1993. Replies to comments must be submitted by November 19, 1993.

The Apple petition, the WINForum comments and other related documents are available for inspection in the GEN Docket No. 90-314 file at the FCC Reference Center (Room 239), 1919 M Street NW., Washington, DC 20554. Copies also may be obtained from the International Transcription Service, (202) 857-3800. For further information, contact Fred Thomas, Office of Engineering and Technology, (202) 653-6204.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 93-26976 Filed 11-2-93; 8:45 am]

BILLING CODE 6712-01-M

[1] In response to Apple's petition, comments were filed prior to issuance of the Sunshine Notice on September 16, 1993 by the Utilities Telecommunications Council, the American Petroleum Institute and the Business Software Alliance.

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-1005-DR]

California; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of California (FEMA-1005-DR), dated October 28, 1993, and related determinations.

EFFECTIVE DATE: October 28, 1993.

FOR FURTHER INFORMATION CONTACT: Pauline C. Cambell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated October 28, 1993, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of California, resulting from wild-land fires on October 26, 1993, and continuing is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of California.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Public Assistance in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Frank Kishton of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of California to have been affected adversely by this declared major disaster:

The counties of Los Angeles, Orange, Riverside, San Diego, and Ventura for Individual Assistance and Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

James Lee Witt,

Director.

[FR Doc. 93-26998 Filed 11-2-93; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-997-DR]

Illinois; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Illinois (FEMA-997-DR), dated July 9, 1993, and related determinations.

EFFECTIVE DATE: October 22, 1993.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for the following counties designated under this disaster is closed effective October 22, 1993:

Mason, Cass, Alexander, Calhoun, Greene, Jackson, Jersey, Madison, Monroe, Morgan, Randolph, Scott, St. Clair, and Union Counties.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dennis H. Kwiatkowski,

Assistant Associate Director, Disaster Assistance Programs.

[FR Doc. 93-26999 Filed 11-2-93; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-995-DR]

Missouri; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Missouri, (FEMA-995-DR), dated July 9, 1993, and related determinations.

EFFECTIVE DATE: October 26, 1993.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Missouri dated July 9, 1993, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of July 9, 1993:

Christian, Dade, Dallas, Laclede, Lawrence, Polk, Pulaski, and Wright Counties for Public Assistance. (Already designated for Individual Assistance).

Ozark for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Richard W. Krimm,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 93-27000 Filed 11-2-93; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-995-DR]

Missouri; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Missouri, (FEMA-995-DR), dated July 9, 1993, and related determinations.

EFFECTIVE DATE: October 25, 1993.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective October 25, 1993.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Richard W. Krimm,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 93-27001 Filed 11-2-93; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed; American West African Freight Conference et al.

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 800 North Capitol Street, NW., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No: 202-007680-084.

Title: American West African Freight Conference.

Parties: Joint Service of Societe Navale et Commercials Delmas-Vieljeux and America-Africa-Europe Line GMBH D/B/A Delmas AAEL, Inc.

Farrell Lines, Inc.

Maersk Line.

Societe Ivoirienne De Transport Maritime, Sitram.

Torm West Africa Line.

Westwind Africa Line.

Wilhelmsen Lines A/S.

Synopsis: The proposed amendment provides for space/slot chartering among members, deletes reference to Chairman and add Executive Administrator, and establishes Article 16—Arbitration.

Agreement No: 202-008900-050.

Title: The "8900" Lines Rate Agreement.

Parties: American President Lines, Ltd.

A.P. Moller-Maersk Line.

Croatia Line.

DSR Senator Joint Service.

The National Shipping Company of Saudi Arabia.

P&O Containers, Ltd.

Sea-Land Service, Inc.

United Arab Shipping Company.

Waterman Steamship Corporation.

Synopsis: The proposed amendment amends the geographic scope of the Agreement to include United States Pacific Coast ports, Jordan, Yemen, and the Indian Subcontinent.

Agreement No.: 202-009648A-062.

Title: Inter-American Freight Conference.

Parties: Empresa de Navegacao Alianca S.A.

Frota Amazonica S.A.

Columbus Line.

Transroll/Sea-Land Joint Service.

Crowley American Transport, Inc.

A/S Ivarans Rederi d/b/a Ivaran Lines.

Companhia Maritima Nacional.

Companhia de Navegacao Lloyd Brasileiro.

Companhia de Navegacao Maritima Netumar.

Empresa Lineas Maritimas Argentinas.

Synopsis: The proposed amendment establishes inactive membership policies for the Agreement, clarifies voting rights for non-active members, and sets forth policies on Conference confidentiality.

Agreement No.: 232-011413-001.

Title: Sea-Land/CACL Space Charter Agreement.

Parties: Sea-Land Service, Inc.

Central American Container Line, S.A.

Synopsis: The proposed amendment revises the scope of the Agreement to include U.S. and foreign intermodal authority. It also corrects the principal office address for Sea-Land.

Agreement No.: 202-011432.

Title: Pacific Central America Agreement.

Parties: Sea-Land Service, Inc.

Central American Container Line, S.A.

Synopsis: The proposed Agreement would establish a conference in the trade between U.S. West Coast ports and points, and ports and points on the west coast of El Salvador, Costa Rica, Guatemala, Honduras, Nicaragua, and Mexico.

By Order of the Federal Maritime Commission.

Dated: October 28, 1993.

Joseph C. Polking,

Secretary.

[FR Doc. 93-26952 Filed 11-2-93; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 93C-0380]

Bausch & Lomb, Inc.; Filing of Color Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Bausch & Lomb, Inc., has filed a petition proposing that the color additive regulations be amended to provide for the safe use of the colored reaction product formed by copolymerizing 1,4-bis[4-(2-methacryloxyethyl) phenylamino]anthraquinone with *N*-vinyl pyrrolidone and 3-[tris(trimethylsiloxy)silyl]propyl vinyl carbamate to form contact lenses.

DATES: Written comments on the petitioner's environmental assessment by December 3, 1993.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Helen R. Thorsheim, Center for Food Safety and Applied Nutrition (HFS-216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-254-9511.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a petition (CAP 3C0242) has been filed by Bausch & Lomb, Inc., 1400 North Goodman St., Rochester, NY 14692-0450. The petition proposes to amend § 73.3106 *1,4-bis[4-(2-methacryloxyethyl)phenylamino] anthraquinone* (21 CFR 73.3106) of the color additive regulations to provide for the safe use of 1,4-bis[4-(2-methacryloxyethyl) phenylamino]anthraquinone copolymerized with *N*-vinyl pyrrolidone and 3-[tris(trimethylsiloxy)silyl]propyl vinyl carbamate to form contact lenses.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4 (b)), the agency is placing the environmental assessment submitted with the petition that is the subject of the notice on public display at the Dockets Management Branch (address above) for public review and comment. Interested persons may, on or before December 3, 1993, submit to the Dockets Management Branch (address above) written comments. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the **Federal Register**. If, based on its review, the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: October 26, 1993.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 93-26951 Filed 11-2-93; 8:45 am]

BILLING CODE 4160-01-F

[GN# 2144]

Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HF (Food and Drug Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (35 FR 3685, February 25, 1970, and 56 FR 29484, June 27, 1991, as amended most recently in pertinent part at 56 FR 47098, September 17, 1991) is amended to reflect the establishment of the International Policy Staff in the Office of Policy, Food and Drug Administration (FDA). This staff is being established to give more emphasis to international policy and harmonization. FDA believes that this emphasis will help to ensure that international policy setting, international regulatory development, international standard setting, international harmonization, and other common worldwide issues will be given the priority needed to efficiently execute this major Agency initiative.

Under Section HF-B, Organization:

1. Insert the following subparagraphs under Office of Policy (HFAP) reading as follows:

Policy Development and Coordination Staff (HFAPB). Advises and assists the Deputy Commissioner for Policy concerning information that may affect current or proposed FDA policies.

Advises the Deputy Commissioner for Policy and other senior Agency officials on the formulation of broad Agency regulatory policy.

Establishes procedures for Agency policy formulation and monitors policy formulation activities throughout the Agency.

Negotiates the resolution of policy issues involving more than one component of the Agency.

Develops and coordinates the review and analysis of policy.

Initiates and participates in interagency discussions on Agency regulations, plans, and policies to improve coordination of Federal regulations. When appropriate, assumes the lead in working with other Federal, State, or local agencies on a specific regulation or in developing an effective regulatory approach.

Serves on Agency task forces that are critical elements in the initiation, study, and resolution of priority policy issues.

Serves as the Agency focal point for developing and maintaining communications, policies, and programs with regard to regulations development.

Serves as the Agency liaison for international policy development.

International Policy Staff (HFAPD). Plans, directs, and coordinates a comprehensive international policy program for FDA. Serves as the Agency focal point on international policy, including harmonization, trade negotiations, and international standard setting, to facilitate communication and decisionmaking within the Agency on international policy, and to enhance FDA representation in international policy activities.

Plays a leadership role in FDA's formulation of international policy, particularly when issues involve more than one component of the Agency through coordination and negotiations with other affected components.

Advises the Commissioner, Deputy Commissioner for Policy, and other Deputy Commissioners and senior Agency officials on the formulation of broad Agency international regulatory policy. In cooperation with the International Affairs Staff, Office of Health Affairs, Office of External Affairs, keeps them informed of international developments that may affect current or proposed FDA policies.

Represents the Agency on international policy matters with other Federal agencies, at international meetings and before international

groups, in cooperation with the International Affairs Staff, Office of Health Affairs, Office of External Affairs. Other Federal agencies include the Office of the United States Trade Representative, the Department of State, and the Department of Commerce.

Dated: October 19, 1993.

David A. Kessler,

Commissioner of Food and Drugs.

[FR Doc. 93-26981 Filed 11-2-93; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

Program Announcement for Grants for Geriatric Education Centers for Fiscal Year 1994

The Health Resources and Services Administration (HRSA) announces the acceptance of applications for fiscal year (FY) 1994, Grants for Geriatric Education Centers under the authority of section 777(a) of the Public Health Service Act, as amended by the Health Professions Education Extension Amendments of 1992, Public Law 102-408, dated October 13, 1992.

Approximately $6,661,000 will be available in FY 1994 for this program. It is anticipated that this will provide support for 14 continuation grants and 6 competing awards averaging $270,000 each.

Previous Funding Experience

Previous funding experience is provided to assist potential applicants to make better informed decisions regarding submission of an application for this program. In FY 1993, HRSA reviewed 29 applications for Grants for Geriatric Education Centers. Of those applications, 79 percent were approved and 21 percent were disapproved. Eight projects, or 28 percent of the applications received, were funded. In FY 1992, HRSA reviewed 25 applications for Grants for Geriatric Education Centers. Of those applications, 56 percent were approved and 44 percent were disapproved. Eight projects, or 32 percent of the applications received, were funded.

Eligibility

Section 777(a) of the PHS Act authorizes the award of grants to accredited health professions schools as defined by section 799(1), or programs for the training of physician assistants as defined by section 799(3), or schools of allied health as defined in section 799(4), or schools of nursing as defined by section 853(2).

Applicants must be located in the United States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands (the Republic of Palau), the Republic of the Marshall Islands, or the Federated States of Micronesia.

To receive support, applicants must meet the requirements of regulations as set forth in 42 CFR part 57, subpart 00. The initial period of Federal support should not exceed 3 years. Projects may recompete for an additional 3 years.

Grants may be awarded to support the development of collaborative arrangements involving several health professions schools and health care facilities. These arrangements, called Geriatric Education Centers (GECs), are established to facilitate training of health professional faculty, students, and practitioners in the diagnosis, treatment, and prevention of disease, disability, and other health problems of the aged. Health professionals include physicians, osteopathic physicians, dentists, optometrists, podiatrists, pharmacists, nurses, nurse practitioners, physician assistants, chiropractors, clinical psychologists, health administrators, and allied health professionals.

Projects supported under these grants may address any combination of the statutory purposes listed below:

(a) Improve the training of health professionals in geriatrics;

(b) Develop and disseminate curricula relating to the treatment of the health problems of elderly individuals;

(c) Expand and strengthen instruction in methods of such treatment;

(d) Support the training and retraining of faculty to provide such instruction;

(e) Support continuing education of health professionals and allied health professionals who provide such treatment; and

(f) Establish new affiliations with nursing homes, chronic and acute disease hospitals, ambulatory care centers, and senior centers in order to provide students with clinical training in geriatric medicine.

Grant supported projects may be designed to accomplish the statutory purposes in a variety of ways, emphasizing multidisciplinary, as well as discipline-specific approaches to the development of geriatric education resources. For example:

- Health professions schools within a single academic health center, or a consortium of several educational institutions, may share their educational resources and expertise through a Geriatric Education Center to extend a broad range of multidisciplinary educational services outward to other institutions, faculty, facilities and practitioners within a geographic area defined by the applicant.
- Educational institutions that have limited geriatric education resources and which traditionally have had linkages to a geographic area where substantial geriatric education needs exist, may seek to establish a Geriatric Education Center. Such a center could be designed to enhance and expand the capability of collaborating professional schools to provide geriatric education resources in the geographic area in need.
- Projects may support the development of Geriatric Education Centers designed to focus on multidisciplinary geriatric education emphasizing high priority services and high risk groups among the elderly, minority aging, or other special concerns.

National Health Objectives for the Year 2000

The Public Health Service (PHS) urges applicants to submit work plans that address specific objectives of Healthy People 2000. Potential applicants may obtain a copy of Healthy People 2000 (Full Report; Stock No. 017-001-00474-0) or Healthy People 2000 (Summary Report; Stock No. 017-001-00473-1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402-9325 (Telephone 202-783-3238).

Education and Service Linkage

As part of its long-range planning, HRSA will be targeting its efforts to strengthening linkages between U.S. Public Health Service supported education programs and programs which provide comprehensive primary care services to the underserved.

Review Criteria

The following criteria will be considered in the review of applications:

(1) The degree to which the proposed project adequately provides for the project requirements described in 42 CFR 57.4004;

(2) The extent to which the rationale and specific objectives of the project are based upon a needs assessment of the status of geriatrics training in the institutions to be assisted and/or the geographic area to be served;

(3) The ability of the project to achieve the project objectives within the proposed geographic area;

(4) The adequacy of educational facilities and clinical training settings to accomplish objectives;

(5) The adequacy of organizational arrangements involving professional schools and other organizations necessary to carry out the project;

(6) The adequacy of the qualifications and experience in geriatrics of the project director, staff and faculty;

(7) The administrative and managerial ability of the applicant to carry out the proposed project in a cost-effective manner, and;

(8) The potential of the project to continue on a self-sustaining basis.

Other Considerations

In addition, the following funding factors may be applied in determining funding of approved applications.

A funding priority is defined as the favorable adjustment of aggregate review scores of individual approved applications when applications meet specified criteria.

Special consideration is defined as the enhancement of priority scores by merit reviewers based on the extent to which applications address special areas of concern.

It is not required that applicants request consideration for a funding factor. Applications which do not request consideration for funding factors will be reviewed and given full consideration for funding.

Established Funding Priority

The following priority was established in FY 1993 after public comment (58 FR 19825, April 16, 1993) and the Administration is extending this priority in FY 1994. A funding priority will be given to applications that demonstrate linkages for the purpose of training educators or practitioners who serve minority or low-income elderly. Eligible training sites include Area Health Education Centers, community and migrant health centers, community mental health centers, Native American clinics, Native Hawaiian clinics, state or local health departments, public health clinics, rural hospitals and clinics, and home health agencies and longterm care facilities that accept Medicaid patients. This priority is consistent with a HRSA strategy to improve the geriatric expertise of health professionals who serve minority and low-income elders at risk of poor health outcomes.

Established Special Considerations

The following special considerations were established in FY 1993 after public comment (58 FR 19825, April 16, 1993) and the Administration is extending these special considerations in FY 1994.

Special consideration will be given to the extent to which applicants enroll educators and practitioners from underserved areas, for example, rural areas. This special consideration is intended to foster improved geriatric health care in rural and other underserved areas because health professionals who come from such areas are more likely to return there upon completion of training to teach and provide needed health services.

Special consideration will also be given to programs that provide training and continuing education to health care professionals (including allied health professionals) in the delivery of health and long-term care services to persons with Alzheimer's disease. Alzheimer's disease represents one of the most significant medical and social problems of aging. This special consideration encourages activities designed to improve the qualifications of health care professionals who work directly with Alzheimer's Disease patients and families, and who oversee the care provided by formal and informal caregivers.

Application Requests

Application materials will be sent only to FY 1993 applicants and to those entities making a request. Requests for grant application materials and questions regarding grants policy and business management issues should be directed to: Ms. Jacquelyn Whitaker (D-31), Grants Management Specialist, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8C-26, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443-6857.

Completed applications should be returned to the Grants Management Branch at the above address.

If additional programmatic information is needed, please contact: Ms. Anne Kahl, Geriatric Initiatives Branch, Division of Associated, Dental, and Public Health Professions, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8-103, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443-6887.

The standard application form PHS 6025-1, HRSA Competing Training Grant Application, General Instructions and supplement for this program have been approved by the Office of Management and Budget under the Paperwork Reduction Act. The OMB clearance number is 0915-0060.

The deadline date for receipt of applications is January 28, 1994. Applications will be considered to be "on time" if they are either:

(1) *Received on or before* the established deadline date, or

(2) *Sent on or before* the established deadline date and received in time for orderly processing. (Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late applications not accepted for processing will be returned to the applicant.

This program, Grants for Geriatric Education Centers, is listed at 93.969 in the *Catalog of Federal Domestic Assistance*. It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100). This program is not subject to the Public Health System Reporting Requirements.

Dated: September 20, 1993.

William A. Robinson,

Acting Administrator.

[FR Doc. 93-26977 Filed 11-2-93; 8:45 am]

BILLING CODE 4160-15-P

Program Announcement and Proposed Minimum Percentages for "High Rate" and "Significant Increase in the Rate" for Implementation of the General Statutory Funding Preference for Nurse Anesthetist Traineeships for Fiscal Year 1994

The Health Resources and Services Administration (HRSA) announces that applications will be accepted for fiscal year (FY) 1994 Grants for Nurse Anesthetist Traineeships under the authority of section 831(a), title VIII of the Public Health Service (PHS) Act, as amended by the Nurse Education and Practice Improvement Amendments of 1992, title II of the Health Professions Education Extension Amendments of 1992, Pub. L. 102-408, dated October 13, 1992. Comments are invited on the proposed minimum percentages for "high rate" and "significant increase in the rate" for implementation of the general statutory funding preference.

Approximately $900,000 will be available in FY 1994 for Nurse Anesthetist Traineeships. It is estimated that 70 awards will be made ranging from $4,000 to $45,000.

Previous Funding Experience

Previous funding experience information is provided to assist potential applicants to make better informed decisions regarding submission of an application for this program. In FY 1993, HRSA reviewed

70 applications for Grants for Nurse Anesthetist Traineeships of which 4 were ineligible. Of the 66 eligible applications, 100 percent were funded by formula. In FY 1992, HRSA reviewed 62 applications for Grants for Nurse Anesthetist Traineeships. Of those applications, 100 percent were eligible for funding and approved. Grant funds were distributed by formula to all approved applicants.

Purpose

Section 831(a) of the Public Health Service Act authorizes the Secretary to award grants to cover the costs of traineeships for licensed registered nurses to become nurse anesthetists. To receive support, programs must meet the requirements of regulations as set forth in 42 CFR part 57, subpart F. Federal support must be requested annually.

Eligibility

Eligible applicants for Grants for Nurse Anesthetist Traineeships are public or private nonprofit institutions which provide registered nurses with full-time anesthetist training. The program must be accredited by the Council on Accreditation of Nurse Anesthesia Educational Programs. In order to receive funding, the institution must have registered nurses enrolled who are beyond the 12th month of study in the nurse anesthetist training program.

The applicant must agree that:

(a) In providing traineeships, the institution will give preference to individuals who are residents of health professional shortage areas designated under section 332 of the PHS Act; and

(b) Traineeships provided with the grant will pay all or part of the costs of the tuition, books, and fees of the program of nursing with respect to which the traineeships is provided, and reasonable living expenses of the individual during the period for which the traineeship is provided.

