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November 5, 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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THE FEDERAL REGISTER

WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

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

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

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

NEW YORK, NY

WHEN: November 23, 9:00 am—12:00 pm

WHERE: National Archives—Northeast Region, 201 Varick Street, 12th Floor, New York, NY

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Electronic Bulletin Board
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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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

1 CFR Part 303

Employee Responsibilities and Conduct

AGENCY: Administrative Conference of the United States.

ACTION: Final rule.

SUMMARY: The Administrative Conference of the United States is amending its regulations on Employee Responsibilities and Conduct. This action is necessary because the U.S. Office of Government Ethics (OGE) and the Office of Personnel Management (OPM) have published new regulations for the executive branch that supersede standards of conduct and related requirements that had applied to Federal employees under earlier statutes and Presidential executive orders. The Conference's existing regulations are being replaced by provisions that cross-reference OGE and OPM regulations and identify the General Counsel as the Conference's Designated Agency Ethics Official.

EFFECTIVE DATE: November 5, 1993.

FOR FURTHER INFORMATION CONTACT: Gary J. Edles or Michael W. Bowers, (202) 254-7020.

SUPPLEMENTARY INFORMATION: The Office of Government Ethics (OGE) has promulgated Standards of Ethical Conduct for Employees of the Executive Branch (5 CFR part 2635). These standards of conduct became effective on February 3, 1993, and superseded agency regulations that had been promulgated pursuant to 5 CFR part 735. OGE also has promulgated regulations concerning Financial Disclosure, Qualified Trusts, and Certificates of Divestiture for Executive Branch Employees (5 CFR part 2634). These regulations became effective October 5, 1992, and superseded existing executive branch public and confidential disclosure regulations.

The Administrative Conference has reviewed its employee standards of conduct and has decided to replace all of its existing provisions with those adopted by OGE, and include cross-references to OGE and OPM regulations and a section that identifies the Conference's General Counsel as the designated agency ethics official.

This rule relates solely to internal agency management and procedures and, therefore, is not subject to the advance notice and other public procedures otherwise required by 5 U.S.C. 553 or to the regulatory planning and review requirements of Executive Order 12866. This regulation affects only Federal employees and will not have an impact on small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. chapter 6).

List of Subjects in 1 CFR Part 303

Conflict of interests, Standards of conduct.

For the reasons set forth in the preamble, 1 CFR part 303 is amended as follows:

PART 303—EMPLOYEE RESPONSIBILITIES AND CONDUCT

1. The authority citation for part 303 is revised to read as follows:

Authority: 5 U.S.C. app. (Ethics in Government Act); E.O. 12674, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 3 CFR 1990 Comp., p. 306; 5 CFR parts 2634 and 2635.

2. Section 303.101 is revised to read as follows:

§ 303.101 Cross-reference to standards of ethical conduct for employees and financial disclosure regulations.

Employees, including special government employees, of the Administrative Conference are subject and should refer to the executive branch-wide Standards of Ethical Conduct at 5 CFR part 2635. Certain employees of the Administrative Conference are required to file financial disclosure statements pursuant to 5 CFR part 2634.

3. Section 303.102 is revised to read as follows:

§ 303.102 Counseling and advisory services.

The General Counsel is the Designated Agency Ethics Official (DAEO) for the Administrative Conference. The DAEO will advise employees on the applicability and interpretation of laws and regulations dealing with conflict of interests and ethical conduct. The DAEO may appoint an alternate agency ethics official to assist in carrying out agency responsibilities for implementing the Ethics in Government Act and related statutes, presidential executive orders, and other conflict of interest laws.

§§ 303.103–303.109 [Removed]

4. Sections 303.103 through 303.109 are removed.

Dated: October 27, 1993.

Brian C. Griffin,

Chairman.

[FR Doc. 93-27157 Filed 11-4-93; 8:45 am]

BILLING CODE 6110-01-W

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 103, 240, and 299

[INS No. 1608-93]

RIN 1115-AC30

Temporary Protected Status, Exception to Registration Deadlines

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This rule amends the regulations of the Immigration and Naturalization Service (the Service) by providing an exception to the deadlines for registering for Temporary Protected Status (TPS) to those persons who did not register for TPS because they are or were in a valid immigrant or nonimmigrant status during the initial registration period. In addition, this rule updates the application process to reflect current form numbers and also amends the rule to reflect the correct exclusion grounds to conform with the Immigration Act of 1990 (IMMACT 90). This rule is necessary to ensure that those persons who were in a valid nonimmigrant status during the initial period of registration are still provided with an opportunity to apply for the benefits of Temporary Protected Status.

DATES: This interim rule is effective November 5, 1993. Written comments

must be submitted on or before December 6, 1993.

ADDRESSES: Please submit written comments, in triplicate, to the Records Systems Division, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street, NW., room 5307, Washington, DC, 20536. To ensure proper handling, please reference INS No. 1608–93 on your correspondence.