National Health Objectives for the Year 2000

The Public Health Service urges applicants to submit work plans that address specific objectives of Healthy People 2000. Potential applicants may obtain a copy of Healthy People 2000 (Full Report; Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report; Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (Telephone 202–783–3238).

Education and Service Linkage

As part of its long-range planning, HRSA will be targeting its efforts to strengthening linkages between U.S. Public Health Service education programs and programs which provide comprehensive primary care services to the underserved.

Other Considerations

In addition, the following funding factors may be applied in determining funding of approved applications.

A funding preference is defined as the funding of a specific category or group of approved applications ahead of other categories or groups of approved applications in a discretionary program, or favorable adjustment of the formula which determines the grant award in a formula grant program.

A funding priority is defined as the favorable adjustment of aggregate review scores of individual approved applications when applications meet specified criteria, or favorable adjustment of the formula which determines the grant award in a formula grant program.

It is not required that applicants request consideration for a funding factor. Applications which do not request consideration for funding factors will be reviewed and given full consideration for funding.

Statutory Funding Preferences

Preference will be given to qualified applicants carrying out traineeship programs whose participants gain significant experience in providing health services at rural health facilities.

Preference will also be given to any qualified applicant that:

(a) Has a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or

(b) During the 2-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings.

Preference will be given only for applications ranked above the 20th percentile of applications that have been recommended for approval.

Proposed Minimum Percentages for "High Rate" and "Significant Increase in the Rate"

"High rate" is defined as a minimum of 20 percent of graduates in academic years 1990-91, 1991-92 or 1992-93 who spend at least 50 percent of their worktime in clinical practice in the specified settings. Public health nurse graduates can be counted if they identify a primary work affiliation at one of the qualified work sites. Graduates who are providing care in a medically underserved community as a part of a fellowship or other educational experience can be counted.

"Significant increase in the rate" means that, between academic years 1991-92 and 1992-93, the rate of placing graduates in the specified settings has increased by a minimum of 50 percent and that not less than 15 percent of graduates from the most recent year are working in these settings.

Additional information concerning the implementation of this preference has been published in the **Federal Register** at 58 FR 40659, dated 7/29/93.

Funding Priority

The following funding priority was established in FY 1993 after public comment (58 FR 42079, dated 8/6/93) and the Administration is extending this funding priority in FY 1994. A funding priority will be given to programs which demonstrate either substantial progress over the last 3 years or a significant experience of 10 or more years in enrolling and graduating students from those minority populations identified as at-risk of poor health outcomes.

Information Requirements Provision

Under section 860(e)(2) of the Act, the Secretary may make an award under the Nurse Anesthetist Traineeships only if the applicant for the award submits to the Secretary the following information:

1. A description of rotations of preceptorships for students, or clinical training programs for residents, that have the principal focus of providing health care to medically underserved communities.
2. The number of faculty on admissions committees who have a clinical practice in community-based ambulatory settings in medically underserved communities.
3. With respect to individuals who are from disadvantaged backgrounds or from medically underserved communities, the number of such individuals who are recruited for academic programs of the applicant, the number of such individuals who are admitted to such programs, and the number of such individuals who graduate from such programs.
4. If applicable, the number of recent graduates who have chosen careers in primary health care.
5. The number of recent graduates whose practices are serving medically underserved communities.
6. A description of whether and to what extent the applicant is able to operate without Federal assistance under this title.

Additional details concerning the implementation of this information requirement have been published in the **Federal Register** at 58 FR 43642, dated 8/17/93 and will be provided in the application materials.

Paperwork Reduction Act

The standard application form PHS 6025-1, HRSA Competing Training Grant Application, General Instructions and supplement for this program have been approved by the Office of Management and Budget under the Paperwork Reduction Act. This approval includes the burden for collection of information for the statutory general preference and for the information requirement provision. (OMB #0915-0060, expiration date 7/31/95)

Additional Information

Interested persons are invited to comment on the proposed minimum percentages for "high rate" and "significant increase in the rate" for implementation of the general statutory funding preference. The comment period is 30 days. All comments received on or before December 3, 1993 will be considered before the final minimum percentages for "high rate" and "significant increase in the rate" for implementation of the general statutory funding preference are established. Written comments should be addressed to: Marla E. Salmon, ScD, RN, FAAN, Director, Division of Nursing, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, room 9-35, 5600 Fishers Lane, Rockville, Maryland 20857.

All comments received will be available for public inspection and copying at the Division of Nursing, Bureau of Health Professions, at the above address, weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5 p.m.

Application Requests

Requests for application materials and questions regarding grants policy and business management issues should be directed to: Jacquelyn Whitaker, Grants Management Branch (A22), Nurse Anesthetist Traineeship Program, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, room 8C-26, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443-6857, FAX: (301) 443-6343.

Completed applications should be returned to the Grants Management Branch at the above address.

If additional programmatic information is needed, please contact: Ms. Anastasia Buchanan, Chief, Nursing Practice Resources Section, Division of Nursing, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, room 9-36, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443-5763, FAX: (301) 443-8586.

The deadline date for receipt of applications is January 24, 1994. Applications will be considered to be "on time" if they are either:

(1) *Received on or before* the established deadline date, or

(2) *Sent on or before* the established deadline date and received in time for orderly processing. (Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late applications not accepted for processing will be returned to the applicant.

This program, Grants for Nurse Anesthetist Traineeships, is listed at 93.124 in the *Catalog of Federal Domestic Assistance*. It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100). This program is not subject to the Public Health System Reporting Requirements.

Dated: October 6, 1993.

William A. Robinson,

Acting Administrator.

[FR Doc. 93-26979 Filed 11-2-93; 8:45 am]

BILLING CODE 4160-15-P

Program Announcement and Proposed Minimum Percentages for "High Rate" and "Significant Increase in the Rate" for Implementation of the General Statutory Funding Preference for Grants for Professional Nurse Traineeships for Fiscal Year 1994

The Health Resources and Services Administration (HRSA) announces that applications will be accepted for fiscal year (FY) 1994 Grants for Professional Nurse Traineeships under the authority of section 830, title VIII of the Public Health Service (PHS) Act, as amended by the Nurse Education and Practice Improvement Amendments of 1992, title II of the Health Professions Education Extension Amendments of 1992, Public Law 102-408, dated October 13, 1992. Comments are invited on the proposed minimum percentages for "high rate" and "significant increase in the rate" for implementation of the general statutory funding preference.

Approximately $15,473,000 will be available in FY 1994 for Grants for Professional Nurse Traineeships. It is estimated that 230 awards will be made ranging from $10,000 to $600,000.

Previous Funding Experience

Previous funding experience information is provided to assist potential applicants to make better informed decisions regarding submission of an application for this program. In FY 1993, HRSA reviewed 229 applications for Grants for Professional Nurse Traineeships. Of those applications, 100 percent were approved. In FY 1992, HRSA reviewed 225 applications for Grants for Professional Nurse Traineeships. Of those applications, 100 percent were approved.

Purpose

Section 830 of the Public Health Service Act authorizes the Secretary to award grants to meet the cost of traineeships for individuals in advanced-degree programs in order to educate the individuals to serve in and prepare for practice as nurse practitioners, nurse midwives, nurse educators, public health nurses, or in other clinical nursing specialties determined by the Secretary to require advanced education. Federal support must be requested annually.

Eligibility

Eligible applicants are public or private nonprofit entities which provide: (1) Advanced-degree programs to educate individuals as nurse practitioners, nurse-midwives, nurse educators, public health nurses or as other clinical nursing specialists; or (2) nurse-midwifery certificate programs that conform to guidelines established by the Secretary under section 822(b).

Applicants must agree that:

(a) In providing traineeships, the applicant will give preference to individuals who are residents of health professional shortage areas designated under section 332 of the Act;

(b) The applicant will not provide a traineeship to an individual enrolled in a master's of nursing program unless the individual has completed basic nursing preparation, as determined by the applicant; and

(c) Traineeships provided with the grant will pay all or part of the costs of the tuition, books, and fees of the program of nursing with respect to which the traineeship is provided and reasonable living expenses of the individual during the period for which the traineeship is provided.

National Health Objectives for the Year 2000

The Public Health Service urges applicants to submit work plans that address specific objectives of Healthy People 2000. Potential applicants may obtain a copy of Healthy People 2000 (Full Report; Stock No. 017-001-00474-0) or Healthy People 2000 (Summary Report; Stock No. 017-001-00473-1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402-9325 (Telephone 202-783-3238).

Education and Service Linkage

As part of its long-range planning, HRSA will be targeting its efforts to strengthening linkages between U.S. Public Health Service education programs and programs which provide comprehensive primary care services to the underserved.

Other Considerations

In addition, the following funding factors may be applied in determining funding of approved applications.

A funding preference is defined as the funding of a specific category or group of approved applications ahead of other categories or groups of approved applications in a discretionary program, or favorable adjustment of the formula which determines the grant award in a formula grant program.

A funding priority is defined as the favorable adjustment of aggregate review scores of individual approved applications when applications meet specified criteria, or favorable adjustment of the formula which determines the grant award in a formula grant program.

Special consideration is defined as the enhancement of priority scores by merit reviewers based on the extent to which applications address special areas of concern, or favorable adjustment of the formula which determines the grant award in a formula grant program.

It is not required that applicants request consideration for a funding factor. Applications which do not request consideration for funding factors will be reviewed and given full consideration for funding.

Statutory Preference

In making awards of grants under this section, preference will be given to any qualified applicant that

(a) Has a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or

(b) During the 2-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings.

Preference will be given only for applications ranked above the 20th percentile of applications that have been recommended for approval.

Proposed Minimum Percentages for "High Rate" and "Significant Increase in the Rate"

"High rate" is defined as a minimum of 20 percent of graduates in academic years 1990-91, 1991-92 and 1992-93 who spend at least 50 percent of their worktime in clinical practice in the specified settings. Public health nurse graduates can be counted if they identify a primary work affiliation at one of the qualified work sites. Graduates who are providing care in a medically underserved community as a part of a fellowship or other educational experience can be counted.

"Significant increase in the rate" means that, between academic years 1991-92 and 1992-93, the rate of placing graduates in the specified settings has increased by a minimum of 50 percent and that not less than 15 percent of graduates from the most recent year are working in these settings.

Additional information concerning the implementation of this preference has been published in the **Federal Register** at 58 FR 40659, dated 7/29/93.

Statutory Special Consideration

Special consideration will be given to applications for traineeship programs for nurse practitioner and nurse midwife programs which conform to guidelines established by the Secretary under section 822(b)(2) of the PHS Act. A copy of these guidelines will be included with the application materials for this program.

Established Funding Priority

The following funding priority was established in FY 1993 after public comment (58 FR 32712, dated 6/11/93) and the Administration is extending this funding priority in FY 1994. A funding priority will be given to programs which demonstrate either substantial progress over the last three years or a significant experience of ten or more years in enrolling and graduating students from those minority populations identified as at-risk of poor health outcomes.

Information Requirements Provision

Under section 860(e)(2) of the Act, the Secretary may make an award under the Professional Nurse Traineeships only if the applicant for the award submits to the Secretary the following information:

1. A description of rotations of preceptorships for students, or clinical training programs for residents, that have the principal focus of providing health care to medically underserved communities.
2. The number of faculty on admissions committees who have a clinical practice in community-based ambulatory settings in medically underserved communities.
3. With respect to individuals who are from disadvantaged backgrounds or from medically underserved communities, the number of such individuals who are recruited for academic programs of the applicant, the number of such individuals who are admitted to such programs, and the number of such individuals who graduate from such programs.
4. If applicable, the number of recent graduates who have chosen careers in primary health care.
5. The number of recent graduates whose practices are serving medically underserved communities.
6. A description of whether and to what extent the applicant is able to operate without Federal assistance under this title.

Additional details concerning the implementation of this information requirement have been published in the **Federal Register** at 58 FR 43642, dated 8/17/93, and will be provided in the application materials.

Paperwork Reduction Act

The standard application form PHS 6025-1, HRSA Competing Training Grant Application, General Instructions and supplement for this program have been approved by the Office of Management and Budget under the Paperwork Reduction Act. This approval includes the burden for collection of information for the statutory general preference and for the information requirement provision. (OMB #0915-0060, expiration date 7/31/95)

Additional Information

Interested persons are invited to comment on the proposed minimum percentages for "high rate" and "significant increase in the rate" for implementation of the general statutory funding preference. The comment period is 30 days. All comments received on or before December 3, 1993 will be considered before the final minimum percentages for "high rate" and "significant increase in the rate" for implementation of the general statutory funding preference are established. Written comments should be addressed to: Marla E. Salmon, ScD, RN, FAAN,

Director, Division of Nursing, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 9–35, 5600 Fishers Lane, Rockville, Maryland 20857.

All comments received will be available for public inspection and copying at the Division of Nursing, Bureau of Health Professions, at the above address, weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and p.m.

Application Requests

Requests for application materials and questions regarding grants policy and business management issues should be directed to: Grants Management Officer (A11), Professional Nurse Traineeships Program, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, room 9–26, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–6915 FAX: (301) 443–6343. Completed applications should be returned to the Grants Management Branch at the above address.

If additional programmatic information is needed, please contact: Ms. Anastasia Buchanan, Chief, Nursing Practice Resources Section, Division of Nursing, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, room 9–36, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–5763 FAX: (301) 443–8586.

The deadline date for receipt of applications is January 7, 1994. Applications will be considered to be "on time" if they are either:

(1) *Received on or before* the established deadline date, or

(2) *Sent on or before* the established deadline date and received in time for orderly processing. (Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late applications not accepted for processing will be returned to the applicant.

This program, Grants for Professional Nurse Traineeships, is listed at 93.358 in the *Catalog of Federal Domestic Assistance*. It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100). This program is not subject to the Public Health System Reporting Requirements.

Dated: October 4, 1993.

William A. Robinson,

Acting Administrator.

[FR Doc. 93–26978 Filed 11–2–93; 8:45 am]

BILLING CODE 4160–15–P

National Institutes of Health

Division of Research Grants; Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Division of Research Grants Behavioral and Neurosciences Special Emphasis Panel.

The meaning will be closed in accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, for the review, discussion and evaluation of individual grant applications in the various areas and disciplines related to behavior and neuroscience. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Office of Committee Management, Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Maryland 20892, telephone 301–594–7265, will furnish summaries of the meeting and roster of panel members.

Meetings to Review Small Business Innovation Research Program Applications:

Scientific Review Administrator: Dr. Teresa Levitin (301) 594–7141

Date of Meeting: November 9, 1993

Place of Meeting: Holiday Inn, Chevy Chase, MD

Time of Meeting: 9:00 am

This notice is being published less than 15 days prior to the meeting due to the difficulty of coordinating the attendance of members because of conflicting schedules.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 29, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–27136 Filed 11–3–93; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–4210–04; N–57477]

Amended Notice of Realty Action: Exchange of Public Lands in Clark Co., NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Exchange of public lands.

SUMMARY: The Notice of Realty Action published in the **Federal Register** on June 30, 1993 (58 FR 35038–35039, FR Doc. 93–15342), is hereby amended with respect to a portion of the legal description. The lot numbers in sections 18 and 19 of T. 19 S., R. 61 E., MDM, are being corrected due to a resurvey of both sections. The new lot numbers are as follows:

T. 19 S., R. 61 E., MDM
Sec. 18: lots 5–7, 10–15, 18–28, inclusive.
Sec. 19: lots 5–7, 10–15, 19–24, inclusive.

Dated: October 25, 1993.

Gary Ryan,

Acting District Manager, Las Vegas, NV.

[FR Doc. 93–26980 Filed 11–2–93; 8:45 am]

BILLING CODE 4310–HC–M

Minerals Management Service

Royalty Management Advisory Committee; Meeting

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of meeting.

SUMMARY: The Minerals Management Service (MMS) hereby gives notice that the Royalty Management Advisory Committee (RMAC) will meet in Lakewood, Colorado, at the location and on the date identified below. The purpose of this meeting is to review work and recommendations of a multiconstituent allowance study team and to recommend priorities on royalty related issues to be addressed in future periods.

LOCATION AND DATES: The RMAC will meet at building 85 on the Denver Federal Center, Lakewood, Colorado, on December 14, 1993, from 9 a.m. to 5 p.m.

The meeting will be open to the public. Public attendance may be limited to the space available. Members of the public will be given an opportunity to address RMAC at a designated time during the session. Written statements should be submitted by December 9, 1993, to the address listed below. Minutes of this meeting will be available for public inspection

and copying by December 22, 1993, at the same address. Please indicate any special accommodations or auxiliary aids you or other attendees may require by calling the number below at least 7 work days before the meeting.

FOR FURTHER INFORMATION CONTACT: Ms. Connie Bartram, Chief, Staff Operations, Minerals Management Service, Royalty Management Program, P.O. Box 25165, Mail Stop 3060, Denver, Colorado 80225–0165, telephone number (303) 231–3410 or 231–3896.

SUPPLEMENTARY INFORMATION: The Department recently reestablished the RMAC Charter in July 1993; the new charter will terminate in 2 years. During previous terms, RMAC was invaluable to the Department in providing input and advice regarding a number of issues, including product valuation, State and tribal audit funding, accounting system improvements, and Indian initiatives. The RMAC provides the Department with a formal mechanism for soliciting the viewpoint of representatives interested in and knowledgeable regarding royalty-related policies.

The RMAC is comprised of 10 members, representing States, Indians, the minerals industry, and MMS. The RMAC members have professional or personal qualifications or experience relative to mineral leasing and royalty management activities.

The RMAC will evaluate recommendations of a multiconstituent study group on various allowance issues. The RMAC will provide MMS a needed constituent sounding board as attempts are made to design and test improved royalty procedures and to recommend issue priorities.

Dated: October 27, 1993.

James W. Shaw,

Associate Director for Royalty Management.

[FR Doc. 93–27021 Filed 11–2–93; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Appalachian National Scenic Trail; Relocation of Right-of-Way

AGENCY: Department of the Interior, National Park Service.

ACTION: Implementation of revised right-of-way.

On August 24, 1993, the National Park Service announced in the **Federal Register** a relocation of the right-of-way for the Appalachian National Scenic Trail in Vermont. This relocation is authorized by section 7(b) of the National Trails System Act. Over 30 days has elapsed since the notice was published. No comments were received in response to the notice and no amendments to the relocation are necessary. The revised right-of-way, as published on pages 44692–44694 of the August 24, 1993, **Federal Register**, is hereby implemented.

Roger Kennedy,

Director, National Park Service.

[FR Doc. 93–26988 Filed 11–2–93; 8:45 am]

BILLING CODE 4310-70-M

General Management Plan/ Environmental Impact Statement for Fort Clatsop National Memorial, OR

ACTION: Notice of availability of draft General Management Plan/ Environmental Impact Statement.

SUMMARY: This notice announces the availability of a draft General Management Plan/Environmental Impact Statement (GMP/EIS) for Fort Clatsop National Memorial, Oregon. This notice also announces public workshops for the purpose of receiving public comments on the draft GMP/EIS.

DATES: Comments on the draft GMP/EIS should be received no later than 7 January 1994. The dates, times and locations of the public workshops are as follows: 29 November 1993, 2–5 p.m. and 7–9 p.m. at Fort Clatsop National Memorial, Astoria, Oregon; 30 November 1993, 2–5 p.m. at Fort Canby State Park, Ilwaco, Washington; 1 December 1993, 2–5 p.m. and 7–9 p.m. at Seaside, Oregon.

ADDRESSES: The public workshops will be held at the following locations: Fort Clatsop National Memorial visitor Center, Fort Clatsop Road, Astoria, Oregon; Fort Canby State Park Interpretive Center, Ilwaco, Washington; Seaside Convention Center (Riverview Room), 415 1st, Seaside, Oregon.

Written comments on the draft GMP/ EIS should be submitted to: Superintendent, Fort Clatsop National Memorial, Route 3, Box 604–FC, Astoria, Oregon 97103, Telephone: (503) 861–2471.

Public reading copies of the draft GMP/EIS will be available for review at the following locations:

Office of Public Affairs, National Park Service, Department of the Interior, 18th and C Streets, NW., Washington, DC 20240, Telephone: (202) 208–6843.

Pacific Northwest Regional Office, National Park Service, 83 South King Street, suite 212, Seattle, Washington 98104, Telephone: (206) 553–2352.

A limited number of copies of the draft document are available on request from the Superintendent, Fort Clatsop National Memorial, at the above address.

SUPPLEMENTARY INFORMATION: Four alternatives have been examined in the draft General Management Plan/ Environmental Impact Statement (GMP/ EIS). These alternatives address visitor use and the preservation of the natural and cultural resources that provide the environment in which the Fort Clatsop "chapter" of the Lewis and Clark story is presented to the public. One of these Alternatives constitutes the proposed action. The proposed action contains four major components: (1) A trail linkage would be established between the Fort and the Pacific Ocean, thereby fulfilling the Congressional directive contained in the Memorial's enabling legislation; (2) approximately 1,246 acres would be added to the Memorial to provide the Fort-Ocean trail corridor and to ensure the protection of the scenic and natural resources of lands surrounding the Fort; (3) coordination of interpretive activities pertaining to the Lewis and Clark story and other cultural themes would be emphasized with other public and private entities throughout the lower Columbia River Region; and (4) the Memorial's staffing levels and facilities would be upgraded to contribute to an enhancement of the visitor's experience; specifically proposed is an enlarged maintenance facility, increased staffing levels, and improvement at the Salt Works site in Seaside, Oregon. The environmental consequences of the proposed action and other alternatives are fully disclosed in the draft Environmental Impact Statement. In addition, the draft GMP/EIS contains Development Concept Plans for the trailhead and trail alignment and the Salt Works site. Also included are the results of public involvement and consultation/ coordination that have been conducted thus far.

Dated: October 18, 1993.

William C. Walters,

Deputy Regional Director, Pacific Northwest Region, National Park Service.

[FR Doc. 93–26989 Filed 11–2–93; 8:45 am]

BILLING CODE 4310-70-M

Notice of Availability of Final Environmental Impact Statement, Construction and Operation of Proposed Stadium, Washington, DC

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: This notice announces the availability of a final environmental impact statement (FEIS) for the construction and operation of a proposed stadium in Washington, DC.

DATES: The 30-day no-action period following the Environmental Protection Agency's notice of availability of the final EIS will end November 29, 1993.

ADDRESSES: Public reading copies of the FEIS will be available for review at the following locations: (1) National Park Service, National Capital Region, Office of Land Use Coordination, 1100 Ohio Drive SW., room 201, Washington, DC 20242; (2) District of Columbia Armory Board, District of Columbia National Guard Armory Complex, 2400 East Capitol Street SE., 4th Floor, Washington, DC 20003; (3) Martin Luther King, Jr., Memorial Library, 901 G Street NW., Washington, DC 20001; and (4) Langston Branch Library, Benning Road & 26th Street NE., Washington, DC 20002.

SUPPLEMENTARY INFORMATION: No preferred alternative was identified in the FEIS which analyzed the potential environmental consequences of the construction and operation of a stadium in Anacostia Park in the District of Columbia. The FEIS found that none of the alternatives studied, including the proposed action, would have significant unmitigatable impacts on the environment or the community. The information presented in the FEIS will assist public officials in their deliberations on pending legislation that would authorize implementation of the proposed action. The purpose of action is to provide a stadium designed primarily for football with a capacity of 78,600 seats, optimal sightlines, luxury box suites, and modern spectator amenities in Washington, DC.

Dated: October 21, 1993.

John G. Parsons,

Acting Regional Director, National Capital Region.

[FR Doc. 93-26990 Filed 11-2-93; 8:45 am]

BILLING CODE 4310-70-M

Delaware Water Gap National Recreation Area

AGENCY: National Park Service; Delaware Water Gap National Recreation Area Citizens Advisory Commission.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the dates for two meetings of the Delaware Water Gap National Recreation Area Citizens Advisory Commission.

Date: January 8, 1994.

Time: 9 a.m.

Location: NJ District Ranger Station.

Date: March 12, 1994.

Time: 9 a.m.

Location: Old Bushkill School, Bushkill, PA 18324.

Agenda: The agenda will include reports from Citizen Advisory Commission committees including; By-Laws, Natural Resources, Recreation, Cultural and Historical Resources, Intergovernmental and Public Affairs, Construction and Capital Project Implementation, as well as Special Committee Reports. Superintendent Roger K. Rector will give a report on various park issues.

FOR FURTHER INFORMATION CONTACT: Roger K. Rector, 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 the management and operation of the Delaware Water Gap National Recreation Area, as well as on other matters affecting the 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.

B.J. Griffin (Ms.),

Regional Director, Mid-Atlantic Region.

[FR Doc. 93-26991 Filed 11-2-93; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

Request for Comments: Use of Alternative Dispute Resolution Procedures and Negotiated Rulemaking Procedures

AGENCY: U.S. International Trade Commission.

ACTION: Request for written comments.

DATES: Written comments must be received on or before January 3, 1994. Interested persons may file comments, and all relevant and timely comments will be considered by the Commission.

ADDRESSES: Comments should be sent to Donna R. Koehnke, Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Participants must file a signed original and fourteen copies of all comments.

FOR FURTHER INFORMATION CONTACT: T. Spence Chubb, Esq., Supervisory Attorney/Branch Chief, Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., suite 401, Washington, DC 20436, telephone 202-205-2575. Copies of the comments will be available for public inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., room 112, Washington, DC 20436, telephone (202) 205-1802. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

AUTHORITY: Section 335 of the Tariff Act of 1930, 19 U.S.C. 1335, authorizes the Commission to adopt such reasonable procedures and rules and regulations as it deems necessary to carry out its functions and duties.

SUPPLEMENTARY INFORMATION:

Introduction

Congress amended the Administrative Procedure Act in 1990 through enactment of the Administrative Dispute Resolution Act (ADRA) and the Negotiated Rulemaking Act (NRA). See Public Law 101-552 (November 15, 1990) and Public Law 101-648 (November 29, 1990), respectively. The purpose of this Notice is to gather information from the public that will assist the Commission in implementing these statutory provisions. The ADRA and NRA authorize administrative agencies to use arbitration, mediation, settlement negotiation, conciliation, facilitation, fact-finding, mini-trials, negotiated rulemaking, and other consensual methods of dispute resolution. The Commission seeks information to assist it in determining the types of Commission activities in which alternative dispute resolution (ADR) is appropriate and in determining the most appropriate types of ADR mechanisms for such Commission activities. The Commission is considering whether and under what circumstances the use of ADR procedures may be appropriate consistent with the Commission's statutory mandate.

The Administrative Dispute Resolution Act

Congress enacted the ADRA based on its finding that alternative dispute resolution procedures have resulted in faster, less expensive and less contentious agency proceedings. Congress also indicated that an increased understanding and use of these procedures will better serve the public interest by improving the operation of government. See sections 2 and 3 of the ADRA.

The ADRA requires the Commission, in common with all agencies, to: (1) designate an ADR specialist; (2) review all Commission activities and adopt a policy regarding the potential use of ADR techniques; (3) provide ADR training for employees involved in developing and implementing the ADR policy; and (4) review agency contracts, grants, and other assistance programs to determine whether they should authorize and encourage ADR. Section 3 of the ADRA. In developing its policy, the Commission is directed to examine ADR in the following areas: (a) Formal and informal adjudications; (b) rulemakings; (c) enforcement actions; (d) issuing and revoking licenses or permits; (e) contract administration; (f) litigation brought by or against the agency; and (g) other agency actions. Section 3(a) of the ADRA. The ADRA does not mandate the use of ADR in any specific case or category of cases, nor does it prescribe a deadline for the adoption of an ADR policy.

In enacting the ADRA, Congress emphasized that alternative dispute resolution procedures are voluntary and are not necessarily appropriate in every case. 5 U.S.C. 572 (b) and (c) (formerly codified at 5 U.S.C. 582 (b) and (c); see Pub. Law 102–354 (1992)). See also 5 U.S.C. 572(a)(ADR procedures are to be used only when the parties involved agree to their use). Section 572(b) enumerates the following situations in which agencies should consider not using alternative dispute resolution: (1) Precedent setting cases; (2) cases bearing on significant questions of government policy; (3) cases where maintaining established policies is of special importance; (4) cases significantly affecting persons or organizations who are not parties to the proceeding; (5) cases where a full public record is important; and (6) cases where the agency must maintain continuing jurisdiction with authority to alter its disposition in light of changed circumstances.

Consistent with the statutory criteria set out in the ADRA, the Commission seeks comments from the public concerning the specific types of Commission proceedings or other areas that might be appropriate for alternative dispute resolution. Participants are requested to address whether or not ADR procedures are appropriate for particular Commission activities, and if so, why. Recognizing that many Commission investigations are not *inter partes* or are subject to statutory time limitations, the Commission particularly requests comments concerning areas that are incidental to the Commission's statutory responsibilities under the trade laws, such as proceedings relating to Freedom of Information Act requests, administrative protective order matters, contract disputes, and Equal Employment Opportunity proceedings and other personnel and labor matters. If the use of alternative dispute resolution is asserted to be appropriate, then the comments should address the procedures that could be adopted by the Commission to implement ADR. The Commission also solicits comments on any amendments to the Commission's rules that might be required to implement such procedures.

The Negotiated Rulemaking Act

In enacting the NRA, Congress expressed concern that traditional rulemaking procedures tend to discourage face-to-face negotiations among affected parties and cooperation in reaching agreement on a rule. Section 2(3) of the NRA. Congress stated that such procedures may cause parties to assume adversarial positions, the outcome of which is expensive and time-consuming litigation. Section 2(2) of the NRA. Congress suggested that negotiated rulemaking can lead to more effective rules and less resistance to rules, and observed that several agencies have successfully used negotiated rulemaking. Sections 2(5) and 2(6) of the NRA.

Negotiated rulemaking is a procedure by which an agency invites the representatives of the interests that will be affected by a prospective rule to join the agency in forming an ad hoc committee to develop a consensus draft of the rule. The NRA authorizes agencies to use negotiated rulemaking procedures if the head of the agency determines that the use of such procedures is in the public interest. Although the Act does not mandate the use of negotiated rulemaking or adoption of a policy, it does prescribe certain procedures if negotiated rulemaking is used and encourages agencies to use negotiated rulemaking when it would enhance the rulemaking process.

The NRA establishes the following criteria for determining whether the use of negotiated rulemaking is appropriate: (1) Whether there is a need for a rule; (2) whether there are limited or identifiable interests that will be affected significantly by the rule; (3) whether the interests can be adequately represented and whether the representatives are willing to negotiate in good faith; (4) whether there is a reasonable likelihood that a rulemaking committee will reach consensus within a fixed period of time; (5) whether the process will unreasonably delay the issuance of a notice of proposed rulemaking and the final rules; (6) whether the agency has the resources and is willing to commit the resources to undertake the process; and (7) whether the agency, to the maximum extent possible consistent with its legal obligations, will use the result of the negotiation in formulating a proposed rule. 5 U.S.C. 563(a) (formerly 5 U.S.C. 583(a)).

Congress has encouraged agencies to use the negotiated rulemaking process when it enhances the informal rulemaking process. 5 U.S.C. 561 (formerly 5 U.S.C. 581). The Commission is considering the appropriateness of using negotiated rulemaking with respect to Commission rules. The Commission requests comments from the public on the appropriateness of using negotiated rulemaking for the types of rules the Commission issues.

Conclusion

The Commission is seeking comments at this time so that the affected public may be involved in the determination of how the Commission should implement both the ADRA and the NRA. The Commission asks that all comments contain a full explanation as to why a particular type of Commission proceeding or area of potential dispute appears to be appropriate or inappropriate for handling under either alternative dispute resolution or negotiated rulemaking.

Issued: October 28, 1993.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 93–27004 Filed 11–2–93; 8:45 am]

BILLING CODE 7020–02–P

Investigation No. 731-TA-642 (Final)

Ferrosilicon From Egypt; Import Investigation

Determination

On the basis of the record[1] developed in the subject investigation, the Commission determines,[2] pursuant to section 735(b) of the Tariff Act of 1930 (the Act),[3] that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports from Egypt of ferrosilicon,[4] that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective June 25, 1993, following a preliminary determination by the Department of Commerce that imports of ferrosilicon from Egypt were being sold at LTFV within the meaning of section 733(b) of the Act.[5] Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on July 23, 1993.[6] The hearing was held in Washington, DC, on September 14, 1993, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The commission transmitted its determination in this investigation to the Secretary of Commerce on October 22, 1993. The views of the Commission are contained in USITC Publication 2688 (October 1993), entitled "Ferrosilicon from Egypt: Investigation No. 731-TA-642 (Final)."

Issued: October 27, 1993.

By order of the Commission.

Donna R. Koehnke,

Secretary

[FR Doc. 93-27005 Filed 11-2-93; 8:45 am]

BILLING CODE 7020-02-P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Chairman Newquist dissenting.

[3] 19 USC 1673d(b).

[4] For purposes of this investigation, the subject product is ferrosilicon, a ferroalloy generally containing, by weight, not less than 4 percent iron, more than 8 percent but not more than 96 percent silicon, not more than 10 percent chromium, not more than 30 percent manganese, not more than 3 percent phosphorus, less than 2.75 percent magnesium, and not more than 10 percent calcium or any other element. Ferrosilicon is classified in subheadings 7202.21.10, 7202.21.50, 7202.21.75, 7202.21.90, and 7202.29.00 of the Harmonized Tariff Schedule of the United States (HTS).

[5] 19 USC 1673b(b).

[6] 58 FR 39566.

[Investigation No. 337-TA-352]

Certain Personal Computers With Memory Management Information Stored in External Memory and Related Materials; Commission Determination Not To Review an Initial Determination Designating the Investigation "More Complicated"

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's (ALJ) initial determination (ID) designating the above-captioned investigation "more complicated." The deadline for completion of the investigation is extended by six months, *i.e.*, until December 16, 1994.

FOR FURTHER INFORMATION CONTACT: Matthew T. Bailey, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-205-3108.

SUPPLEMENTARY INFORMATION: On September 16, 1993, complainant Intel Corp. filed an unopposed motion to designate the investigation more complicated and a memorandum in support thereof. Intel asserted that this investigation should be designated more complicated to avoid interference with parallel district court litigation in the U.S. District Court for the Northern District of California. In that case, Intel is scheduled to go to trial on November 1, 1993.

On September 27, 1993, intervenor Cyrix Corp. filed a memorandum in support of Intel's motion. Cyrix and Intel are involved in a second parallel district court action in the U.S. District Court for the Eastern District of Texas, which is scheduled for trial on certain issues on November 9, 1993. Cyrix supported Intel's motion to avoid interference with that case. The Commission investigative attorney supported the motion, and respondents Twinhead Int'l Corp. and Twinhead Corp. did not oppose the motion.

On September 27, 1993, the presiding administrative law judge issued an ID (Order No. 8) granting Intel's motion in light of the scheduling conflicts with parallel district court litigation and the lack of opposition to Intel's motion.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and Commission interim rule 210.53, 19 CFR 210.53.

Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202-205-2000. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202-205-2648.

Issued: October 25, 1993.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 93-27006 Filed 11-02-93; 8:45 am]

BILLING CODE 7020-02-P

[Investigation No. 337-TA-350]

Certain Sputtered Carbon Coated Computer Disks and Products Containing Same, Including Disk Drives; Initial Determination Terminating Respondent on the Basis of Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding administrative law judge in the above captioned investigation terminating the following respondent on the basis of a settlement agreement: Toshiba Corporation.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon parties on October 28, 1993.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436,

telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

WRITTEN COMMENTS: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondent. The original and 14 copies of all such documents must be filed with the Secretary to the Commission, 500 E Street, SW., Washington, DC 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portions thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, Telephone (202) 205–1802.

Issued: October 28, 1993.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 93–27007 Filed 11–2–93; 8:45 am]

BILLING CODE 7020–02–P

[Investigation No. 337–TA–350]

Certain Sputtered Carbon Coated Computer Disks and Products Containing Same, Including Disk Drives; Initial Determination Terminating Respondent on the Basis of Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding administrative law judge in the above captioned investigation terminating the following respondent on the basis of a settlement agreement: Trace Storage Technology, Inc.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon parties on October 28, 1993.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

WRITTEN COMMENTS: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondent. The original and 14 copies of all such documents must be filed with the Secretary to the Commission, 500 E Street, SW, Washington, DC 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portions thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, Telephone (202) 205–1802.

Issued: October 28, 1993.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 93–27008 Filed 11–2–93; 8:45 am]

BILLING CODE 7020–02–P

[Investigation No. 337–TA–350]

Certain Sputtered Carbon Coated Computer Disks and Products Containing Same, Including Disk Drives; Notice of Decision to Reverse Initial Determinations and Remand to the Presiding Administrative Law Judge for Further Proceedings

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to reverse three initial determinations (IDs) issued by the presiding administrative law judge (ALJ) in the above-captioned investigation granting motions for summary determination and partial summary determination on the issue of jurisdiction and to remand the investigation to the ALJ for further proceedings.

FOR FURTHER INFORMATION CONTACT: Marc A. Bernstein, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–3087.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation, which concerns allegations of section 337 violations in the importation, sale for importation, and sale after importation of sputtered carbon coated computer disks ("sputtered disks") and products containing such disks, including disk drives, on May 5, 1993. Complainant Harry E. Aine ("Aine") alleges infringement of claims 23, 24, 25, 26, and 29 of U.S. Letters Patent Re 32,464.

Separate motions for summary determination or partial summary determination were filed by nine respondents. In their motions, respondents argued that the Commission has no jurisdiction under section 337 with respect to the domestically-manufactured sputtered disks that they manufacture or purchase.

In an ID (Order No. 16) issued on May 28, 1993, the ALJ granted the summary determination motions of respondents Akashic Memories Corp. ("Akashic"), Micropolis Corp. ("Micropolis"), Hoya Electronics Corp., and Nashua Corp. ("Nashua"), and terminated the investigation with respect to those parties. The ID additionally granted motions for partial summary determination on the issue of jurisdiction filed by respondents Seagate Technology, Inc. and Western Digital Corp. ("Western Digital"). In an ID (Order No. 50) issued on July 2, 1993, the ALJ granted motions for partial summary determination filed by respondents Komag, Inc. ("Komag") and Digital Equipment Corp. ("Digital Equipment"). In an ID (Order No. 62) issued on July 26, 1993, the ALJ granted a motion for summary determination filed by respondent Maxtor Corp. ("Maxtor")

The Commission determined to review each of these three IDs on a consolidated basis and requested briefing from the parties and *amici curiae* on the issues under review. See 58 FR 36703 (July 8, 1993); 58 FR 39836 (July 26, 1993); 58 FR 44851 (Aug. 25,

1993). The Commission conducted an oral argument on the issues under review on September 8, 1993. Complainant Aine, the Commission investigative attorneys, and respondents Nashua, Digital Equipment, Western Digital, Akashic, Komag, Micropolis, Maxtor, and HMT Technology Corp. each submitted briefs on the jurisdictional issues under review and/or participated in the oral argument. The ITC Trial Lawyers Association additionally submitted a brief as *amicus curiae*.

Having reviewed the record, including the IDs, the Commission determined that summary determination should not be granted on the issue of jurisdiction. Accordingly, the Commission reversed each of the three IDs under review and remanded the matter to the ALJ for further proceedings.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and Commission interim rule 210.56, 19 CFR 210.56.

Copies of the Commission order and opinion, and the nonconfidential versions of the IDs and all nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–205–2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

Issued: October 27, 1993.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 93–27010 Filed 11–02–93; 8:45 am]

BILLING CODE 7020–02–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Arts and Artifacts Indemnity Panel Advisory Committee; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463 as amended) notice is hereby given that a meeting of the Arts and Artifacts Indemnity Panel of the Federal Council on the Arts and the Humanities will be held at 1100 Pennsylvania Avenue, NW., Washington, DC 20506, in room 714, from 9 a.m. to 5 p.m., on Tuesday, November 23, 1993.

The purpose of the meeting is to review applications for Certificates of Indemnity submitted to the Federal Council on the Arts and the Humanities for exhibitions beginning after January 1, 1994.

Because the proposed meeting will consider financial and commercial data and because it is important to keep values of objects, methods of transportation and security measures confidential, pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated July 19, 1993, I have determined that the meeting would fall within exemptions (4) and (9) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of views and to avoid interference with the operations of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, David Fisher, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, or call 202/606–8322.