FOR FURTHER INFORMATION CONTACT: Kathryn A. Kazalonis, Senior Immigration Examiner, Naturalization and Special Projects Branch, Adjudications Division, Immigration and Naturalization Service, 425 I Street, NW., room 7223, Washington DC, 20536, Telephone: (202) 514–5014.

SUPPLEMENTARY INFORMATION: Temporary Protected Status (TPS), as provided by section 244A of the Immigration and Nationality Act (8 U.S.C. 1254a) (the Act), affords temporary protection in the United States to persons of designated foreign states that are experiencing ongoing civil strife, environmental disaster, or certain other extraordinary and temporary conditions. This rule provides an exception to the registration deadlines for TPS for persons otherwise eligible for registration for TPS who are or were in a valid immigrant or nonimmigrant status during the initial registration period. This situation was not addressed in the previous rule nor in any of the public comments submitted to the Service. As a result, such persons have found themselves faced with the prospect of having to return to their country of nationality while it is still designated for TPS, since they were only eligible for TPS if they applied during the initial period of designation.

This rule applies to those persons, in the United States, who are or were in any valid nonimmigrant status, or in a valid immigrant status, such as conditional or temporary resident status, on the date their country of nationality or, if stateless, last habitual residence was designated for Temporary Protected Status, who did not register for TPS during the first period of designation. They will now be able to apply for TPS after the announced registration period, whether their valid status has subsequently continued, ended, or been terminated.

This rule allows persons who are or were in a valid immigrant or nonimmigrant status during the initial period to be granted TPS if application is made during any extension of the designation, provided the application is submitted within 30 days of the expiration of the previous status, or within 90 days of the effective date of this rule, whichever is later. This will enable this specific group of aliens to delay applying for TPS until such time as its protection is actually needed.

This rule will also provide, for those persons who fell out of status between the end of the first period of registration and the effective date of this rule, a finding of lawful status as a nonimmigrant during that period. Those persons who would otherwise have been eligible for TPS during the first period of registration as persons from a designated country who: (1) Were in a valid status during that period of registration; (2) fell out of valid status during any subsequent period of registration; and (3) were prevented from registering for TPS by the regulation in effect at the time, will be held to have maintained a valid status during that period.

Persons covered by this exception must meet all other requirements of TPS including presence in the United States at the time the foreign state in question was designated for TPS. This rule is not intended to extend protection to persons who arrived in the United States after the designation was made, whether legally or illegally, nor is it intended to cover persons who were not in valid status during the initial period of designation.

This exception has been made by adding an alternative eligibility requirement at § 240.2(f); revising the reference as to when an application for TPS registration may be made at § 240.7(b); and adding a provision for acceptable evidence regarding the applicant's valid status at § 240.9(a).

In addition, § 240.3 has been amended to provide the current citations for exclusion grounds that are either waived or not waived for persons applying for TPS. Section 244A of the Act was amended effective June 1, 1991, the date the changes to section 212(a) of the Act became effective by statute. In practice, since that time, only the new grounds have been enforced.

In § 240.6, the reference for Form I–104 is removed and the title of Form I–821 is changed from "Temporary Protected Status Eligibility Questionnaire" to "Application for Temporary Protected Status." Form I–821 also have been revised to consolidate requests on Forms I–104 and I–821 for biographical information concerning the applicant, information regarding his or her eligibility, grounds of inadmissibility or excludability, and a list of immediate relatives in the United States. Therefore, submission of Form I–104 is no longer necessary for registration for TPS.

Section 103.7(b)(1), which lists the fees for prescribed immigration forms, has been amended by removing the reference to Form I–104 and adding Form I–821 as the form to be used in applying for TPS. Additionally, § 299.1 and § 299.5 have been revised to reflect the new title of the Form I–821.

The Service's implementation of this rule as an interim rule, with provisions for post-promulgation public comment, is based upon the "good cause" exception found at 5 U.S.C. 553(b)(B) and 553(d)(1). The reasons and necessity for immediate implementation of this interim rule without prior notice and comment are as follows: This rule grants an exemption to persons who were previously not eligible to obtain the benefits of TPS, and are currently in need of TPS protection. A notice and comment period for the proposed rule would have been impracticable and contrary to the public interest. Moreover, this interim rule confers a benefit upon eligible persons and does not impose a penalty of any kind. It is imperative that this interim rule become effective upon publication so that those persons who are entitled to the benefit may apply accordingly.

In accordance with 5 U.S.C. 605(b), the Commissioner of the Immigration and Naturalization Service certifies that this rule does not have a significant adverse economic impact on a substantial number of small entities. This is not a major rule as defined in section 1(b) of E.O. 12992, nor does this rule have Federalism implications warranting the preparation of a Federal Assessment in accordance with E.O. 12612.

The information collection requirements contained in this rule have been cleared by the Office of Management and Budget under the provisions of the Paperwork Reduction Act. The clearance numbers for these collections are contained in 8 CFR 299.5, Display of Control Numbers.

List of Subjects

8 CFR Part 103

Administrative practice and procedure, Fees, Forms.

8 CFR Part 240

Administrative practice and procedure, Immigration, Aliens, Reporting and recordkeeping requirements.