David Fisher,

Advisory Committee, Management Officer.

[FR Doc. 93–26954 Filed 11–2–93; 8:45 am]

BILLING CODE 7536–01–M

NUCLEAR REGULATORY COMMISSION

[Docket 70–364]

Babcock & Wilcox, Parks Township, PA; Finding of No Significant Impact and Notice of Opportunity for a Hearing Renewal of Special Nuclear Material, License SNM–414

The U.S. Nuclear Regulatory Commission is considering the renewal of Special Nuclear Material License SNM–414 for the continued operation of the Babcock & Wilcox Company (B&W), Pennsylvania Nuclear Service Operations, located in Parks Township, Armstrong County, Pennsylvania.

Summary of the Environmental Assessment

Identification of the Proposed Action: The proposed action is the renewal of the license necessary for B&W to continue operations at the Parks Township facility. The primary activities conducted at this facility include decontamination, repair, maintenance, and testing of equipment and components contaminated with radioactive materials; the volume reduction of low-level radioactive waste; the decontamination of onsite facilities formerly used for plutonium and uranium processing; and the management of a former 10 CFR 20.304 burial area.

The Need For the Proposed Action: B&W performs a necessary service for the nuclear industry by receiving and processing equipment and components contaminated with byproduct material from nuclear power plants. Decontamination and refurbishing allows the reuse of still serviceable nuclear power plant equipment and materials which have been contaminated with byproduct materials This refurbishment not only provides monetary and manpower savings but opportunities for increasing power plant efficiency. Denial of the license renewal for the B&W Parks Township facility is an alternative available to the NRC but would require that similar activities be undertaken at another site.

Environmental Impacts of the Proposed Action: Only very small releases of radioactivity in liquid effluents are expected from operations because process liquids are recycled, evaporated, or solidified and disposed of as solid low-level radioactive waste. Small quantities of housekeeping waters are discharged to the Kiski Valley waste treatment plant. Storm runoff from the site also has the potential for very low-level contamination. While no significant contamination is expected in the site runoff, samples are collected.

Groundwater monitoring has shown the presence of organic contaminants in the area of some of the buildings and the trenches of the inactive Shallow Land Disposal Facility (SLDF). The level and extent of contamination and the direction of flow are such that no significant offsite contamination or impact is expected.

Activities that have the potential for generating significant airborne radioactive contamination are performed in buildings where ventilated air from the work area is filtered through at least one stage of high efficiency particulate filters (HEPAs) and continuously sampled for particulate radioactive material before being released through filters to the environment. Small amounts of chemical pollutants will be released to the environment as a result of the decontamination activities. All of these chemicals are common to the chemical industry. Based on the small releases expected and B&W's commitment to comply with the applicable regulations, no measurable impact is expected as a result of chemical releases to the atmosphere.

The total effective dose equivalent (TEDE) for each year of operation to the

hypothesized maximally exposed individual (a person living 220 m SSW in a prevailing wind direction, eating vegetables from his/her own garden, fishing from the shoreline of the Kiskiminetas River, drinking water from the river near the outfall of the Kiski Valley waste treatment plant, and eating the fish from the river) is calculated to be on the order of 2.5E–3 mSv (.25 mrem). The average dose to a member of the population with 80 km of the facility would be on the order of 1.1E–6 mSv (1.1E–4 mrem).

The environmental impacts of normal operation of the Parks Township facility are expected to be very small. For all radionuclides, plant site boundary concentration limits in air and water are calculated to be below the concentration limits of 10 CFR part 20. Most of the impacts of normal operations will result from past contamination of the facility and from reactor service fission and activation products released as a result of decontamination and refurbishment, as well as volume reduction of waste materials.

Conclusion: The staff concludes that the environmental impacts associated with the proposed license renewal for continued operation of B&W facility are expected to be insignificant.

Alternatives to the Proposed Action: Alternatives to the proposed action include denial of B&W's renewal application. Not granting a license renewal for the facility would cause B&W to cease decommissioning and decontamination activities at this site. This alternative has not been considered because issues of public health and safety have been resolved. The only benefits to be gained by nonrenewal would be the cessation of the minor environmental impacts from operation of the B&W site. Because decontaminating equipment and components is a necessary service for the nuclear power plants, denial of a license for B&W would result in the transfer of the activities and associated environmental impacts to an alternative site.

Agencies and Persons Consulted: Discussions were held with the Pennsylvania Department of Environmental Resources, the Pennsylvania Department of Health, the Parks Township Commissioners, and the Kiski Valley Waste Treatment Plant Manager.

Finding of No Significant Impact: The NRC has prepared an Environmental Assessment related to the renewal of Special Nuclear Material License SNM–414. On the basis of this assessment, NRC has concluded that environmental impacts that would be created by the proposed licensing action would not be significant and do not warrant the preparation of an Environmental Impact Statement. Accordingly, it has been determined that a Finding of No Significant Impact is appropriate.

The Environmental Assessment is available for public inspection and copying at NRC's Public Document Room at the Gelman Building, 2120 L Street NW., Washington, DC and the Local Public Document Room at the Apollo Memorial Library, 219 N. Pennsylvania Avenue, Apollo, PA.

Opportunity for a Hearing

Any person whose interest may be affected by the issuance of this renewal may file a request for a hearing. Any request for hearing must be filed with the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, within 30 days of the publication of this notice in the **Federal Register**; be served on the NRC staff (Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852) and on the licensee (Babcock & Wilcox Company, Pennsylvania Nuclear Service Operations, R.D. 1, Box 355, Vandergrift, PA 15690); and must comply with the requirements for requesting a hearing set forth in NRC's regulation, 10 CFR part 2, Subpart L, "Informal Hearing Procedures for Adjudications in Materials Licensing Proceedings."

These requirements, which the requestor must address in detail, are:

1. The interest of the requestor in the proceeding;
2. How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing;
3. The requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and
4. The circumstances establishing that the request for hearing is timely, that is, filed within 30 days of the date of this notice.

In addressing how the requestor's interest may be affected by the proceeding, the request should describe the nature of the requestor's right under the Atomic Energy Act of 1954, as amended, to be made a party to the proceeding; the nature and extent of the requestor's property, financial, or other (i.e., health, safety) interest in the proceeding; and the possible effect of any order that may be entered in the proceeding upon the requestor's interest.

Dated at Rockville, Maryland, this 28 day of October 1993.

For the Nuclear Regulatory Commission

Robert F. Burnett,

Director, Division of Fuel Cycle Safety and Safeguards, NMSS.

[FR Doc. 93–26985 Filed 11–2–93; 8:45 am]

BILLING CODE 7590–01–M

Line-Item Technical Specifications Improvements To Reduce Surveillance Requirements for Testing During Power Operation (Generic Letter 93–05)

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of issuance.

SUMMARY: The Nuclear Regulatory Commission (NRC) has issued Generic Letter 93–05 on the reduction of surveillance requirements for testing during power operation and enclosures providing guidance for implementation. This generic letter is available in the Public Document Rooms under accession number 9309220159. The resolution of public comments received on this generic letter is discussed in a memorandum to the Chairman of the Committee to Review Generic Requirements which is also available in the Public Document Rooms under accession number 9309020036. This generic letter is also discussed in a Commission information paper SECY–93–255 which is also available in the Public Document Rooms under accession number 9309300191.

DATES: The generic letter was issued on September 27, 1993.

ADDRESSES: Not Applicable.

FOR FURTHER INFORMATION CONTACT: Tom Dunning, (301) 504–1189.

Dated at Rockville, Maryland, this 28th day of October 1993.

For the Nuclear Regulatory Commission.

Gail H. Marcus,

Chief, Generic Communications Branch, Division of Operating Reactor Support, Office of Nuclear Reactor Regulation.

[FR Doc. 93–26987 Filed 11–2–93; 8:45 am]

BILLING CODE 7590–01–M

Insurance Issues Related to the Price-Anderson Act for Nuclear Power Plant Emergencies

AGENCY: Nuclear Regulatory Commission.

ACTION: Meeting of American Nuclear Insurers, Federal and State Representatives.

SUMMARY: The Nuclear Regulatory Commission will hold a public meeting

to discuss State and local concerns regarding the coverage provided under the American Nuclear Insurers policy for emergency conditions at nuclear power plants.

DATES: The meeting is scheduled for November 17, 1993. The meeting will begin at 10 a.m.

ADDRESSES: The meeting will be held at One White Flint North, room 8 B11, 11555 Rockville Pike, Rockville, Maryland.

FOR FURTHER INFORMATION CONTACT: Eric Weinstein, Incident Response Branch, Office for Analysis and Evaluation of Operational Data, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone: 301 492-7836.

SUPPLEMENTARY INFORMATION: The Nuclear Regulatory Commission will hold the meeting based upon a request from the National Emergency Management Association (NEMA) to discuss issues relating to the insurance available for nuclear power plant accidents. The NRC will host the meeting and has invited representatives from the American Nuclear Insurers (ANI), the Federal Emergency Management Agency, and the States of Minnesota, (NEMA representative) Pennsylvania, Ohio and Virginia. A representative also has been invited from the Pennsylvania Power and Light Company. The purpose of the meeting is to discuss State and local concerns regarding the coverage provided under the American Nuclear Insurers policy for emergency conditions. Topics to be discussed will include Coverage D, as it relates to expenditures incurred by State and local government for nuclear power plant accidents. The NRC views this meeting as an opportunity for understanding issues, not to arrive at any consensus or agreement on the issues on which views are expressed by participants. The meeting is open to the public for attendance and observation.

Dated at Rockville, Maryland, this 28th day of October, 1993.

For the Nuclear Regulatory Commission.

Edward L. Jordan,

Director, Office for Analysis and Evaluation of Operational Data.

[FR Doc. 93-26986 Filed 11-2-93; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Subcommittee Meeting on Individual Plant Examinations; Meeting

The ACRS Subcommittee on Individual Plant Examinations will hold a meeting on November 18, 1993, in room P-110, 7920 Norfolk Avenue, Bethesda, MD

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows: *Thursday, November 18, 1993—8:30 a.m. until the conclusion of business.*

The Subcommittee will discuss: (1) Status of and insights gained from the Individual Plant Examinations (IPE) program, (2), general status of the methodologies used in the IPE by the licensees, (3) status of the resolution of generic issues through the IPE and Individual Plant Examination of External Events (IPEEE) programs, and (4) general status of accident management programs. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will hear presentations by and hold discussions with representatives of the NRC staff, NUMARC, and other interested persons regarding this review. Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting the cognizant ACRS staff engineer, Mr. Dean Houston (telephone 301/492-9521) between 7:30 a.m. and 4:15 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individual five days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: October 27, 1993.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 93-26982 Filed 11-2-93; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.

Trade Policy Staff Committee (TPSC); Notice of the Effective Date, With Respect to the Republic of Turkmenistan, of the Agreement on Trade Relations Between the United States of America and the Union of Soviet Socialist Republics

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of the effective date, with respect to the Republic of Turkmenistan, of the Agreement on Trade Relations Between the United States of America and the Union of Soviet Socialist Republics.

SUMMARY: In Proclamation 6352 of October 9, 1991 (54 FR 51317), the President proclaimed that the "Agreement on Trade Relations Between the United States of America and the Union of Soviet Socialist Republics" would enter into force and nondiscriminatory treatment would be extended to products of the U.S.S.R. in accordance with the terms of the Agreement on the date of exchange of written notices of acceptance in accordance with Article XVII of the Agreement. Subsequently, the U.S.S.R. was succeeded by twelve independent states, including the Republic of Turkmenistan. An exchange of diplomatic notes with the Republic of Turkmenistan in accordance with Article XVII of the Agreement, as modified by technical adjustments and retitled "Agreement on Trade Relations between the United States of America and the Republic of Turkmenistan," took place in Ashgabat, Turkmenistan on October 25, 1993. Accordingly, the Agreement became effective on October 25, 1993, with respect to the Republic of Turkmenistan, and nondiscriminatory treatment is extended to products of the Republic of Turkmenistan as of October 25, 1993 in accordance with the Agreement and as provided for in Proclamation 6352 of October 9, 1991.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 93-27153 Filed 11-2-93; 8:45 am]

BILLING CODE 3190-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel No. IC-19820; 812-8448]

New York Life Insurance and Annuity Corporation, et al.

October 28, 1993.

AGENCY: Securities and Exchange Commission ("SEC" or the "Commission").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: New York Life Insurance and Annuity Corporation ("NYLIAC"), New York Life Insurance and Annuity Corporation Variable Universal Life Separate Account I ("Account I"), New York Life Insurance and Annuity Corporation Variable Universal Life Separate Account II ("Account II", together with Account I, the "Accounts"), any other separate account established in the future by NYLIAC to support flexible premium variable life insurance policies (the "Future Accounts"), and NYLIFE Securities, Inc. ("NYLIFE").

RELEVANT 1940 ACT SECTIONS: Order Requested under section 6(c) of the 1940 Act for exemptions from sections 27(a)(1), 27 (c)(2) and 27 (h)(1) of the 1940 Act and Rule 6e-3(T)(c)(4)(v) thereunder.

SUMMARY OF APPLICATION: Applicants seeks an order to permit them to deduct from premium payments received an amount approximately equal to the increase in the federal tax liability of NYLIAC resulting from NYLIAC's receipt of premium payments in connection with certain flexible premium variable life insurance policies.

FILING DATE: The application was filed on June 14, 1993 and amendment number one to and restatement of the application was filed on October 8, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing on this application by writing to the Secretary of the SEC and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on November 22, 1993 and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, by certificate. Hearing requests should state the nature of the interest, the reason for the request and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, 51 Madison Avenue, New York, New York 10010.

FOR FURTHER INFORMATION CONTACT: Barbara J. Whisler, Attorney, or Michael V. Wible, Special Counsel, both at (202) 272-2060, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from Public Reference Branch of the SEC.

Applicants' Representations

1. NYLIAC, a stock life insurance company organized under the laws of Delaware in 1980, is a wholly owned subsidiary of New York Life Insurance Company ("New York Life"), a mutual life insurance company founded in New York.

2. NYLIAC established the Accounts on June 3, 1993 as separate accounts under Delaware law. The Accounts are, and any Future Accounts will be, used to support NYLIAC's variable life insurance contracts that may be described as either flexible premium variable life insurance policies or variable universal life insurance policies (the "Contracts"). The Accounts are registered separately with the Commission as unit investment trusts (File Nos. 811-7798 and 811-7800). Each of the Accounts presently has five sub-accounts, each of which invests in the shares of one of the available portfolios of the MFA Series Fund, Inc., a registered open-end management investment company (File No. 2-86082). Additional sub-accounts may be made available in the future. Registration statements for the Contracts have been filed with the Commission (File Nos. 33-64410 and 33-64408) and Applicants incorporate those registration statements by reference into the application.

3. NYLIFE, an indirect wholly owned subsidiary of New York Life, acts as the principal underwriter for variable life insurance and variable annuity contracts issued by NYLIAC. NYLIFE is registered as a broker-dealer under the Securities Exchange Act of 1934 and is a member of the National Association of Securities Dealers, Inc. The Contracts will be sold by registered representatives of NYLIFE or by other broker-dealers having distribution agreements with NYLIFE.

4. The application states that in connection with offering the Contracts, Applicants will rely upon Rule 6e-3(T) under the 1940 Act for all necessary relief other than the requested in the application. Applicants proposed to make certain deductions in an amount approximately equal to or less than the increase in NYLIAC's federal tax obligations that is based upon premiums received under the Contracts.

5. In the Omnibus Budget Reconciliation Act of 1990 ("OBRA 1990"), Congress amended the Internal Revenue Code of 1986 (the "Code") by, among other things, enacting Section 848 thereof. Section 848 changed how a life insurance company must compute its itemized deductions from gross income for federal income tax purposes. Section 848 requires an insurance company to capitalize and amortize over a period of ten years part of the company's general expenses for the current year. Under prior law, these general expenses were deductible in full from the current year's gross income.

6. The amount of deductions that must be capitalized and amortized over ten years rather than deducted in the year incurred is based solely upon "net premiums" received in connection with certain types of insurance contracts. Section 848 of the Code defines "net premiums" for a type of contact as gross premiums received by the insurance company on the contracts minus return premiums and premiums paid by the insurance company for reinsurance of its obligations under such contracts. Applicants state that because NYLIAC will pay only a de minimis amount of the return premiums on the Contracts and will insure its obligations under a Contract outside the New York Life group of companies only to a limited extent, it is reasonable to assume that almost the entire amount of any Contract's premiums received will constitute "net premiums," as that phrase is used in Section 848.

7. Applicants argue that the action taken by Congress in enacting OBRA 1990 has the same economic impact as a federal premium tax. The more premium dollars the insurance company receives, the greater the amount of the deductions that it would be forced to capitalize and deduct over a period of ten years rather than immediately and thus the greater will be the insurance company's income tax liability for the current year.

8. The amount of general deductions that must be capitalized depends upon the type of contract to which the premiums received relate and varies according to a schedule set forth in section 848 of the Code.The Contracts will be classified as individual life insurance contracts for purposes of Section 848, and according to that

Section, an amount of NYLIAC's general deductions equal to 7.7% of Contract premiums received during the year must be capitalized and amortized.

9. The increased tax burden resulting from section 848 on every $1,000 of premimus received in connection with the Contracts may be quantified as follows. For each 1,000 of premiums received during this year, Section 848 requires NYLIAC to capitalize $77 (7.7% of $1,000) and $3.85 of this $77 may be deducted in the current year. This leaves $73.15 subject to taxation at the corporate tax rate of 34% [$77 minus $3.85] which results in NYLIAC owing $24.87 [.34 × $73.15] more in taxes for the current year than owed by NYLIAC prior to OBRA 1990. This amount will be partially offset by increased deductions that will be allowed during the next ten years as a result of amortizing the remainder of the $77 [$7.70 in each of the following 9 years and $3.85 in the year 10].

10. In the business judgement of NYLIAC, a discount rate of at least 10% is appropriate for use in calculating the present value of NYLIAC's future tax deductions resulting from the amortization described above. Applicants submit that NYLIAC's targeted rate of return, *i.e.*, the return NYLIAC seeks on invested capital, is at least 10%. To the extent that capital must be used by NYLIAC to meet its increased federal tax burden under Section 848 resulting from the receipt of premiums, such capital is not available to NYLIAC for investment. Thus, the cost to NYLIAC of capital used to meet its increased federal tax burden under Section 848 is, in essence, NYLIAC's targeted rate of return; and accordingly, the targeted rate of return is appropriate for use in this present value calculation. To the extent that the 10% discount rate is lower than NYLIAC's actual targeted rate of return, Applicants submit that a measure of comfort is provided that the calculation of NYLIAC's increased tax burden attributable to the receipt of premiums will continue to be reasonable over time, even if the corporate tax rate applicable to NYLIAC is reduced, or its targeted rate of return is lowered.[1]

11. In determining the targeted rate of return used in arriving at this discount rate, Applicants state that NYLIAC considered a number of factors. First, NYLIAC identified the level of investment return that can be expected to be earned over the long term on various types of fixed income securities, including the expected yield on thirty year United States Treasury bonds and high-grade corporate bonds. These rates were then adjusted by an amount considered appropriate to compensate for the risks associated with allocating capital to a line of business without a performance history, as compared to investing in risk free or relatively low risk fixed income securities. Additionally, NYLIAC considered whether this targeted rate of return is within the normal range in the life insurance industry. Applicants represent that such factors are appropriate factors to consider in determining NYLIAC's targeted rate of return.

12. Using a corporate tax rate of 34% and assuming a discount rat of at least 10%, the present value of the tax effect of the increased deductions allowable in the following 10 years, which partially offsets the increased tax burden, comes to $15.58. The effect of Section 848 on the Contracts is therefore, an increased tax burden with a present value of $9.29 for each $1,000 of net premiums, *i.e.*, $24.87 minus $15.58.

13. State premium taxes are deductible in computing NYLIAC's federal income taxes. Thus, NYLIAC does not incur incremental income tax when they pass on state premium taxes to Contract owners. Conversely, federal income taxes are not deductible in computing NYLIAC's federal income taxes. In order to compensate NYLIAC fully for the impact of Section 848, therefore, it would be necessary to allow NYLIAC to impose an additional charge that would make it whole not only for the $9.29 additional tax burden attributable to Section 848, but also for the tax on the additional $9.29 itself. This tax can be determined by dividing $9.29 by the complement of the 34% federal corporate income tax rate *i.e.*, 66%, resulting in an additional charge of $14.07 for each $1000 of net premiums, or 1.41%.

14. Based on prior experience, NYLIAC believes that it is reasonable to expect that virtually all future deductions will be fully taken. It is NYLIAC's judgement that a charge of 1.25% would reimburse it for the impact of Section 848 on its federal tax liabilities. Applicants represent that the charge to be deducted by NYLIAC pursuant to the relief requested is reasonably related to NYLIAC's increased federal tax burden under Section 848, taking into account the benefit to NYLIAC of the amortization permitted by Section 848, and the use by NYLIAC of a discount rate of 10% in computing the cost of the increased tax burden and the present value of the future deductions resulting from such amortization, such rate being no greater than NYLIAC's targeted rate of return.[2]

Applicants' Legal Analysis

1. Section 6(c) of the 1940 Act provides, in pertinent part, that the Commission may by order upon application, conditionally or unconditionally exempt any person, securities or transactions from any provision of the 1940 Act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and the provisions of the 1940 Act.

2. Applicants request a Commission order pursuant to Section 6(c) exempting Applicants from the provisions of sections 27(a)(1), 27(c)(2) and 27(h)(1) of the 1940 Act and Rule 6e-3(T)(c)(4)(v) thereunder to the extent necessary to permit deductions to be made from premium payments received in connection with the Contracts. The deductions would be in an amount equal to or less than NYLIAC's increased federal tax liability created by its receipt of such premium payments, and such deductions would not be treated as deductions for sales load.

3. The Accounts are, and the Future Accounts will be, regulated under the 1940 Act as if they were the issuers of periodic payment plan certificates. Accordingly, the Accounts, the Future Accounts, NYLIAC (as depositor for the Accounts) and NYLIFE (as principal underwriter of the Contracts) are deemed to be subject to section 27 of the 1940 Act.

4. Sections 27(a)(1) and 27(h)(1) of the 1940 Act limit sales loads on periodic payment plan certificates to nine percent of total payments made. Section 27(c)(2) of the 1940 Act prohibits the sale of periodic payment plan certificates unless the proceeds of all payments (except such amounts as are deducted for sale load) are held under an indenture or agreement containing in substance the provisions required by sections 26(a) (2) and (3) of the 1940 Act. Applicants note the Rule 6e-3(T) under the 1940 Act provides a broad range of exemptive relief for the offering of flexible premium variable life insurance policies such as the Contracts. Rule 6e-3(T)(b)(13)(iii) provides relief from section 27(c)(2) to the extent necessary to permit deduction of premium or other taxes imposed by a state or other governmental entity.

[1] Applicants represent that the application will be amended during the notice period to reflect this representation.

[2] Applicants represent that the application will be amended during the notice period to reflect this representation.

Applicants seek relief from section 27(c)(2) of the 1940 Act only to preclude the possibility that the proposed deductions might not be entitled to the exemptive relief provided by Rule 6e–3(T)(B)(13)(iii), based on an argument that section 848 of the Code does not purport to impose a tax on life insurance companies.

5. Applicants assert that particularly in light of the Commission's action regarding premium taxes in connection with the adoption of Rule 6e–3(T), the requested exemption from section 27(c)(2) should be granted. Applicants note that the Commission has granted exemptive relief substantially similar to that requested in the applications.[3]

6. Applicants state that if the proposed deductions were not considered sales load, then Rule 6e–3(T)(b)(13) would provide the relief from sections 27(a)(1) and 27(h)(1) requested by Applicants. The language of Rule 6e–3(T)(c)(4), however, appears to require that deductions for federal tax obligations caused by receipt of premium payments be treated as sales load. Rule 6e–3(T)(c)(4) defines "sales load" for purposes of the Rule as the excess of premium payments over certain itemized charges and adjustments. A deduction for an insurer's increased federal tax burden as described in the application does not fall squarely into any of those itemized charges or deductions, arguably causing such a deduction to be treated as part of "sales load" under a literal reading of paragraph (c)(4) of the Rule.

7. Applicants submit that there is no public policy reason that deductions made to pay costs attributable to federal taxes should be treated as part of sales load, nor is there any language in the releases in which the Commission adopted and later amended Rule 6e–3(T) which suggests that such a result was intended, despite the literal wording of paragraph (c)(4) of the Rule.

8. Applicants argue that the exemption requested is necessary in order for them to rely on certain provisions of paragraph (b)(13) of the Rule, and particularly on subparagraph (b)(13)(i) of Rule 6e–3(T) which provides exemptions from sections 27(a)(1) and 27(h)(1) of the 1940 Act. Issuers and their affiliates may only rely on subparagraph (b)(13)(i) of Rule 6e–3(T) if they meet the Rule's alternative limitations on sales load, as defined in paragraph (c)(4) of the Rule. Applicants state that, depending upon the load structure of a particular Contract, these alternative limitations may not be met if the deduction for the increase in the issuer's federal tax burden is included in sales load.

9. The public policy that underlies subparagraph (b)(13)(i) of Rule 6e–3(T), like that which underlies sections 27(a)(1) and 27(h)(1) of the 1940 Act, is to prevent excessive sales loads from being charged in connection with the sale of periodic payment plan certificates. Applicants submit that the treatment of a tax charge attributable to premium payments as sales load would not in any way further this legislative purpose because such a deduction has no relation to the payment of sales commission or other distribution expenses. Applicants state that the Commission has concurred with this conclusion by excluding deductions for state premium taxes from the definition of "sales load" in paragraph (c)(4) of the Rule.

10. Applicants assert that the genesis of the definition specified in paragraph (c)(4) of the Rule supports this analysis. Section 2(a)(35) of the 1940 Act provides a scale against which the percentage limits of sections 27(a)(1 and 27(h)(1) of the 1940 Act may be measured. Applicants state that paragraph (c)(4) of the Rule is simply a more specific articulation of the requirements of section 2(a)(35) of the 1940 Act as applied to variable life insurance contracts. Section 2(a)(35) of the 1940 Act, like the definition specified in paragraph (c)(4) of the Rule, defines sales load derivatively. Applicants assert that the Commission's intent in adopting paragraph (c)(4) of the Rule was to tailor the general terms of section 2(a)(35) to scheduled premium, single premium, and flexible premium variable life insurance contracts; this facilitated verification by the Commission of compliance with the sales load limits set forth in subparagraph (b)(13)(i) of the rule. Rule 6e–3(T)(c)(4) does not depart, in principle, from section 2(a)(35).

11. Section 2(a)(35) of the 1940 Act excludes deductions from payments for "issue taxes" from the definition of sales load under the 1940 Act. Applicants submit that this suggests that it is consistent with the policies of the 1940 Act to exclude from the definition of "sales load" in Rule 6e–3(T) deductions made to pay an insurer's costs attributable to its tax obligations. Further, Applicants submit that the reference in section 2(a)(35) to administrative expenses or fees that are "not properly chargeable to sales or promotional activities" suggests that the only deductions intended to fall within the definition of sales load are those that are properly chargeable to such activities. Because the proposed deductions will be used to compensate NYLIAC for its increased federal tax burden attributable to the receipt of premiums, and are not properly chargeable to sales or promotional activities, Applicants assert that the language in section 2(a)(35) is another indication that not treating such deductions as sales load is consistent with the policies of the 1940 Act.

12. Finally, Applicants state that the limitation to *state* premium taxes of the premium tax exclusion from the definition of "sales loan" in Rule 6e–3(T)(c)(4)(v) is probably a historical accident; when Rule 6e–3(T) was adopted and later amended, the additional Section 848 tax burden attributable to the receipt of premiums did not exist. Also, as noted above, Applicants submit that the Commission's action in granting relief that is substantially similar to that requested in the application indicates that these deductions are properly treated as other than sales load.

13. Applicants assert that the terms of the relief requested with respect to Contracts to be issued through the Accounts or through Future Accounts are consistent with the standards enumerated in section 6(c) of the 1940 Act. Without the requested relief, NYLIAC would have to request and obtain exemptive relief for each Contract to be issued through a future Account. Applicants state that such additional requests for exemptive relief would present no issues under the 1940 Act not already addressed in this request for exemptive relief.

14. Applicants assert that the requested relief with respect to Contracts issued through Future Accounts is appropriate in the public interest because it would promote competitiveness in the variable life insurance market by eliminating the need for NYLIAC to file redundant exemptive applications, thereby reducing administrative expenses and maximizing efficient use of resources. The delay and expense involved in having to seek repeated exemptive relief would impair NYLIAC's ability to take advantage fully of business opportunities as those opportunities arise. Additionally, Applicants state that the requested relief is consistent with the purposes of the 1940 Act and the protection of investors for the same reasons. If NYLIAC were required to seek exemptive relief repeatedly with respect to the same issues addressed in this application, investors would not receive any benefit or additional protection thereby and might be

[3] Merrill Lynch Life Insurance Company, Release No. IC–19476 (May 17, 1993) (notice); Release No. IC–19521 (June 9, 1993) (order).

disadvantaged as a result of NYLIAC's increased overhead expenses.

Conditions for Relief

1. Applicants represent that NYLIAC will monitor the reasonableness of the charge to be deducted by NYLIAC pursuant to the requested exemptive relief.

2. Applicants represent that the registration statement for each Contract under which the charge referenced in paragraph one of this section is deducted will: (i) Disclose the charge; (ii) explain the purpose of the charge; and (iii) state that the charge is reasonable in relation to NYLIAC's increased federal tax burden under Section 848 of the Code resulting from the receipt of premiums.

3. Applicants represent that the registration statement for each Contract under which the charge referenced in paragraph one of this section is deducted will contain as an exhibit an actuarial opinion as to: (i) The reasonableness of the charge in relation to NYLIAC's increased federal tax burden under Section 848 resulting from the receipt of premiums; (ii) the reasonableness of the targeted rate of return that is used in calculating such charge; and (iii) the appropriateness of the factors taken into account by NYLIAC in determining such targeted rate of return.[4]

Conclusion

Applicants submit that for the reasons and upon the facts set forth above, the requested exemptions from section 27(a)(1), 27(c)(2) and 27(h)(1) of the 1940 Act and Rule 6e-3(T)(c)(4)(v) thereunder to permit NYLIAC to deduct 1.25% of premium payments under the Contracts meet the standards in Section 6(c) of the 1940 Act. In this regard, Applicants assert that granting the relief requested in the application would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-27026 Filed 11-2-93; 8:45 am]

BILLING CODE 8010-01-M.

[4] Applicants represent that the application will be amended during the notice period to include the representation that the actuarial opinion will include an opinion as to the appropriateness of the factors taken into account by NYLIAC in determining such targeted rate of return.

[Rel. No. IC-19821; 812-8314]

Oppenheimer Management Corporation; et al.; Notice of Application

October 28, 1993.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Oppenheimer Management Corporation (the "Adviser"); Oppenheimer Funds Distributor, Inc. (the "Distributor"); and Oppenheimer Asset Allocation Fund, Oppenheimer California Tax-Exempt Fund, Oppenheimer Discovery Fund, Oppenheimer Global Bio-Tech Fund, Oppenheimer Global Environment Fund, Oppenheimer Global Fund, Oppenheimer Global Growth & Income Fund, Oppenheimer Mortgage Income Fund, Oppenheimer Gold & Special Minerals Fund, Oppenheimer Fund, Oppenheimer Money Market Fund, Inc., Oppenheimer New York Tax-Exempt Fund, Oppenheimer Multi-State Tax-Exempt Trust, Oppenheimer Special Fund, Oppenheimer Target Fund, Oppenheimer Tax-Free Bond Fund, Oppenheimer Time Fund, Oppenheimer U.S. Government Trust, Oppenheimer Cash Reserves, Oppenheimer High Yield Fund, Oppenheimer Equity Income Fund, Oppenheimer Integrity Funds, Oppenheimer Tax-Exempt Cash Reserves, Oppenheimer Total Return Fund, Inc., Oppenheimer Strategic Income Fund, Oppenheimer Strategic Investment Grade Bond Fund, Oppenheimer Champion High Yield Fund, Oppenheimer Government Securities Fund, Oppenheimer Tax-Exempt Bond Fund, Oppenheimer Main Street Funds, Inc., Oppenheimer Strategic Income & Growth Fund, Oppenheimer Strategic Short-Term Income Fund, and other open-end investment management company that is or may in the future become a member of the OppenheimerFunds "group of investment companies," as defined in rule 11a-3 under the Act (the "Funds").[1]

RELEVANT ACT SECTIONS: Exemption requested under section 6(c) from the provisions of sections 2(a)(32), 2(a)(35), 18(f), 18(g), 18(i), 22(c), and 22(d) of the Act and rule 22c-1 thereunder.

SUMMARY OF APPLICATION: Applicants seek an order permitting the Funds to issue multiple classes of shares representing interests in the same portfolio of securities, assess a contingent deferred sales charge ("CDSC") on certain redemptions of shares of each class, and waive the CDSC in certain instances.

FILING DATES: The application was filed on March 16, 1993 and amended on May 20, 1993, August 11, 1993, and October 26, 1993. Applicants have agreed to file an amendment during the notice period, the substance of which is incorporated herein.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 22, 1993, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons 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. Applicants, 2 World Trade Center, 34th Floor, New York, New York 10048-0203.

FOR FURTHER INFORMATION CONTACT: Marc Duffy, Staff Attorney, (202) 272-2511, or C. David Messman, Branch Chief, (202) 272-3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. Each of the Funds is an open-end management investment company registered under the Act. Each of the Funds has entered into an investment management agreement with the Adviser pursuant to which the Adviser provides investment advisory services to the Funds. The Distributor serves as the Fund's principal underwriter.

2. The Funds are permitted to offer two classes of shares and impose different CDSC arrangements on shares of each of the classes pursuant to a prior exemptive order (the "Prior Order").[2]

[1] All existing investment companies in the OppenheimerFunds "group of investment companies" that presently intend to rely on the relief requested by the application have been named as applicants to this application.

[2] Investment Company Act Release Nos. 19668 (Oct. 30, 1992) (notice), and 19123 (Nov. 24, 1992) (Continued)

Under the Prior Order, certain of the Funds offer investors the option of purchasing shares subject to (a) a front-end sales charge and a distribution plan enacted under rule 12b–1 of the Act (a "12b–1 Plan"), or for certain large purchases, a CDSC and a 12b–1 Plan ("Class A"); or (b) a 12b–1 Plan and a CDSC ("Class B").

3. Applicants propose to amend the Prior Order to allow each of the Funds to create an unlimited number of classes of shares, and impose different CDSC arrangements on shares of each class (the "Multi-Class Arrangement"). In addition to Class A and Class B shares, a new class of shares will be offered subject to a 12b–1 Plan and CDSC assessed for a shorter period of time than the CDSC assessed on Class B shares ("Class C"). Another new class of shares will not be subject to either an asset-based sales charge, a front-end sales charge, or a CDSC ("Class Y"). In addition, the Funds may create additional classes of shares, which will differ only as described in condition 1 below. No Fund, however, will be required to offer all or any number of the additional classes.

4. The distribution structure for all classes of shares under the Multi-Class Arrangement described herein will comply with Section 26 of Article III of the Rules of Fair Practice of the National Association of Securities Dealers, Inc. (the "NASD Sales Charge Rule"). In addition, any service fee paid by any Fund will comply with the requirements under the NASD Sales Charge Rule for the imposition of a service fee.[3]

5. Under the Funds' respective 12b–1 Plans, Class A shares of most of the Funds are subject to a 12b–1 Plan fee of up to 0.25% of a Fund's Class A average net assets, which for certain Funds may be reduced or eliminated as to shares sold prior to a specified date.[4]

6. Class A shares are currently offered, or are anticipated to be offered, for sale at net asset value plus a front-end sales charge. No front-end sales charge is imposed, however, on Class A shares of Funds that are money market funds, or on aggregate purchases of Class A shares totalling $1 million or more. If Class A shares purchased in aggregate amounts of $1 million or more are redeemed within 18 months of the time of purchase, a CDSC will be imposed equal to 1.0% of the lesser of: (a) the aggregate net asset value of the shares at the time of purchase, or (b) the aggregate net asset value of the shares at the time of redemption (the "Class A CDSC").

7. Class B and Class C shares of the Funds will be subject to separate 12b–1 Plans. Under the Class B 12b–1 Plan, shares will be subject to an asset-based sales charge of 0.75% of average net assets and a service fee of up to 0.25% of average net assets. Unless Class B shares convert to Class A shares as described below, any Fund having Class B shares held in an account for a period longer than the Class B CDSC Period ("Matured Class B shares") will pay total distribution fees of less than 1.0% of average net assets, depending on the ratio of outstanding Class B shares represented by Matured Class B shares. Thus, any reduction of Class B 12b–1 Plan fees will affect all outstanding Class B shares of a Fund equally. Such "fund-level" accounting conforms to the requirements of the NASD Sales Charge Rule. Class C shares will be subject to a separate Class C 12b–1 Plan, whereby in addition to a service fee of up to 0.25% of average net assets, Class C shares will be subject to an asset-based sales charge of 0.75% of average annual net assets for as long as such shares are held, subject to the limits of the NASD Sales Charge Rule.

8. Pursuant to an automatic conversion feature applicable to Class B shares, Matured Class B shares of a Fund automatically will convert to Class A shares of that Fund six years (or such other period as the directors of that Fund may determine) after the end of the calendar month in which such Class B shares were purchased. Upon conversion of Matured Class B shares, all Class B shares of that Fund acquired by reinvestment of dividends and distributions of such Matured Class B shares also will convert into Class A shares of that Fund. Class B shares will convert into Class A shares of that Fund on the basis of the relative net asset values of the two classes, without the imposition of any sales load, fee, or other charge.

9. Applicants have obtained a ruling from the Internal Revenue Service that (a) the assessment of the higher Class Expenses with respect to Class B shares does not result in any dividends or distributions of a Fund constituting "preferential dividends" under the Internal Revenue Code of 1986 (the "Code"), and (b) the conversion of Class B shares to Class A shares does not constitute a taxable event for the holder under the Code. The conversion feature is subject to the continuing availability of such a ruling, or of an opinion of counsel, or of an independent auditing firm serving as tax advisor to the effect that the conversion of Class B shares to Class A shares does not constitute a taxable event for the holder. The conversion feature will not be suspended for existing Class B shareholders of the Funds unless such ruling is no longer available, and applicants cannot obtain such a ruling or satisfactory opinion of counsel, or of an independent auditing firm serving as tax adviser. In the event that the conversion feature is suspended, applicants intend to permit Matured Class B shares to be exchanged for Class A shares of the same Fund on the basis of the relative net asset value of the two classes, without the imposition of any sales load, fee, or other charge. It is likely that such exchanges would constitute a taxable event for the holder under federal income tax law.

10. Applicants presently anticipate that Class C CDSC shares will not be subject to a conversion feature, however, the Directors of a Fund may change the rate or holding period of the Class C CDSC and may implement a conversion feature for the automatic conversion of Class C shares into Class A shares (which would differ from the Class B conversion feature only with respect to the period of time shares must be held before conversion).

11. In addition to expenses under a 12b–1 Plan or shareholder services plan, each class of shares will bear certain expenses specifically attributable to the particular class as set forth in condition 1 below ("Class Expenses"). The determination of which Class Expenses will be allocated to a particular class and any subsequent changes thereto will be determined by a Fund's directors in the manner described in condition 3 below.

12. Class B shares and Class C shares of the Funds will be offered for sale at net asset value subject to a CDSC (respectively, the "Class B CDSC" and "Class C CDSC"). Under the Class B CDSC, if Class B shares are redeemed within six years after the end of the calendar month in which the purchase order was accepted, or such other period as the directors of that Fund may determine (the "Class B CDSC Period"), a CDSC will be imposed. Under the Class C CDSC, the corresponding holding period is one year after the end of the calendar month in which the purchase order was accepted, or such other period as the Directors of the Fund

(order). The order requested by this application will supersede the Prior Order in its entirety.