8 CFR Part 299

Immigration, Forms.

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

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

1. The authority citation for part 103 continues to read as follows:

Authority: 5 U.S.C. 552, 552a; 8 U.S.C. 1101, 1103, 1201, 1252 note, 1252b, 1304, 1356; 31 U.S.C. 9701; E.O. 12356, 47 FR 14874, 15557, 3 CFR, 1982 Comp., p. 166; 8 CFR part 2.

2. Section 103.7(b)(1), is amended by removing the entry for Form I–104 from the list of forms, and by adding, in proper numerical sequence, Form I–821 to the list of forms, to read as follows:

§ 103.7 Fees.

* * * * *

(b) * * *

(1) * * *

* * * * *

Form I–821. For filing an initial application for Temporary Protected Status under section 244A of the Act, as amended by the Immigration Act of 1990, to be remitted in the form of a cashier's check, certified bank check, or money order. The exact amount of the fee, not to exceed fifty dollars ($50.00), will be determined at the time a foreign state is designated for Temporary Protected Status.

* * * * *

PART 240—TEMPORARY PROTECTED STATUS FOR NATIONALS OF DESIGNATED STATES

3. The authority citation for part 240 continues to read as follows:

Authority: 8 U.S.C. 1103, 1254a, 1254a note.

4. Section 240.2 is amended by revising paragraph (f) to read as follows:

§ 240.2 Eligibility.

* * * * *

(f)(1) Registers for Temporary Protected Status during the initial registration period; or

(2) Is or was in valid immigrant or nonimmigrant status during the registration period, and registers no later than 30 days from the expiration of such status during any subsequent period of redesignation, or by February 3, 1994, whichever date is later.

5. Section 240.3 is amended by revising paragraphs (a) and (c) to read as follows:

§ 240.3 Applicability of grounds of inadmissibility.

(a) *Grounds of inadmissibility not to be applied.* Paragraphs (4), (5) (A) and (B), and (7)(A)(i) of section 212(a) of the Act shall not render an alien ineligible for Temporary Protected Status.

* * * * *

(c) *Grounds of inadmissibility that may not be waived.* The Service may not waive the following provisions of section 212(a) of the Act:

(1) Paragraphs (2)(A)(i), (2)(B), and (2)(C) (relating to criminals and drug offenses);

(2) Paragraphs (3)(A), (3)(B), (3)(C), and (3)(D) (relating to national security); or

(3) Paragraph (3)(E) (relating to those who assisted in the Nazi persecution).

6. Section 240.6 is amended by revising the last sentence to read as follows:

§ 240.6 Application.

* * * * *

* * * Each application must consist of a completed Application for Temporary Protected Status (Form I–821), Application for Employment Authorization (Form I–765), two completed fingerprint cards (Form FD–258) for every applicant who is fourteen years of age or older, two identification photographs (1½"×1½"), and supporting evidence as provided in § 240.9.

7. Section 240.7 is amended by revising paragraph (b) to read as follows:

§ 240.7 Filing the application.

* * * * *

(b) An application for Temporary Protected Status must be filed during the registration period established by the Attorney General, except in the case of an alien described in § 240.2(f)(2).

* * * * *

8. Section 240.9 is amended by adding paragraph (a)(4) to read as follows:

§ 240.9 Evidence.

(a) * * *

(4) *Evidence of valid immigrant or nonimmigrant status.* In the case of an alien described in § 240.2(f)(2), Form I–551 or Form I–94 must be submitted by the applicant.

* * * * *

9. Section 240.10 a new paragraph (f)(2)(v) is added to read as follows:

§ 240.10 Decision by the district director or Administrative Appeals Unit (AAU).

* * * * *

(f) * * *

(2) * * *

(v) An alien eligible to apply for Temporary Protected Status under § 240.2(f)(2), who was prevented from filing a late application for registration because the regulations failed to provide him or her with this opportunity, will be considered to have been maintaining lawful status as a nonimmigrant until the benefit is granted.

* * * * *

PART 299—IMMIGRATION FORMS

10. The authority citation for part 299 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103; 8 CFR part 2.

11. Section 299.1 is amended by revising the entry for Form I–821 to read as follows:

§ 299.1 Prescribed forms.

* * * * *

Form No., Title and Description

* * * * *

I–821 (5–22–91)—Application for Temporary Protected Status.

* * * * *

12. Section 299.5 is amended by revising the entry for Form I–821 to read as follows:

§ 299.5 Display of control numbers.

* * * * *

INS form No.	INS form title	Currently assigned OMB control No.
*	*	*
I–821	Application for Temporary Protected Status	1115–0170
*	*	*

Dated: September 8, 1993.

Chris Sale,

Acting Commissioner, Immigration and Naturalization Service.

[FR Doc. 93-27221 Filed 11-4-93; 8:45 am]

BILLING CODE 4410-10-M

RESOLUTION TRUST CORPORATION

12 CFR Part 1625

RIN 3205-AA11

Procedures Applicable to RTC Investigations

AGENCY: Resolution Trust Corporation.