[3] Although none of the Funds has adopted a shareholder services plan, the Funds wish to have the option of adopting such plans in the future.

[4] The following Funds presently have other maximum 12b–1 Plan fees for their Class A shares: Oppenheimer Cash Reserves and Oppenheimer Tax-Exempt Cash Reserves—0.20%; and Oppenheimer Multi-State Tax-Exempt Trust—0.15%. Oppenheimer Money Market Fund, Inc. and Oppenheimer California Tax-Exempt Fund, a series of Oppenheimer Main Street Funds, Inc., presently have no Class A 12b–1 Plans.

determine (the "Class C CDSC Period"). In either instance, the CDSC will be determined by applying the appropriate sales charge to the lesser of: (i) The aggregate net asset value of the shares at the time of purchase, or (ii) the aggregate net asset value of such shares at the time of redemption. Applicants presently anticipate that the Class B CDSC will be reduced in stages over the applicable period, so that redemptions of Class B shares held more than the Class B CDSC Period will not be subject to a CDSC, and the Class C CDSC shall equal 1.0% (or such other rate as the Directors of the Fund may determine).

13. The following shares will not be subject to a CDSC on redemption: (a) Shares or amounts representing increases in the value of a shareholder's account resulting from capital appreciation; (b) shares acquired through reinvestment of income dividends or capital gain distributions; (c) shares acquired by exchange where the exchanged shares would not have been assessed a CDSC upon redemption, except for shares exchanged from Funds that are money market funds purchased at net asset value without a sales charge; and (d) shares acquired pursuant to the reinvestment privilege described below. In addition, Class A shares acquired in transactions of any size not subject to any sales charge (as described in a Fund's Registration Statement) will not be subject to a CDSC on redemption.

14. The Class A CDSC will be waived in connection with: (a) redemptions in connection with (i) retirement distributions to participants or beneficiaries of, or loans to participants or beneficiaries from, plans qualified under section 401(a) of the Code, custodial accounts created under section 403(b)(7) of the Code, Individual Retirement Accounts created under section 408(a) of the Code, deferred compensation plans created under section 457 of the Code, or other employee benefit plans (collectively, "Retirement Plans"), and (ii) returns of excess contributions made to employee benefit plans; (b) redemptions pursuant to a Fund's automatic withdrawal plan limited to no more than 12% of the original account value annually; and (c) redemptions effected pursuant to a Fund's right to involuntarily redeem a shareholder's account if the aggregate net asset value of shares held in the account is less than the specified minimum account size, or involuntary redemptions by operation of laws (collectively, "Involuntary Redemptions").

15. The Class B CDSC and the Class C CDSC will be waived for redemptions in connection with (a) distributions from Retirement Plans to the participant or beneficiary of that Retirement Plan made under the Funds' automatic withdrawal plan after the participant or beneficiary attains age 59½ and which are limited to no more than 10% of the account value annually, (b) distributions from Retirement Plans following the death or disability, as defined in Section 72(m)(7) of the Code, of the participant or beneficiary of that Retirement Plan, (c) for accounts other than Retirement Plan accounts, redemptions following the death or disability of the shareholder occurring since the account was established, (d) redemptions of shares when a loan is made from a Retirement account; when such loan is repaid, shares will be subject to the CDSC of that class if subsequently redeemed during the CDSC period of that class, (e) returns of excess contributions made to Retirement Plans, and (f) Involuntary redemptions. In addition, no Class B CDSC or Class C will be imposed upon redemptions of shares of the Funds (i) sold to the Adviser or its affiliates, (ii) sold to registered investment companies or separate accounts pursuant to an agreement between the Adviser or the Distributor and the adviser or sponsor of such other registered investment company or separate account, or (iii) purchased by reinvestment of dividends or other distributions received from unit investment trusts for which reinvestment arrangements have been made with the Distributor.

16. A reinvestment privilege will be available following the redemption of Class A, Class B, or Class C shares. Shareholders who are assessed a CDSC in connection with the redemption of shares of any class may reinvest some or all of the redemption proceeds, net of any CDSC imposed at the time of redemption, in Class A shares of any Fund within six months after such redemption (or such other time period as a Fund may establish from time to time), on the basis of the relative net asset values of the two classes, without the imposition of any sales load, fee or other charge, if such entitlement is claimed at the time of reinvestment. In the event the reinvestment period changes after a shareholder redeems shares, that shareholder will be allowed to reinvest the proceeds of such redemption within the reinvestment period in effect at the time of redemption.

17. Applicants may offer Class Y shares for sale at net asset value either to specified types of investors, such as qualified or non-qualified employee benefit plans or programs, or institutional investors that may have to meet substantial minimum investment requirements, or through broker-dealers, investment advisers, insurance companies, or insurance company separate accounts that will enter into special selling arrangements with one or more of the Funds offering Class Y shares or their principal underwriter.

18. Applicants have adopted a methodology and procedures for calculating the net asset value and dividends and distributions. That methodology is adequate to account for the calculations and allocations under the Multi-Class Arrangement. Under that methodology, general expenses of a Fund are allocated *pro rata* to each class of shares based on the percentage of the net assets of such class to the total net assets of all classes of shares of a Fund, and then equally to each outstanding share within a given class.

19. The Adviser may choose to reimburse or waive Class Expenses on certain classes on a voluntary, temporary basis. The amount of Class Expenses waived or reimbursed by the Adviser may vary from class to class. Class Expenses are by their nature specific to a given class and obviously expected to vary from one class to another. Applicants thus believe that it is acceptable and consistent with shareholder expectations to reimburse or waive Class Expenses at different levels for difference classes of the same Fund.

20. In addition, the Adviser may waive or reimburse Fund Expenses (with or without a waiver or reimbursement of Class Expenses) but only if the same proportionate amount of Fund Expenses are waived or reimbursed for each class. Thus, any Fund Expenses that are waived or reimbursed would be credited to each class of a Fund based on the relative net assets of the classes. Fund Expenses apply equally to all classes of a given Fund. Accordingly, it may not be appropriate to waive or reimburse Fund Expenses at different levels for different classes of the same Fund.

Applicants' Legal Analysis

The proposed Multi-Class Arrangement will permit an investor to select not only the Fund believed to have an investment objective and policies that are suitable to that investor's investment needs and risk tolerances but also the most appropriate distribution method, without assuming additional investment risks. For the reasons set forth above, applicants believe that the Multi-Class Arrangement would be fair and in the best interests of shareholders of the Funds. Thus, applicants believe that the

granting of the requested order would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants' Conditions

Applicants agree that any order granting the requested relief shall be subject to the following conditions:

1. Each class of shares will represent interests in the same portfolio of investments of the Funds, and be identical in all respects, except as set forth below. The only differences among the classes of shares of the funds will relate solely to: (a) the impact of the disproportionate payments made under the 12b–1 Plans and any shareholder services plan, the incremental transfer and shareholder servicing agent costs attributable to any class, blue sky and SEC registration fees, shareholder meeting expenses, and any other incremental expenses subsequently identified that should be properly allocated to one class that shall be approved by the SEC pursuant to an amended order; (b) the fact that the classes will vote separately with respect to any matter specially affecting that class, including without limitation the Funds' 12b–1 Plans and any shareholder services plans (except as described in condition 17 below); (c) any differences in features for purchasing, redeeming, exchanging, or converting shares; and (d) the designation of each class of shares of the Funds.

2. The directors of the Funds, including a majority of the independent directors, will approve the Multi-Class Distribution System. The minutes of the meetings of the directors of the Funds regarding the deliberations of the directors with respect to the approvals necessary to implement the Multi-Class Distribution System will reflect in detail the reasons for the director's determination that the proposed Multi-Class Distribution System is in the best interests of both that Fund and its shareholders.

3. On an ongoing basis, the directors of the Funds, pursuant to their fiduciary responsibilities under the Act and otherwise, will monitor the Fund for the existence of any material conflicts between the interests of the classes of shares. The directors, including a majority of the independent directors, shall take such action as is reasonably necessary to eliminate any such conflicts that may develop. The Adviser and the Distributor will be responsible for reporting any potential or existing conflicts to the directors. If a conflict arises, the Adviser and the Distributor at their own cost will remedy such conflict up to and including establishing a new registered management investment company.

4. If any class becomes subject to a shareholder services plan, such shareholder services plan will be adopted and operated in accordance with the procedures set forth in rule 12b–1 (b) through (f) as if the expenditures made thereunder were subject to rule 12b–1, except that shareholders need not enjoy the voting requirements specified in rule 12b–1.

5. The directors of the Funds will receive quarterly and annual statements concerning distribution expenditures, and if any class becomes subject to a shareholder services plan, any shareholder servicing expenditures, complying with paragraph (b)(3)(ii) of rule 12b–1, as it may be amended from time to time. In the statements, only expenditures properly attributable to the sale or servicing of a particular class of shares will be used to justify any distribution or servicing fee charged to that class. Expenditures not related to the sale or servicing of a particular class will not be presented to the directors to justify any fee attributable to that class. The statements, including the allocations upon which they are based, will be subject to the review and approval of the independent directors in the exercise of their fiduciary duties.

6. Dividends paid by the Funds with respect to each class of their shares, to the extent any dividends are paid, will be calculated in the same manner, at the same time, on the same day, and, following adjustments for differences (if any) in net asset value, will be in the same amount, except that distribution and any transfer and shareholder servicing agent payments, blue sky and SEC registration fees and shareholder meeting expenses relating to each respective class of shares will be borne exclusively by that class.

7. The methodology and procedures for calculating the net asset value and dividends and distributions of each class and the proper allocation of expenses among classes has been reviewed by an expert (the "Expert") who has rendered a report to the Funds, which has been provided to the staff of the SEC, that such methodology and procedures are adequate to ensure that such calculations and allocations will be made in an appropriate manner. On an ongoing basis, the Expert, or an appropriate substitute Expert, will monitor the manner in which the calculations and allocations are being made and, based upon such review, will render at least annually a report to the Funds that the calculations and allocations are being made properly. The reports of the Expert shall be filed as part of the periodic reports filed with the SEC pursuant to sections 30(a) and 30(b)(1) of the Act. The work papers of the Expert with respect to such reports, following request by the Funds (which the Funds agree to provide), will be available for inspection by the SEC staff upon the written request by the Funds for such work papers by a senior member of the Division of Investment Management, limited to the Director, an Associate Director, the Chief Accountant, the Chief Financial Analyst, an Assistant Director and any Regional Administrators or Associate and Assistant Administrators. The initial report of the Expert is a "Special Purpose" report on the "Design of a System" as defined and described in SAS No. 44 of the AICPA, and the ongoing reports will be "reports on policies and procedures placed in operation and tests of operating effectiveness" as defined and described in SAS No. 70 of the AICPA, as it may be amended from time to time, or in similar auditing standards as may be adopted by the AICPA from time to time.

8. Applicants have adequate facilities in place to ensure implementation of the methodology and procedures for calculating the net asset value and dividends and distribution of each class of shares and the proper allocation of expenses among classes of shares. This representation has been concurred with by the Expert in the initial report referred to in condition 7 above and will be concurred with by the Expert, or an appropriate substitute Expert, on an ongoing basis at least annually in the ongoing reports referred to in condition 7 above. Applications will take immediate corrective measures if this representation is not concurred in by the expert or appropriate substitute Expert.

9. The prospectus of the Funds will contain a statement to the effect that financial intermediaries and any other person entitled to receive compensation for selling or servicing Fund shares may receive different compensation with respect to one particular class of shares over another in the Funds.

10. The Distributor will maintain compliance standards, as to when each class of shares may appropriately be sold to particular investors, and will require all persons selling shares of the Funds to agree to conform to such Standards.

11. The conditions pursuant to which the exemptive order is granted and the duties and responsibilities of the directors of the Funds with respect to

the Multi-Class System will be set forth in guidelines which will be furnished to the directors.

12. The Funds will disclose their respective expenses, performance data, distribution arrangements, services, fees, sales loads, deferred sales loads, and exchange privileges applicable to each class of shares in every prospectus, regardless of whether all classes of shares are offered through each prospectus. The Funds will disclose their respective expenses and performance data applicable to all classes of shares in very shareholder report. The shareholder reports will contain, in the statement of assets and liabilities and statement of operations, information related to the Fund as a whole generally and not on a per class basis, whereas each Fund's per share data will be prepared on a per class basis with respect to all classes of shares of such Fund. To the extent any advertisement or sales literature describes the expenses or performance data applicable to any class of shares, it will also disclose the respective expenses and/or performance data applicable to all classes of shares of that Fund. The information provided by applicants for publication in any newspaper or similar listing of the Funds' net asset values and public offering prices will present each class of shares separately.

13. Applicants acknowledge that the grant of the exemptive order requested by this application will not imply SEC approval, authorization, or acquiescence in any particular level of payments that the Funds may make pursuant to any of its 12b–1 Plans or shareholder services plans in reliance on the exemptive order.

14. Any class of shares with a conversion feature ("Purchase Class") will convert into another class of shares ("Target Class") on the basis of the relative net asset values of the two classes, without the imposition of any sales load, fee, or other charge. After conversion, the converted shares will be subject to a maximum asset-based sales charge and/or service fee (as those terms are defined in Article III, Section 26 of the NASD's Rules of Fair Practice), if any, that in the aggregate are lower than the maximum asset-based sales charge and service fee to which they were subject prior to the conversion.

15. Applicants will comply with the provisions of proposed rule 6c–10 under the Act, Investment Company Act Release No. 16619 (Nov. 2, 1988), as such rule is currently proposed and as it may be reproposed, adopted or amended.

16. The initial determination of the Class Expenses that will be allocated to a particular class and any subsequent changes thereto has been reviewed and approved by a vote of a majority of the directors of the Funds, including a majority of the directors who are not interested persons of the Funds. Any person authorized to direct the allocation and disposition of monies paid or payable by the Funds to meet Class Expenses shall provide to the directors, and the directors shall review, at least quarterly, a written report of the amounts so expended and the purpose for which such expenditures were made.

17. If a Fund implements any amendment to any of its 12b–1 Plans (or, if presented to shareholders, adopts or implements any amendment of a non-rule 12b–1 shareholder services plan) that would increase materially the amount that may be borne by Target Class shares subject to the plan, existing Purchase Class shares will stop converting into Target Class shares unless the holders of the Purchase Class shares, voting separately as a class, approve the proposal. If (i) holders of Purchase Class shares do not approve such proposal, (ii) such proposal is approved by the holders of Target Class shares, and (iii) such material increase occurs, then the directors of the Funds shall take such action as is necessary to ensure that existing Purchasing Class shares are exchanged or converted into a new class of shares ("New Target Class"), identical in all material respects to Target Class shares as they existed prior to implementation of the proposal, no later than such shares previously were scheduled to convert into Target Class shares. If deemed advisable by the directors of the Funds to implement the foregoing, such action may include the exchange of all existing Purchase Class shares for a new class ("New Purchase Class"), identical to existing Purchase Class shares in all material respects except that New Purchase Class shares will convert into New Target Class shares. New Target Class shares or new Purchase Class shares may be formed without further exemptive relief. Exchanges or conversions described in this condition shall be effected in a manner that the directors of the Funds reasonably believe will not be subject to federal taxation. In accordance with condition 3 above, any additional costs associated with the creation, exchange, or conversion of New Target Class shares or New Purchase Class shares shall be borne solely by the Adviser and the Distributor. Purchase Class shares sold after the implementation of the proposal may convert into Target Class shares subject to the higher maximum payment, provided that the material features of the Target Class shares plan and the relationship of such plan to the Purchase Class shares are disclosed in an effective registration statement.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–27025 Filed 11–2–93; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–19819; 812–8552]

Special Situations Fund, L.P., et al.; Notice of Application

October 28, 1993.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Special Situations Fund, L.P. (the "1990 Fund"), and MGP Advisers Limited Partnership (the "Adviser").

RELEVANT ACT SECTIONS: Order requested under section 17(b) of the Act for an exemption from the provisions of section 17(a) of the Act.

SUMMARY OF APPLICATION: Applicants seek an order that would permit certain partners of the 1990 Fund to exchange their distributive shares of the assets of the 1990 Fund upon its liquidation for units representing limited partnership interests in Special Situation Fund III, L.P. (the "New Fund").

FILING DATE: The application was filed on August 23, 1993, and amended on October 21, 1993, and October 28, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 22, 1993, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons 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. Applicants, c/o David B. Hertzog, Esq.,

Hertzog, Calamari & Gleason, 100 Park Avenue, New York, New York 10017.

FOR FURTHER INFORMATION CONTACT: James J. Dwyer, Staff Attorney, at (202) 504-2920, or Elizabeth G. Osterman, Branch Chief, at (202) 272-3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. The 1990 Fund is a limited partnership organized under Delaware law. Since its inception, the 1990 Fund has operated as a closed-end, non-diversified investment company registered under the Act. The Adviser serves as the investment adviser of the 1990 Fund. AWM Investment Company, Inc. ("AWM"), a Delaware corporation and the general partner of the Adviser, serves as the 1990 Fund's administrator.

2. The New Fund will be organized as a limited partnership under Delaware law, and registered as a closed-end, non-diversified management investment company under the Act. The New Fund will operate as an interval fund pursuant to rule 23c-3 under the Act. Units in the New Fund will be offered in a private placement transaction under Regulation D of the Securities Act of 1933 only to investors, including 1990 Fund partners and new investors, who qualify as "accredited investors" with net worths in excess of $1 million. The Adviser will serve as investment adviser for the New Fund, and AWM will serve as administrator for the New Fund. The investment objectives of the New Fund will be identical to that of the 1990 Fund.

3. The authority to manage and control the business and affairs of the New Fund will be vested in the individual general partners of the New Fund, a majority of whom will be unaffiliated with the Adviser, AWM, and their respective affiliates (the "independent general partners"). The persons who currently serve as individual general partners and independent general partners of the 1990 Fund, together with one additional independent and unaffiliated person, will serve in the same capacity for the New Fund. The operations of the New Fund will be substantially similar to those of the 1990 Fund and will comply with the Act and applicable state securities laws.

4. The Adviser has elected to dissolve the 1990 Fund with the prior approval of the 1990 Fund independent general partners. Limited partners of the 1990 Fund will have the right to receive cash in an amount equal to the value of their distributive share of the 1990 Fund's assets, in accordance with their respective capital account balances. In connection with the liquidation of the 1990 Fund, qualified limited partners of the 1990 Fund will be permitted to contribute all or part of their distributive share of 1990 Fund assets in exchange for New Fund units.

5. All of the 1990 Fund individual general partners will contribute their entire distributive share of 1990 Fund assets to the New Fund in exchange for New Fund units. The Adviser will contribute a significant portion of its distributive share of 1990 Fund assets in exchange for New Fund units, and will receive the remainder of its distributive share in cash. Partners of the 1990 Fund who invest in the New Fund will contribute the same value as will new investors who pay cash for New Fund units. The value of the New Fund units received in the exchange will be equal to the value of a 1990 Fund partner's distributive share of 1990 Fund assets.

6. Assets of the 1990 Fund contributed to the New Fund, other than cash, cash equivalents, and securities for which market quotations are not available, will be valued at their independent "current market price," as defined in rule 17a-7(b) under the Act. The 1990 Fund does not hold a significant amount of securities for which market quotations are not available. Any such securities held by the 1990 Fund will be valued at fair value as determined in good faith by the 1990 Fund independent general partners.

7. Prior to the closing date, the 1990 Fund will discharge all of its known liabilities and obligations. If determined to be appropriate by the individual general partners, the 1990 Fund will establish a reserve for unknown and contingent liabilities and obligations. If a reserve is established, any funds that are in excess of any liabilities that are charged against the reserve will be distributed to 1990 Fund Partners in accordance with their respective capital account balances on the closing date. Any liabilities and obligations of the 1990 Fund not otherwise satisfied or provided for will be the responsibility of the Adviser.

8. The New Fund intends to distribute an offering memorandum to all of its investors which, among other things, will describe the proposed transaction, the basis for the transaction, its anticipated tax consequences, and all other material facts and circumstances surrounding it and the offering.

9. The closing on sale of New Fund units and the consummation of the liquidation of the 1990 Fund will be conditioned on the following events, among others: (a) Obtaining the requested relief, (b) obtaining consents to the liquidation from at least 67 percent in interest of the 1990 Fund limited partners, (c) receiving an opinion of counsel of the New Fund to the effect that neither the New Fund nor partners in the New Fund (including new investors) will be subject to any additional tax liability as a result of the contribution of 1990 Fund assets in exchange for New Fund units, and (d) selling a minimum of $25,000,000 of units of the New Fund (1,000 units at $25,000 per unit). Although the units will be sold in multiples of $25,000, the 1990 Fund partners who exchange their assets in the 1990 Fund for units in the New Fund will be permitted to purchase fractional units. The liquidation of the 1990 Fund will be effected immediately prior to the closing of the sale of the New Fund units.

10. All expenses of the liquidation will be borne by the 1990 Fund. Such expenses are expected to be relatively small. Organizational and offering expenses of the New Fund of up to one percent of the gross proceeds of the offering will be borne by the New Fund. Any excess expenses will be borne by the Adviser. There are expected to no other expenses incurred in connection with the proposed transaction, and no brokerage commissions, fees (other than customary transfer fees) or other remuneration.

11. The independent general partners of the 1990 Fund and of the New Fund will consider the desirability of the proposed transaction from the point of view of the 1990 Fund and the New Fund, respectively, prior to the liquidation, and the proposed transaction will not be effected unless a majority of the independent general partners of the 1990 Fund and the New Fund conclude with respect to the New Fund and the 1990 Fund, respectively, that: (a) The proposed transaction is desirable as a business matter from the point of view of each such Fund, (b) the proposed transaction is in the best interest of each such fund, and (c) the terms of the proposed transaction meet the criteria set forth in section 17(b) of the Act, and (d) the proposed transaction will not dilute the interests of the partners of each such fund.

Applicants' Legal Conclusions

1. Applicants seek an exemption under section 17(b) of the Act from the

provisions of section 17(a) of the Act to the extent necessary to consummate the proposed transaction. Section 17(a) makes it unlawful for any affiliated person of a registered investment company, or affiliate thereof, acting as principal, to sell securities to the company or to purchase securities from the company. Applicants state that section 17(b) permits the SEC to exempt a proposed transaction from section 17(a) if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, the transaction is consistent with the policies of the 1990 Fund and the New Fund, and the transaction is consistent with the general purposes of the Act.

2. Applicants contend that the 1990 Fund and the New Fund, upon its formation, may be deemed affiliated persons of each other by, among other reasons, being under the common control of the Adviser and the same individual general partners. Applicants submit that, because of this affiliation, the provisions of section 17(a) of the Act may apply to the proposed exchange.

3. Applicants submit that the proposed transaction satisfies the criteria of section 17(b). They submit that the proposed transaction would permit limited partners of the 1990 Fund to maintain and, in fact, extend without interruption their investment in a fund managed by the same investment adviser. In addition, since the respective investment objectives of the 1990 Fund and the New Fund are identical, the 1990 Fund limited partners who reinvest in the New Fund will not have the nature of their investments altered, but will be afforded the benefits of increased liquidity by operating as a closed-end interval fund under rule 23c-3. Applicants believe that the liquidation may be viewed as merely giving rise to a change in the vehicle in which the assets are held, rather than as a disposition giving rise to section 17(a) concerns.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-27027 Filed 11-2-93; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 09/09-0348]

BNP Venture Capital Corp.; License Revocation

Notice is hereby given that License No. 09/09-0348 issued on October 12, 1984 to BNP Venture Capital Corporation, of no known address, formerly at 3000 Sand Hill Road, Building #1, suite 125, is revoked.

Under the authority vested by the Act, and pursuant to the regulations promulgated thereunder, the revocation of the license was effective September 8, 1993, and accordingly, all rights, privileges and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 21, 1993.

Wayne S. Foren,

Associate Administrator for Investment.

[FR Doc. 93-27018 Filed 11-2-93; 8:45 am]

BILLING CODE 8025-01-M

TRADE AND DEVELOPMENT AGENCY

SES Performance Review Board

AGENCY: Trade and Development Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given of the appointment of members of the Trade and Development Agency's Performance Review Board.

FOR FURTHER INFORMATION CONTACT: Amey DeSoto, General Counsel, Trade and Development Agency, State Annex—16, room 309, Washington, DC 20523-1602, (703) 875-4357.

SUPPLEMENTARY INFORMATION: Section 4314(c) (1) through (5), U.S.C., requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more SES performance review boards. The board shall review and evaluate the initial appraisal of a senior executive's performance by the supervisor, along with any recommendations to the appointing authority relative to the performance of the senior executive.

The following have been selected as acting members of the Performance Review Board of the Trade and Development Agency: Kenneth Fries, Assistant General Counsel for Contract and Commodity Management, Agency for International Development; Nancy Frame, Deputy Director, Trade and Development Agency; and Amey DeSoto, General Counsel, Trade and Development Agency.

Dated: October 28, 1993.

Amey DeSoto,

General Counsel.

[FR Doc. 93-26953 Filed 11-2-93; 8:45 am]

BILLING CODE 8040-01-M

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Environmental Impact Statement on Transportation Improvements in the St. Charles Corridor; St. Louis County and St. Charles County, MO

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Federal Transit Administration (FTA) and the East-West Gateway Coordinating Council (EWGCC) give notice that they intend to prepare an Environmental Impact Statement (EIS) in accordance with the National Environmental Policy Act (NEPA) to evaluate transportation options in a corridor extending from the vicinity of Lambert-St. Louis International Airport in St. Louis County to central St. Charles County, Missouri. EWGCC will ensure that the EIS also satisfies requirements of the Missouri Department of Natural Resources. The EIS will evaluate no-action, transportation systems management (TSM), busway, Metro Link extensions, and other alternatives identified through the scoping process. Scoping will be accomplished through a public meeting and correspondence with interested persons, organizations, and federal, state and local agencies.

DATES: *Comment Due Date:* Written comments on the scope of alternatives and impacts to be considered should be sent to the East-West Gateway Coordinating Council by December 2, 1993. *Scoping Meeting:* The public scoping meeting will be held on Wednesday, November 17, 1993 at 7 p.m. in The Columns Banquet and Conference Center. See **ADDRESSES** below.

ADDRESSES: *Written comments* should be sent to Mr. Jerry Blair, Manager of Special Projects, East-West Gateway Coordinating Council, 911 Washington Avenue, St. Louis, Missouri 63101. *The scoping meeting* will be held at The Columns Banquet and Conference Center, 711 Fairlane, St. Charles, Missouri 63301.

FOR FURTHER INFORMATION CONTACT: Ms. Joan M. Roeseler, Director of Program Development, FTA Region VII. Phone: (816) 523-0204.

SUPPLEMENTARY INFORMATION:

I. Scoping

FTA and EWGCC invite interested individuals, organizations, and federal, state and local agencies to participate in defining the alternatives to be evaluated in the EIS and identifying any significant social, economic, or environmental issues related to the alternatives. A scoping document describing the purpose of the project, the proposed alternatives, the impact areas to be evaluated, the citizen 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 document by contacting Mr. Jerry Blair of EWGCC at the address above or by calling him at (314) 421-4220. Scoping comments may be made verbally at the public scoping meeting or in writing. See **DATES** and **ADDRESSES** sections above for location and time. During scoping, comments should focus on identifying specific social, economic, or environmental impacts to be evaluated and suggesting alternatives which are less costly or less environmentally damaging while achieving similar transportation objectives. Scoping is not the appropriate time to indicate a preference for a particular alternative. Comments on preferences should be communicated after the Draft EIS has been completed. If you wish to be placed on the mailing list to receive further information as the project develops, contact Mr. Jerry Blair as previously described.

II. Description of Study Area and Project Need

The study area is a corridor approximately 15 miles long extending from the vicinity of Lambert-St. Louis International Airport in St. Louis County, Missouri to the City of St. Peters in St. Charles County, Missouri. The Bi-State Development Agency recently began operating a light rail transit line (Metro Link) which is designed to run from the City of East St. Louis, Illinois to Lambert-St. Louis International Airport in St. Louis County. Missouri. The final segment connecting to the Airport is still under construction. The study will evaluate alternatives to improve transit accessibility and mobility between developed areas of St. Charles County and the St. Louis CBD, the Airport, and the industrial/business concentrations in northwest St. Louis County. The alternatives will also be evaluated in terms of how they relieve severe highway congestion on the Missouri River crossings, help alleviate regional air quality problems, and improve operating efficiency.

III. Alternatives

The alternatives proposed for evaluation include: No-Action, which involves no change to transportation services or facilities in the corridor beyond already committed projects; a TSM alternative, which consists of low-to-medium cost transit improvements; a busway alternative, which consists of reserved or separate roadway facilities for exclusive use of buses or high occupancy vehicles; and a light rail alternative. It is expected that three light rail and/or busway alignments, using existing or planned rail and highway rights-of-way, will emerge from the scoping process.

IV. Probable Effects

FTA and EWGCC plan to evaluate in the EIS all significant social, economic, and environmental impacts of the alternatives. Among the primary issues are the expected increase in transit ridership, the capital outlays needed to construct the project, the cost of operating and maintaining facilities created by the project, and the financial impacts on funding agencies. Environmental and social impacts proposed for analysis include land use and neighborhood impacts, traffic and parking impacts near stations, visual impacts, impacts on cultural resources, and noise and vibration impacts. Impacts on natural areas, rare and endangered species, air and water quality, groundwater, and geologic forms also will be covered. The impacts will be evaluated both for the construction period and the long-term period of operation. Measures to mitigate significant adverse impacts will be explored.

V. FTA Procedures

This corridor study will be conducted in accordance with FTA and FHWA regulations on the development of major metropolitan transportation investments, as published in the **Federal Register** on October 28, 1993. The Draft EIS will be prepared in conjunction with this corridor study and the Final EIS in conjunction with Preliminary Engineering. After its publication, the Draft EIS will be available for public and agency review and comment, and a public hearing will be held. On the basis of the Draft EIS and the comments received, EWGCC will select a locally preferred alternative and seek approval from FTA to continue with Preliminary Engineering and preparation of the Final EIS.

Issued on October 28, 1993.

Lee Waddleton,

Regional Administrator.

[FR Doc. 93-26942 Filed 11-2-93; 8:45 am]

BILLING CODE 4910-57-P

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

October 27, 1993.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0058

Form Number: IRS Form 1028

Type of Review: Extension

Title: Application for Recognition of Exemption Under Section 521 of the Internal Revenue Code

Description: Farmers' cooperatives must file Form 1028 to apply for exemption from Federal income tax as being organizations described in Internal Revenue Code (IRC) 521. The information on Form 1028 provides the basis for determining whether the applicants are exempt.

Respondents: Businesses or other for-profit

Estimated Number of Respondents/Recordkeepers: 50

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—44 hrs., 14 min.

Learning about the law or the form—1 hr., 32 min.

Preparing the form—4 hrs., 11 min.

Copying, assembling, and sending the form to the IRS—32 min.

Frequency of Response: On occasion

Estimated Total Reporting/Recordkeeping Burden: 2,525 hours

Clearance Officer: Garrick Shear (202) 622-3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and

Budget, room 3001, New Executive Office Building, Washington, DC 20503

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 93-27022 Filed 11-2-93; 8:45 am]

BILLING CODE 4830-01-P

Public Information Collection Requirements Submitted to OMB for Review

October 28, 1993.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: New
Form Number: IRS Form 8846
Type of Review: New collection
Title: Credit for Employer Social Security Taxes Paid on Certain Employee Cash Tips
Description: Food and beverages employers who have tipped employees can get a general business credit for the amount of social security taxes they pay on tips reported by employees that are in excess of those used to meet minimum wage requirements.
Respondents: Businesses or other for-profit, Small businesses or organizations
Estimated Number of Respondents/ Recordkeepers: 11,250
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—6 hrs., 13 min.
Learning about the law or the form—30 min.
Preparing and sending the form to the IRS—37 min.
Frequency of Response: Annually
Estimated Total Reporting/ Recordkeeping Burden: 82,575 hours
OMB Number: New
Form Number: IRS Form 8847
Type of Review: New collection
Title: Credit for Contributions to Certain Community Development Corporations
Description: Businesses that contribute cash to certain community development corporations can get an income tax credit of 5% for each of 10 years beginning in the year the contribution was made.
Respondents: Businesses or other for-profit, Small businesses or organizations
Estimated Number of Respondents/ Recordkeepers: 5,000
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—5 hrs., 44 min.
Learning about the law or the form—18 min.
Preparing and sending the form to the IRS—24 min.
Frequency of Response: Annually
Estimated Total Reporting/ Recordkeeping Burden: 32,250 hours
OMB Number: 1545-0071
Form Number: IRS Form 2120
Type of Review: Extension
Title: Multiple Support Declaration
Description: A taxpayer who pays more than 10%, but less than 50%, of the support for an individual may claim that individual as a dependent provided the taxpayer attaches declarations from anyone else providing at least 10% support stating that they will not claim the dependent. This form is used to show that the other contributors have agreed to claim the individual as a dependent.
Respondents: Individuals or households
Estimated Number of Respondents/ Recordkeepers: 11,000
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—7 min.
Learning about the law or the form—2 min.
Preparing the form—7 min.
Copying, assembling, and sending the form to the IRS—10 min.
Frequency of Response: Annually
Estimated Total Reporting/ Recordkeeping Burden: 4,840 hours
Clearance Officer: Garrick Shear (202) 622-3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 93-27024 Filed 11-2-93; 8:45 am]

BILLING CODE 4830-01-M

Internal Revenue Service

Rechartering of the Advisory Group to the Commissioner of Internal Revenue

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of determination of necessity for renewal of the Advisory Group to the Commissioner of Internal Revenue.

SUMMARY: It is in the public interest to continue the existence of the Advisory Group to the Commissioner of Internal Revenue.

The Internal Revenue Service, Department of Treasury, pursuant to the Federal Advisory Committee Act of October 6, 1972, Public Law 92-463, as amended, and with approval of the Secretary of the Treasury, announces the renewal of the Charter of the Advisory Group of the Commissioner of Internal Revenue. This determination follows consultation with the Committee Management Secretary, General Services Administration.

Purpose. The purpose of the committee is to provide an organized public forum for discussions of relevant tax administration issues between officials of IRS and representatives of the public. The Advisory Group also offers constructive observations about IRS' current or proposed policies, programs, and procedures, and where necessary, suggests ways to improve IRS' operations. The Commissioner and other senior officials receive a significant amount of information about the problems taxpayers encounter not only in dealing with IRS, but also in meeting obligations imposed on them statutorily. The Service uses the advice of the Advisory Group to develop a tax administration system which reflects the simplest, most equitable approach to administering the tax system that it is within our power to pursue. Accordingly, the Advisory Group conveys to the Service the public's perceptions of IRS activities.

The services of the Advisory Group are expected to be needed for an indefinite period of time. No termination date has been established which is less than two years from the date this Charter has been approved.

In accordance with the Federal Advisory Committee Act (Public Law 92–463, as amended) the Department of the Treasury has renewed the charter of the Advisory Group to the Commissioner of Internal Revenue for a two-year period beginning November 12, 1993.

Dated: October 22, 1993.

Deborah M. Witchey,

Acting Assistant Secretary (Management).

[FR Doc. 93–27024 Filed 11–2–93; 8:45 am]

BILLING CODE 4810–25–M

Sunshine Act Meetings

Federal Register
Vol. 58, No. 211
Wednesday, November 3, 1993

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, November 23, 1993.

PLACE: 2033 K St., NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,
Secretary of the Commission.

[FR Doc. 93–27119 Filed 11–1–93; 2:09 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:30 a.m., Tuesday, November 23, 1993.

PLACE: 2033 K St., NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Rule Enforcement review.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,
Secretary of the Commission.

[FR Doc. 93–27120 Filed 11–1–93; 2:10 pm]

BILLING CODE 6351–01–M

FEDERAL HOUSING FINANCE BOARD

TIME AND DATE: 1:00 p.m., Tuesday, October 26, 1993.

PLACE: ANA Westin Hotel, 2401 M Street, NW., Washington, DC 20037.

STATUS: The entire meeting was open to the public.

MATTERS TO BE CONSIDERED:

1. Report on the Work of the FHLBank Affordable Housing Program (AHP) Regulatory Review Committee
2. Discussion of AHP Regulation Issues

CONTACT PERSON FOR MORE INFORMATION: Elaine L. Baker, Executive Secretary to the Board, (202) 408-2837.

Philip L. Conover,
Managing Director.

[FR Doc. 93–27065 Filed 11–1–93; 8:53 am]

BILLING CODE 6725–01–P

FEDERAL HOUSING FINANCE BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 58 FR 54401, October 21, 1993.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9:00 a.m., Wednesday, October 27, 1993.

CHANGES IN THE MEETING: The following topics were added to the open portion of the meeting:

- Federal Home Loan Bank of Boston Proposal to Lend to the Vermont Housing Finance Agency
- Extension of Comment Period for the Advance Notice of Proposed Rulemaking for the Community Support Requirement for Insurance Company and Credit Union Members of the Federal Home Loan Bank System

The following topic was added to the closed portion of the meeting:

- Annual Appointment of Two Federal Home Loan Bank Presidents to the Financing Corporation Directorate

The item added to the closed portion of the meeting is pursuant to section 552b(c)(9)(B) of title 5 of the United States Code.

The following topic was moved from the closed portion of the meeting to the open portion of the meeting:

- Key Issues to be Addressed in Revisions to AHP Regulations

Although the Key Issues to be Addressed in Revisions to AHP Regulations topic was eligible for consideration in the closed session of the meeting pursuant to exemption (9)(B) in section 552b(c) of title 5 of the United States Code, the Board determined that the public interest would be best served if the topic was discussed in the open portion of the meeting.

The Board further determined that agency business required its consideration of these matters on less than seven days notice to the public; and that no earlier notice of these changes in the subject matter of the meeting was practicable.

CONTACT PERSON FOR MORE INFORMATION: Elaine L. Baker, Secretary to the Board, (202) 408-2837.

Philip L. Conover,
Managing Director.

[FR Doc. 93–27121 Filed 11–1–93; 2:11 pm]

BILLING CODE 6725–01–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10 a.m., Wednesday, November 3, 1993.

PLACE: Room 600, 1730 K Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Martinka Coal Co.*, Docket No. WEVA 93–45, etc. (Issues include whether the judge erred in affirming two withdrawal orders issued pursuant to 30 U.S.C. § 814(b) for Martinka's alleged failure to abate two citations charging violations of 30 CFR §§ 75.400 and 75.1725(a).)

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(e).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5629/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Jean H. Ellen,
Agenda Clerk.

[FR Doc. 93–27156 Filed 11–1–93; 2:44 pm]

BILLING CODE 6735–01–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Monday, November 8, 1993.

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. Proposed 1994 Federal Reserve Board employee salary structure adjustments and merit program.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: October 29, 1993.

William W. Wiles,

Secretary of the Board.

[FR Doc. 93–27064 Filed 11–1–93; 8:52 am]

BILLING CODE 6210–01–P

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

TIME AND DATE: 9:00 a.m. November 15, 1993.

PLACE: 4th Floor, Conference Room, 1250 H Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of the minutes of the October 18, 1993, Board meeting.
2. Thrift Savings Plan activity report by the Executive Director.
3. Investment policy review.
4. Review of KPMG Peat Marwick audit report: "Pension and Welfare Benefits Administration Review of the Thrift Savings Plan Account Maintenance Subsystem at the United States Department of Agriculture, Office of Finance and Management, National Finance Center."
5. Ethics briefing.

CONTACT PERSON FOR MORE INFORMATION: Tom Trabucco, Director, Office of External Affairs, (202) 942–1640.

Date: November 1, 1993.

Francis X. Cavanaugh,

Executive Director, Federal Retirement Thrift Investment Board.

[FR Doc. 93–27181 Filed 11–1–93; 3:42 pm]

BILLING CODE 6760–01–M

Corrections

Federal Register
Vol. 58, No. 211
Wednesday, November 3, 1993

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

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

7 CFR Part 1786

Refinancing and Prepayment of FFB Loans

Correction

In rule document 93-23967 beginning on page 51007 in the issue of Thursday, September 30, 1993, make the following correction:

§ 1786.206 [Corrected]

On page 51009, in § 1786.206(c), in the third line, "gives" should read "give".