ACTION: Final rule.

SUMMARY: The Resolution Trust Corporation (RTC) hereby issues this final rule setting forth procedures applicable to the conduct of RTC investigations which involve the exercise of powers established in section 8(n) of the Federal Deposit Insurance Act, as amended. The RTC is authorized to exercise such investigatory powers in carrying out its statutory obligations to resolve failed savings associations.

In the absence of its own investigative regulations, the RTC has been relying, with some exceptions, on the investigative regulations of the Federal Deposit Insurance Corporation. This final rule provides the RTC with its own set of investigative regulations and will thus provide the public with specific guidance regarding procedures applicable to the RTC's conduct of investigations in which it exercises the investigative powers, including subpoena powers, contained in section 8(n). Promulgation of the RTC's own investigative regulations will eliminate possible confusion or ambiguity regarding procedures applicable to the RTC and will eliminate the need for the RTC to specify exceptions to the FDIC procedures on which the RTC has been partially relying. The RTC regulations will thereby provide the public with greater guidance and certainty regarding applicable RTC investigative procedures and will reduce the possibility of needless litigation over questions involving procedures applicable specifically to the RTC.

EFFECTIVE DATE: This final rule is effective November 5, 1993.

FOR FURTHER INFORMATION CONTACT: Suzanne Rigby, Professional Liability Section, telephone 202/736-0314; Gregg H.S. Golden, Litigation Section, telephone 202/736-3042.

SUPPLEMENTARY INFORMATION:

I. Background

Section 501 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) added a new section 21A to the Federal Home Loan Bank Act (FHLBA) (12 U.S.C. 1441a), establishing powers, authority, and duties for the RTC with respect to failed savings associations. Among other things FIRREA establishes the RTC's duties to minimize the losses resulting from the resolution of failed savings associations, to maximize the recoveries realized from the disposition of such associations or their assets, and to make efficient use of funds obtained by the RTC. In carrying out these duties, the RTC must determine whether there are valid claims against former directors, officers, or others who rendered services to or otherwise dealt with such associations, whether the RTC should seek to avoid transfers of assets or the incurrence of obligations or seek an attachment of assets, whether there are assets that would justify the RTC's pursuing such claims, and whether the pursuit of such claims would otherwise be consistent with the RTC's statutory obligations and sound public policy.

In section 21A(b)(4) of the FHLBA (12 U.S.C. 1441a(b)(4)), Congress granted certain powers to the RTC by reference to the powers of the Federal Deposit Insurance Corporation (FDIC) under sections 11, 12, and 13 of the Federal Deposit Insurance Act, as amended (FDIA) (12 U.S.C. 1821, 1822, and 1823). Section 11(d)(2)(I) of the FDIA provides that the FDIC may, as conservator, receiver, or exclusive manager and for purposes of carrying out any power, authority or duty with respect to an insured depository institution, exercise any power established under section 8(n) of the FDIA (12 U.S.C. 1818(n)). Section 8(n), in turn, enumerates various investigatory powers, including the power to issue subpoenas and subpoenas duces tecum. Section 13(d)(3)(A) of the FDIA (12 U.S.C. 1823(d)(3)(A)) gives the FDIC (and, by virtue of 12 U.S.C. 1441a(b)(4), the RTC) the same powers in its corporate capacity as it has as receiver under section 11, which includes the exercise of the investigatory powers of section 8(n).

On July 27, 1992 (57 FR 33133), the RTC issued a Proposed Rule and Request for Comments regarding procedures applicable to RTC investigations. This proposed rule set forth certain procedures by which the RTC will conduct investigations in which the section 8(n) powers are used. Although the RTC begins its inquiries into the affairs of a failed savings association as soon as the institution is closed and the RTC is appointed receiver or conservator, the use of the section 8(n) investigatory powers commences with the issuance of the Order of Investigation.

The RTC has received comment on its proposed rule and is now issuing a final rule. To date, in the absence of its own regulations governing investigations in which the section 8(n) powers are used, the RTC, as authorized by section 21A(a)(7) of the FHLBA (12 U.S.C. 1441a(a)(7)), has been following the FDIC's investigative rules in 12 CFR part 308, subpart K, as amended, except where such procedures differ from the provisions of section 8(n). This final rule terminates the RTC's reliance on the FDIC's investigative rules.

II. Comment and Discussion

A. Comment Summary

In response to the July 27, 1992, notice of proposed rule, the RTC received one comment. The comment raised issues falling into two broad categories: (1) The scope of the RTC's authority to conduct investigations and issue regulations pertaining thereto; and (2) the adequacy of the regulations with respect to disclosures by the RTC to persons outside the agency. These issues are discussed below, along with various changes the RTC is making to the proposed rule in response to the comment and for clarification.

B. Discussion of Comment and Agency Responses

The commenter asserted that the RTC's statutory powers are limited to "collecting money due the institution" and do not include the power to conduct investigations into potential professional liability claims. The RTC does not construe its powers so narrowly. Section 11(d)(2)(I) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1821(d)(2)(I)), reads as follows:

> The Corporation may, as conservator, receiver, or exclusive manager and for purposes of carrying out any power, authority, or duty with respect to an insured depository institution (including determining any claim against the institution and determining and realizing upon any asset of any person in the course of collecting money due the institution), exercise any power established under section 1818(n) of this title, and the provisions of such section shall apply with respect to the exercise of any such power under this subparagraph in the same manner as such provisions apply under such section.

The RTC construes the parenthetical language relied on by the commenter as examples of the RTC's power, not intended to narrow the breadth of authority granted by the other language of the section. The position advocated by the commenter would effectively read out of the provision the language preceding the parenthetical, thus violating the fundamental principle that a statute must be read to give effect to all its terms. Accepting the commenter's interpretation of the statute would also severely inhibit the RTC's ability to perform its statutory duties.

One of the specific responsibilities of the RTC is to investigate potential claims against various persons or entities, including former officers or directors and others who rendered services to or otherwise dealt with a failed savings association (12 U.S.C. 1821(k), (l)). Thus, investigation of such potential claims is clearly within the RTC's statutory authority. The courts have rejected arguments similar to the commenter's and affirmed the RTC's interpretation of its subpoena power. See *RTC* v. *Feffer*, 793 F. Supp. 11, 15 (D.D.C. 1992) (order on reconsideration); *RTC* v. *McCamish, Ingram, Martin & Brown*, Misc. No. 92–152 (D.D.C. May 26, 1992); *RTC* v. *American Casualty Co.*, 787 F. Supp. 5 (D.D.C. 1992); *RTC* v. *Ernst & Young*, 1992 WL 77255, Misc. No. 91–398 (D.D.C. Jan 29, 1992). The courts have recognized that the RTC's interpretation of its statutory subpoena authority is entitled to deference. *American Casualty*, 787 F. Supp. at 7.

The commenter also asserted that the RTC has no power to conduct investigations but merely to engage in limited types of pre-complaint discovery, similar to discovery undertaken by civil litigants. The RTC disagrees. By virtue of 12 U.S.C. 1821(d)(2)(I) and 1818(n), the RTC has the power to conduct administrative investigations using the subpoena power for the purposes specified in section 1821(d)(2)(I). In conducting these investigations, the RTC is not acting as a civil litigant, and the scope of its subpoena power is not limited by civil discovery rules. See, e.g., *United States* v. *Morton Salt Co.*, 338 U.S. 632, 642–43 (1950).

In this same category of objections, the commenter objected to various provisions in the proposed regulations (16 CFR 1625.7(b)(2) and 1625.8) dealing with the conduct of attorneys representing witnesses in RTC investigations. The commenter claimed that these provisions deny the witness assistance of counsel of his choice and are intended solely to give the RTC an illegitimate strategic advantage in obtaining witness testimony. The commenter also asserted that these sections fail to provide objective standards to justify exclusion of counsel.

Section 1625.7(b)(2) specifies actions the RTC may take to address situations in which there is a conflict of interest arising from an attorney's representation of witnesses in an RTC investigation. Section 1625.8 specifies the procedures that the RTC must follow to exclude an attorney from an RTC investigation where the attorney has engaged in obstructionist or similar conduct.

Nothing in the proposed regulations deprives a witness of counsel or is otherwise intended to provide the RTC with any unfair advantage in obtaining witness testimony. The RTC also recognizes that in handling conflicts of interest, the agency must comply with applicable prevailing law. See, e.g., *Professional Reactor Operator Soc'y* v. *NRC*, 939 F.2d 1047 (D.C. Cir. 1991).

The second category of objections raised by the commenter involves RTC disclosures of confidential subpoenaed documents to persons outside the agency, including its outside counsel and consultants. The commenter stated that the procedures in place regarding such disclosures are inadequate because they do not provide sufficient protections against disclosures to persons potentially adverse to, or persons affiliated with commercial competitors of, the document submitter and do not provide for advance notice to the submitter of such disclosure.

RTC regulations provide explicit limitations on an outside contractor's use of confidential information obtained in the course of its work for the RTC. These regulations incorporate Congress's specific directives regarding the RTC's adoption of regulations pertaining to outside contractor's access to and use of confidential information. See 12 U.S.C. 1441a(p)(3); H.R. Conf. Rep. No. 101–272, 101st Cong., 1st Sess. 455 (1989), reprinted in 1989 U.S.C.C.A.N. 432, 455. RTC consultants are prohibited from disclosing nonpublic information (12 CFR 1606.11(b)(1)) and from "[u]sing or allowing the use of any nonpublic information to further any private interest other than as contemplated by the contract." 12 CFR 1606.11(b)(2). Outside consultants are required to take appropriate measures to ensure the confidentiality of nonpublic information and to prevent its inappropriate use. 12 CFR 1606.11(c). Unauthorized use or disclosure of nonpublic information is grounds for rescission of a contract or a permanent bar from contracting with the RTC, as well as constituting a basis for damages. 12 CFR 1606.15. Unauthorized use of confidential government information is also punishable by criminal penalties. See 18 U.S.C. 641, 1905.