BILLING CODE 1505-01-D

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Prohibition on Insider Trading

Correction

In rule document 93-26131 beginning on page 54966 in the issue of Monday, October 25, 1993, make the following correction:

On page 54967, in the table, in the 2d column (Old section No.), "(1)" should appear in the 11th line immediately below "(b)".

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER93-972-000, et al.]

PacifiCorp, et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

Correction

In notice document 93-24866 beginning on page 52748 in the issue of Tuesday, October 12, 1993, make the following correction:

On page 52749, in the second column, under the heading **6. Niagara Mohawk Power Corp.**, the docket number should read "ER93-831-000".

BILLING CODE 1505-01-D

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[PR Docket No. 93-60; FCC 93-450]

Private Land Mobile Radio Services; Co-Channel Protection Criteria Above 800 MHz

Correction

In rule document 93-25261 beginning on page 53431 in the issue of Friday, October 15, 1993, make the following correction:

§ 90.261 [Corrected]

On page 53431, in the third column, in amendatory instruction 2. to § 90.261, in the eighth line, insert "(h)," after "(g),".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 11

RIN 1076-AA01

Law and Order on Indian Reservations

Correction

In rule document 93-25714 beginning on page 54406 in the issue of Thursday, October 21, 1993, make the following correction:

§ 11.401 [Corrected]

On page 54417, in the first column, in § 11.401, in the first line, "fireman" should read "firearm".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM-060-03-4340-02; NMNM 90300]

Exchange of Public Lands (Rio Bonito/ Delaware Exchange); New Mexico

Correction

In notice document 93-23920 beginning on page 51096 in the issue of Thursday, September 30, 1993, make the following corrections:

1. On page 51097, in the first column, in T. 26 S., R. 28 E., in Sec. 23, "SE¼," should read "SW¼,", and in Sec. 32, "NE½NE¼" should read "NE¼NE¼".

2. On the same page, in **ADDRESSES**, in the third line, "Roswell" was misspelled.

3. On the same page, in the 2d column, in the 1st full paragraph, in the 12th line, "defendant" should read "dependant".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV-930-4210-06; N-57922]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; Nevada

Correction

In notice document 93-25670 beginning on page 53745 in the issue of Monday, October 18, 1993, make the following correction:

On page 53746, in the first column, in the file line, "8:45 am" should read "9:04 am".

BILLING CODE 1505-01-D

DEPARTMENT OF VETERANS AFFAIRS

48 CFR Parts 836 and 852

RIN 2900-AC87

VA Acquisition Regulation: Changes to Solicitation Provisions, Contract Clauses, and Their Prescriptions

Correction

In rule document 93-22963 beginning on page 48973 in the issue of Tuesday, September 21, 1993, make the following corrections:

Subpart 836.3 [Corrected]

1. On page 48974, in the first column, in the bold heading for Subpart 836.3, "[Removed]" should read "[Amended]".

836.513 [Corrected]

2. On the same page, in the second column, in section 836.513, in the second line, "852.235-87" should read "852.236-87", and in the fourth line, "52.235-13" should read "52.236-13".

Subpart 852.2 [Corrected]

3. On the same page, in the same column, in the bold heading for Subpart 852.2, "[Removed]" should read "[Amended]".

BILLING CODE 1505-01-D

federal register

Wednesday
November 3, 1993

Part II

Department of Transportation

Federal Transit Administration

49 CFR Part 665

Bus Testing Program; Modification to Interim Final Rule; Testing of Small Vehicles, Phase-In of Effective Dates

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

49 CFR Part 665

[Docket No. 89-B]

RIN 2132-AA30

Bus Testing Program; Modification to Interim Final Rule; Phase-in of Effective Dates For Testing of Small Vehicles

AGENCY: Federal Transit Administration, DOT.

ACTION: Interim final rule.

SUMMARY: On July 28, 1992, the Federal Transit Administration (FTA) published an interim final rule on its bus testing program. Among other things, the rule added two new vehicle types (vehicles with minimum service lives of five years or 150,000 miles and four years or 100,000 miles) to the vehicles subject to testing at the FTA-sponsored testing facility at Altoona, Pennsylvania. On October 13, 1992, the FTA postponed the effective date of the rule as it applied to these types of vehicles for 120 days, until February 10, 1993. On February 23, 1993, the FTA again postponed the effective date, until October 1, 1993. The delay was due to numerous requests from commenters to the docket. During this time, FTA has sought and received additional comments on particular issues leading to today's changes to the interim final rule.

DATES: *Effective date:* October 1, 1993. This effective date retroactively applies to advertisements for bids or requests for proposals for the affected categories of vehicles issued between October 1, 1993, and November 3, 1993.

Comment due date: January 3, 1994. Comments received after this date will be considered to the extent practicable.

FOR FURTHER INFORMATION CONTACT: For technical issues, Steven A. Barsony, Director, Office of Engineering, Office of Technical Assistance and Safety, (202) 366-0090; for legal issues, Richard L. Wong, Attorney-Advisor, Office of the Chief Counsel, (202) 366-1936.

SUPPLEMENTARY INFORMATION:

Background

The Surface Transportation and Uniform Relocation Assistance Act of 1987 required the FTA to establish a bus testing facility for the testing of a model of any new bus model purchased with FTA financial participation. The FTA issued its first interim final rule implementing this program in 1989, and announced it would phase in the program, applying the testing requirements to different sized vehicles over a multi-year period. The first interim final rule, published on August 23, 1989 (54 FR 35158), established three categories of vehicles subject to testing: heavy-duty large buses with a minimum service life of 12 years or 500,000 miles; heavy-duty small buses with a minimum service life of 10 years or 350,000 miles; and purpose-built medium-duty buses with a minimum service life of 7 years or 200,000 miles.

The second interim final rule, published on October 9, 1990 (55 FR 41174), extended the testing requirements to the medium duty body-on-chassis category by combining the purpose-built and body-on-chassis subdivisions into one inclusive 7-year or 200,000-mile medium-duty bus category.

The third interim final rule, published on July 28, 1992, (57 FR 33394) extended the testing requirements to the final two categories of vehicles requiring testing. The first added category included vehicles with a minimum service life of five years or 150,000 miles, typically light-duty, mid-sized buses, approximately 25-35 feet in length. The second added category included vehicles with a minimum service life of 4 years or 100,000 miles, typically light-duty small buses, cutaways, or modified vans, 16-28 feet in length.

Although the third interim final rule went into effect on August 27, 1992, FTA subsequently suspended until October 1, 1993, the effective date as it applied to the remaining categories of vehicles that must be tested. During this period, FTA specifically sought comments on whether the testing requirement for small vehicles should be phased in over a period of time to avoid having a significant number of vehicles subject to testing simultaneously, and sought recommendations for a logical and efficient manner of phasing in the testing of such vehicles. The FTA also sought comment on whether these two categories of small vehicles could readily be divided into further subcategories for phasing-in purposes.

FTA recently made available a draft document outlining the bus testing procedures FTA intends to use for the five- and four-year vehicle categories and the criteria FTA intends to use for making partial testing determinations, titled: Testing Requirement Guidelines for Five- and Four-Year Buses; and Partial Bus Testing Procedures for All Bus Categories. FTA informed interested parties of the availability of this document through a notice published in the **Federal Register** (58 FR 30213, May 26, 1993). This document will be referred to hereafter as "Testing Guidelines."

As indicated in the Testing Guidelines, most of the vehicles in the five- and four-year bus testing categories are built on a mass-produced chassis or use a mass-produced van having an annual production rate of 20,000 units or more.

FTA has reviewed the submitted docket comments and believes that the testing methods identified herein and in the Testing Guidelines reasonably address the responsive docket comments with regard to partial testing, subcategorization of the vehicles and testing phase-in periods.

I. Phasing In of Five- and Four-Year Bus Testing Categories

FTA has determined that phasing in of testing for these final two categories of vehicles is needed to minimize the impact of the bus testing requirements on small bus manufacturers and on the Bus Testing Facilities at Altoona. To facilitate this phase-in process, FTA has established four subcategories for the five- and four-year bus testing categories: Unmodified mass-produced vans; vehicles manufactured from unmodified mass-produced chassis; vehicles manufactured from modified mass-produced chassis or vans; vehicles manufactured from non-mass-produced chassis or vans.

The first subcategory, *unmodified mass-produced vans,* consists of vehicles that are manufactured as complete, fully assembled vehicles as provided by the original equipment manufacturer (OEM). This subcategory includes vans with raised roofs, and/or wheelchair lifts, or ramps that are installed by the OEM, or by a party other than the OEM provided that the installation of these components is completed in strict conformance with the OEM modification guidelines. Vehicles in this subcategory are not subject to the bus testing requirements.

The second subcategory, *vehicles built from unmodified mass-produced chassis,* consists of vehicles that are manufactured from incomplete, partially assembled chassis as provided by an OEM to a secondary small bus manufacturer. This subcategory includes vehicles whose chassis structure either has not been modified, or has been modified in strict conformance with the OEM's modification guidelines. The addition of a tandem or tag axle would exclude a bus model from this subcategory. Vehicles in this subcategory are subject to the bus testing requirements.

The third subcategory, *vehicles manufactured from modified mass-produced chassis or vans*, consists of vehicles that are manufactured from incomplete, partially assembled chassis or vans as provided by an OEM to a secondary small bus manufacturer. This subcategory includes vehicles whose chassis structure has been modified to include: The addition of a tandem or tag axle, the installation of a drop or lowered floor, changes to the GVWR from the OEM rating, or other modifications that are not made in strict conformance with the OEM's modifications guidelines. Vehicles in this subcategory are subject to the bus testing requirements.

The fourth and final subcategory, *vehicles manufactured from non-mass-produced chassis or vans*, consists of vehicles that are manufactured from incomplete, partially assembled chassis or vans as provided by an OEM to a secondary small bus manufacturer, and where the annual production rate of the OEM chassis or van is less than 20,000 units. Vehicles in this subcategory are subject to the bus testing requirements.

FTA has decided to phase in the bus testing requirements for the five- and four-year categories of buses by establishing two separate bus testing effective dates. The first effective date, June 1, 1994, applies to vehicles in the third and fourth subcategories: Vehicles manufactured from modified mass-produced chassis or vans, and vehicles manufactured from non-mass-produced chassis or vans. The second effective date, October 1, 1994, applies to vehicles in the second subcategory: Vehicles manufactured from unmodified mass-produced chassis.

FTA believes that there are more bus models that may have operational difficulties in the third and fourth subcategories than in the second subcategory, and that the annual production rate of vehicles in the second subcategory far exceeds that of the third and fourth subcategories. These effective dates were established to address the vehicles with potential operational problems first, and at the same time, allow the vehicles which have the greatest impact on the transit industry ample time to be tested at Altoona. The dates were selected to provide sufficient time for all new bus models in the five- and four-year service categories to be tested prior to the selected effective dates.

As provided in the July 28, 1992, interim final rule, subcategory one vehicles, unmodified mass-produced vans, continue to be exempt from the bus testing requirement.

II. Testing of a Family of Vehicles

In the July 28, 1992, interim final rule, the FTA initiated its policy of partial testing for those vehicles which have completed full testing at the bus testing facility, but later are produced with a change in configuration or component. Partial testing is required only for those tests in which a significant change from the test data is expected. Partial testing procedures and the major changes that would trigger partial testing requirements for five- and four-year buses are set forth in the Testing Guidelines. As stated in the July 28, 1992, interim final rule, the extent of the required testing will be determined by the FTA on a case-by-case basis.

For purposes of partial testing of buses in the five- and four-year bus testing categories, FTA establishes the concept of a "family of vehicles." All bus models that are produced by a small bus manufacturer that are built using unmodified mass-produced chassis (second subcategory), supplied by one or more OEM, are considered part of that small bus manufacturer's family of vehicles, including the various chassis wheelbases that are supplied by the OEMs. In general, only one member of such a family of vehicles would be subject to bus testing. However, because of the wide variety of vehicles that can be included in a small bus manufacturer's family of vehicles, it is possible that more than one member of the family may be required to undergo testing (see Testing Guidelines). To minimize the number of family members that would be subject to testing, the small bus manufacturer should consider testing the larger, heavier, more complex vehicle in the family.

FTA intends that at least one typical unmodified mass-produced chassis design (second subcategory), from each chassis OEM undergo full testing at the Altoona Bus Testing Facilities. Once an OEM's chassis has been fully tested on a new bus model by one small bus manufacturer, other second subcategory new bus models manufactured by that small bus manufacturer or another, using that OEM's tested chassis, would be subject to partial testing procedures.

Each bus model that is produced by a small bus manufacturer that is manufactured from a modified mass-produced chassis or van (third subcategory) or from non-mass-produced chassis or van (fourth subcategory) is considered to be a separate family of vehicles for that small bus manufacturer and is required to undergo full testing. Again, in this case, to minimize the number of family members that would be subject to testing, the small bus manufacturer should consider testing the larger, heavier, more complex vehicle in the family.

III. Regulatory Matters

The FTA does not consider the extension of the effective date of the rule an action which requires an additional notice of proposed rulemaking (NPRM). From the time FTA published its initial NPRM, FTA's intent has remained clear—to implement the statutory mandate in an effective and efficient manner. The FTA has carried out this policy through a multi-staged implementation schedule using a series of interim final rules.

This rule is not a major rule under Executive Order 12291. It is, however, a significant rule because it is related to a significant rule under the Department of Transportation's Regulatory Policies and Procedures. The extension of time in which to comply, the primary focus of today's notice, imposes no additional costs on the affected public. In fact, the extension of the effective date will delay costs to small vehicle manufacturers for the period of the extension. Since the economic impact of this extension is minimal, no regulatory evaluation has been prepared. There are no Federalism effects sufficient to warrant preparation of a Federalism assessment. The FTA certifies that this rule will not have a significant impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 605(b)).

List of Subjects in 49 CFR Part 665

Grant programs—transportation, Mass transportation, Vehicle testing.

For the reasons cited above, 49 CFR Part 665 is amended as set forth below:

PART 665—BUS TESTING

1. The authority citation for part 665 is revised to read as follows:

Authority: Federal Transit Act of 1964, as amended, 49 U.S.C. 1601 *et seq.*, 1608(h); section 317, Surface Transportation and Uniform Relocation Assistance Act of 1987; and 49 CFR 1.51.

2. Paragraph (d) of § 665.3 is revised to read as follows:

§ 665.3 Scope.

* * * * *

(d) The provisions in §§ 665.11(e) (4) and (5) concerning the last two categories of buses which must be tested, apply as follows:

(1) For vehicles that are manufactured from modified mass-produced chassis or vans, or manufactured from non-mass-

produced chassis or vans, testing and a final report will be required for all vehicles offered in response to advertisements for bids or requests for proposals issued on or after June 1, 1994.

(2) For vehicles manufactured from unmodified mass-produced chassis, testing and a final report will be required for all vehicles offered in response to advertisements for bids or requests for proposals issued on or after October 1, 1994.

3. Section 665.5 is amended by removing the definition of "modified van" and by adding the following definitions in alphabetical order:

§ 665.5 Definitions.

* * * * *

Modified mass-produced chassis or van means a vehicle that is manufactured from an incomplete, partially assembled mass-produced chassis or van as provided by an OEM to a small bus manufacturer. This includes vehicles whose chassis structure has been modified to include: The addition of a tandem or tag axle; the installation of a drop or lowered floor; changes to the GVWR from the OEM rating; or other modifications that are *not* made in strict conformance with the OEM's modifications guidelines.

* * * * *

Non-mass-produced chassis or van means a vehicle that is manufactured from an incomplete, partially assembled chassis or van as provided by an OEM to a secondary small bus manufacturer, and where the annual production rate of the OEM chassis or van is less than 20,000 units.

Original Equipment Manufacturer (OEM) means the original manufacturer of a chassis or van supplied as a complete or incomplete vehicle to a small bus manufacturer.

* * * * *

Small bus manufacturer means a secondary market assembler that acquires a chassis or van from an original equipment manufacturer for subsequent modification/assembly and sale as 5-year/150,000-mile and/or 4-year/100,000-mile minimum service life vehicles.

Unmodified mass-produced chassis means a vehicle that is manufactured from an incomplete, partially assembled mass-produced chassis as provided by an OEM to a small bus manufacturer. This includes vehicles whose chassis structure has either not been modified, or is modified in strict conformance with the OEM's modification guidelines. The addition of a tandem or tag axle would exclude a bus model from this definition.

Unmodified mass-produced van means a vehicle that is mass-produced, complete and fully assembled as provided by an OEM. This includes vans with raised roofs, and/or wheelchair lifts, or ramps that are installed by the OEM, or by a party other than the OEM provided that the installation of these components is completed in strict conformance with the OEM modification guidelines.

Issued on: October 26, 1993.

Gordon J. Linton,

Administrator.

[FR Doc. 93–26929 Filed 11–2–93; 8:45 am]

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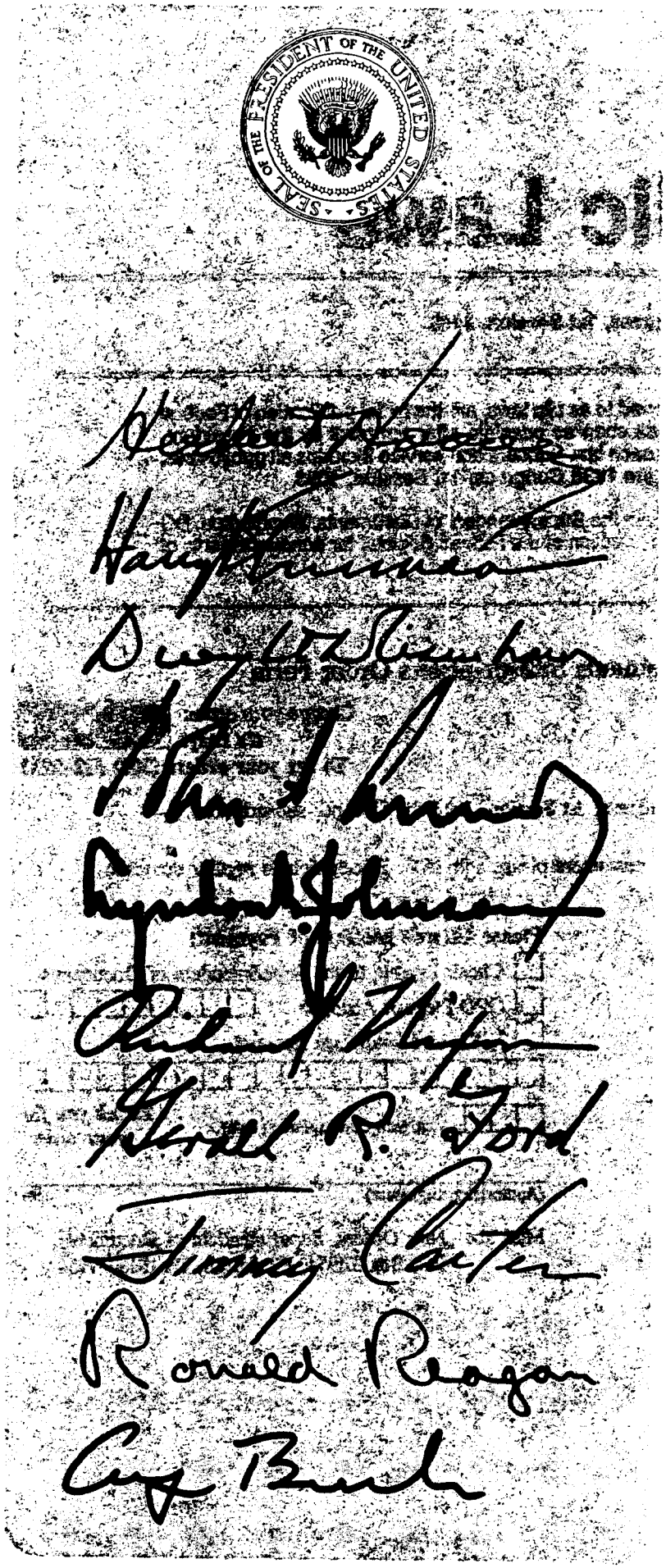

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