The adequacy of the protections afforded confidential documents submitted pursuant to RTC subpoenas has been raised in various RTC subpoena enforcement proceedings. The RTC concludes that the various statutory, regulatory, and procedural confidentiality safeguards constitute adequate protection for subpoena recipients' confidential documents. The courts have upheld the RTC's position. See *RTC* v. *Ernst & Young*, 1992 WL 77255, Misc. No. 91–398 (D.D.C. Jan. 29, 1992); see also *RTC* v. *Feffer*, 798 F. Supp. 11, 18 (D.D.C. 1992) (order on reconsideration). In addition, the RTC concludes that the additional requirements proposed by the commenter here are unnecessary and would unduly burden the RTC's investigations. The courts have consistently refused to impose upon the RTC the very same types of requirements advocated by the commenter. See *RTC* v. *KPMG Peat Marwick*, 779 F. Supp. 2 (D.D.C. 1991); *Ernst & Young*; *RTC* v. *Grant Thornton*, 798 F. Supp. 1 (D.D.C. 1992) (order on reconsideration).

Also with respect to confidentiality, the commenter indicated that the proposed regulation dealing with use of confidential documents in litigation was ambiguous and should be clarified to incorporate internal procedures established in an RTC internal practice guideline. In response to the comment and consistent with its present practice, the RTC has revised its final regulation (now 12 CFR 1625.6(e)) to provide that if the RTC intends to disclose the submitter's confidential information in the course of any judicial or administrative proceeding, the RTC will provide the submitter such notice as is reasonable under the circumstances, including notice of any protective measures to be sought. The RTC has determined not to incorporate the terms of its internal practice guideline in the regulation because its experience with use of confidential materials in litigation has been limited to date and it is therefore unwise at this time to establish legally binding detailed procedures in this area.

The commenter also objected to the inclusion of the provision which states that the RTC may, for "good cause," deny a witness a copy of the transcript of the witness's testimony. The commenter argued that this requirement is unnecessary, unjustifiable, and inconsistent with FDIC investigate rules.

The RTC has decided not to change this provision, 12 CFR 1625.10(c). The provision is based on the RTC's need to maintain the confidentially of its investigations and accordingly allows the RTC to deny the availability of a transcript in those situations in which the RTC is concerned that release of the transcript may impair the RTC's continuing investigative functions. The provision is substantively identical to that used by various other agencies (see, e.g., 12 CFR 512.4 (OTS), 17 CFR 203.6 (SEC), 12 CFR 19.183(d) (OCC), 12 CFR 747.806 (NCUA)), and is consistent with the Administrative Procedure Act (5 U.S.C. 555(c)). Contrary to the commenter's contention, the pertinent FDIC investigative rule, 12 CFR 308.150(a), does not allow a witness an "absolute right" to obtain a copy of the transcript of his or her testimony. That regulation provides that a transcript will be available at the conclusion of the investigation, or at an earlier time in the discretion of the person conducting the investigation. During the pendency of the investigation, therefore, the FDIC's regulation allows the agency greater discretion than does the "good cause" requirement of the RTC's regulation. The RTC notes, in addition, that the RTC's final rule provides that a witness is entitled to inspect any transcript of such person's own testimony. 12 CFR 1625.10(b).

With respect to this same proposed regulation, the commenter urged modification of the regulation to make clear that exhibits to the transcript of a witness's testimony would be included as part of the transcript. The RTC has made this change, subject, however, to the qualification that an exhibit that consists of a document designated as confidential may be withheld.

Finally, the commenter objected to the provisions in sections 1625.7(b)(1)(ii) and (iii) of the proposed rule regarding the types of objections a witness's counsel may make during the taking of oral testimony pursuant to an administrative subpoena. The commenter stated that these provisions are unnecessary, inappropriately restrict the witness's right to counsel, and are not used by other agencies. The RTC has decided not to alter the proposed regulations. These regulations are intended to facilitate the prompt and efficient taking of testimony and to avoid delay. Contrary to the commenter's characterization, the taking of oral testimony pursuant to an RTC subpoena is not a "deposition," nor is it governed by the rules of civil discovery or evidence. In addition, the regulations are virtually identical to those used in similar contexts in investigations conducted by other agencies. See, e.g., 16 CFR 2.9(b) (FTC); *Hannah* v. *Larche*, 363 U.S. 420, 445–48 (1960).

In addition to the changes discussed above in response to the comment, the RTC also is making various changes to the regulations to improve their clarity and consistency. These changes are discussed in the section-by-section summary and discussion. Included among these changes is language clarifying that the RTC, when conducting investigations pursuant to its receivership, conservatorship, or liquidation powers, is exempt from the requirements of the Right to Financial Privacy Act (12 U.S.C. 3401–3422).

III. Applicability of Rule to Investigations

This rule shall apply to the conduct of all pending and future RTC investigations (as defined in § 1625.2(c)) and terminates the RTC's reliance on the investigative rules of the FDIC in 12 CFR part 308, subpart K.

IV. Section-by-Section Summary and Discussion

Section 1625.1 ("Purpose and Scope") specifies the RTC's investigative authority pursuant to sections 8(n), 11(d)(2)(I), and 13(d)(3)(A) of the FDIA (12 U.S.C. 1818(n), 1821(d)(2)(I), and 1823(d)(3)(A)), as made applicable to the RTC pursuant to section 21A(b)(4) of the FHLBA (12 U.S.C. 1441a(b)(4)). These provisions govern the RTC's investigative authority in its capacity as conservator or receiver for failed savings associations, as well as in its corporate capacity as acquirer of the assets of such associations.

Section 1625.2 ("Definitions") makes clear that the term "Chief Executive Officer," as used in the regulations, includes the Chief Executive Officer's delegates. The section also makes clear that the designated representative shall be an attorney within the RTC.

Section 1625.3 ("Orders of Investigation") indicates that the Order of Investigation shall indicate generally the principal purposes of the investigation. The words "orders or judgments" were added to this section because an Order of Investigation may authorize use of the RTC's investigative powers to collect information relevant to enforcing an order of restitution issued pursuant to 18 U.S.C. 3663 in favor of the RTC or the savings association which is the subject of the RTC's investigation.

Section 1625.4 ("Powers of Chief Executive Officer") specifies that the Chief Executive Officer may exercise any authority or fulfill any duty of the RTC under these regulations.

Section 1625.5 ("Powers of designated representative") spells out the various powers of the designated representative, including the power to issue subpoenas and subpoenas duces tecum and to apply, upon approval by the RTC, to an appropriate Court for the enforcement of any such subpoena. Section 8(n) of the FDIA (12 U.S.C. 1818(n)) specifies the various courts, including the United States District Court for the District of Columbia, in which an enforcement proceeding may be brought. Section 8(n) does not authorize pre-enforcement review, but is expressly limited to proceedings to enforce subpoenas. There is no subject matter jurisdiction for pre-enforcement review of RTC administrative subpoenas. See, e.g., *Ramirez* v. *RTC*, 798 F. Supp. 415 (S.D. Tex. 1992); *In re Valley Federal Savings Bank*, Misc. No. 92–186 (D.D.C. Apr. 20, 1992); see also *Reisman* v. *Caplin*, 375 U.S. 440 (1964).

This subsection also indicates that the designated representative may rely on persons outside the RTC to assist in the conduct of any investigation, but that such persons shall not have the power to issue subpoenas. Language has been added to paragraph (b) of this section to make clear that RTC outside counsel may receive production of subpoenaed documents or take testimony of subpoenaed witnesses. This clarification reflects existing RTC practice.

Section 1625.6 ("Investigations nonpublic") provides that investigations shall be nonpublic and that the disclosure of documents or other information obtained in an investigation shall be governed by the confidentiality provisions specified therein. The confidentiality provisions generally accord with RTC practice to date in instances in which subpoena recipients have requested confidential treatment for documents produced pursuant to a subpoena.

As discussed in Section II.B herein, paragraph (e) of this section has been revised to provide that in the event the RTC intends to disclose a confidential document in a judicial or administrative proceeding, the RTC will provide the submitter with such notice as is reasonable under the circumstances, including notice of what protective measures, if any, will be sought.

Paragraph (h) of this section of the proposed regulations has been deleted. This paragraph provided that nothing in this section should be read as making the provisions of the Right To Financial Privacy Act applicable to the RTC. This paragraph has been clarified in a new § 1625.9(f).

Section 1625.7 ("Rights of witnesses") provides that any person compelled to appear and testify in an investigation may be represented by counsel and further specifies the requirements and role of counsel in any such investigation. A new paragraph (b)(2)(ii) has been added for clarification and paragraph (b)(2)(ii) of the proposed rule has been redesignated (b)(2)(iii). The new paragraph (b)(2)(ii) specifically addresses the situation where a witness' attorney or law firm previously represented the savings association which is the subject of the RTC's investigation, and where the RTC declines to waive any conflict arising from such representation. The paragraph specifies the steps the designated representative may take in such situations to ensure that the witness is fully apprised of the conflict and possible RTC actions to cure the conflict.

Section 1625.8 ("Obstruction of proceedings") discusses the RTC's authority to exclude an attorney or other person from any investigation where the RTC finds that such person has engaged in contemptuous, contumacious or similarly objectionable conduct.

Section 1625.9 ("Subpoenas") specifies the manner of service of an investigative subpoena and the procedures applicable to motions to quash or limit such subpoenas. The procedures essentially codify existing RTC practice. Section 1625.9(c) has been clarified to indicate that where documents are withheld on grounds of privilege, the documents so withheld must be identified along with the grounds for asserting the privilege. This clarification reflects existing RTC subpoena practice and is consistent with well-settled law and agency practice generally. See, e.g., 16 CFR 2.8A (FTC). Also, as indicated above, a new paragraph (f) has been added to this section clarifying that the RTC construes 12 U.S.C. 3413(n) as expressly exempting the RTC from the Right To Financial Privacy Act (RFPA) (12 U.S.C. 3401–3422) when the RTC issues subpoenas in any of the capacities specified in section 3413(n). Two federal district court decisions have upheld the RTC's construction of 12 U.S.C. 3413(n) as exempting the RTC from the provisions of the RFPA. See *RTC* v. *Banco Santander Puerto Rico*, Misc. No. 92–367 (D.D.C. Sept. 29, 1992); *Ferguson* v. *RTC*, Civ. Action 7–92–0020–K (N.D. Tex. Mar. 20, 1992).

Section 1625.10 ("Transcripts") provides that a person may inspect a transcript, if any, of his or her testimony and may obtain a copy thereof, on written request, subject to the RTC's denying such request for good cause. As discussed in Section II.B above, this paragraph has been modified to include exhibits to the transcript in certain circumstances.

V. Regulatory Flexibility Act Statement

Pursuant to section 605(b) of the Regulatory Flexibility Act, the RTC hereby certifies that this rule is not expected to have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required.

List of Subjects in 12 CFR Part 1625

Administrative practice and procedure, Investigations, Savings associations.

Authority and Issuance

For the reasons set forth in the preamble, part 1625 of Title 12, chapter XVI, of the Code of Federal Regulations, is added to read as follows:

PART 1625—PROCEDURES APPLICABLE TO RTC INVESTIGATIONS

Sec.
1625.1 Purpose and scope.
1625.2 Definitions.
1625.3 Orders of Investigation.
1625.4 Powers of Chief Executive Officer.
1625.5 Powers of designated representative.
1625.6 Investigations nonpublic.
1625.7 Rights of witnesses.
1625.8 Obstruction of proceedings.
1625.9 Subpoenas.
1625.10 Transcripts.

Authority: 12 U.S.C. 1441a(b)(3), (b)(4), (b)(11), 1818(n), 1821(d)(1), 1821(d)(2)(I), 1823(d)(3)(A).

§ 1625.1 Purpose and scope.

This part prescribes procedures applicable to the conduct of investigations by the Resolution Trust Corporation (RTC) under section 21A(b)(4) of the Federal Home Loan Bank Act, as amended (FHLBA) (12 U.S.C. 1441a(b)(4)), and sections 8(n), 11(d)(2)(I), and 13(d)(3)(A) of the Federal Deposit Insurance Act, as amended (FDIA) (12 U.S.C. 1818(n), 1821(d)(2)(I), and 1823(d)(3)(A)).

§ 1625.2 Definitions.

As used in this part:

(a) *Chief Executive Officer* means the Chief Executive Officer of the RTC or delegates.

(b) *Designated representative* means the attorney or attorneys within the RTC Division of Legal Services named in an Order of Investigation to exercise the powers granted by section 8(n) of the FDIA.

(c) *Investigation* means, for purposes of this part only, the exercise of the powers granted by section 8(n) of the FDIA to the RTC, through sections 11(d)(2)(I) and 13(d)(3)(A) of the FDIA and section 21A(b)(4) of the FHLBA, including among other things administering oaths and affirmations, taking and preserving testimony, requiring the production of books, papers, correspondence, memoranda, financial records, and all other records and documents in whatever form, the issuance of subpoenas and subpoenas duces tecum, and all other activities related to the exercise of such powers.

(d) *Order of Investigation* means the document issued by the RTC, authorizing an investigation as defined herein.

(e) *Person* means an individual, sole proprietor, partnership, corporation, unincorporated association, trust, joint venture, or other entity or organization.

§ 1625.3 Orders of Investigation.

An Order of Investigation shall indicate generally the principal purpose or purposes of the investigation and shall identify the designated representatives, as defined in § 1625.2. Such purposes may include, but are not limited to, determining whether the RTC has valid claims against former directors, officers, or others who rendered services to or otherwise dealt with the institution, whether there are assets that would justify the RTC's pursuit of such claims, orders, or judgments consistent with its statutory obligation to minimize losses, whether the RTC should seek to avoid transfers of assets or the incurrence of obligations or seek an attachment of assets, and whether the pursuit of such claims, orders, or judgments would otherwise be consistent with the RTC's statutory obligations and sound public policy.

§ 1625.4 Powers of Chief Executive Officer.

The Chief Executive Officer may exercise any authority or fulfill any duty of the RTC under this part.

§ 1625.5 Powers of designated representative.

(a) The designated representative shall have all of the powers granted to a designated representative under section 8(n) of the FDIA or any successor provision, including among other things the powers to administer oaths and affirmations, to take and preserve testimony under oath, to issue subpoenas and subpoenas duces tecum, and to apply, upon approval by the RTC, for their enforcement to any of the courts specified in that section for such purposes.

(b) The designated representative may, in his or her discretion, appoint or

revoke the appointment of counsel or other persons from within or without the RTC to assist in the conduct of the investigation, provided, however, that such appointee shall not have the power to issue subpoenas or subpoenas duces tecum. Such assistance from counsel from without the RTC may include receiving production of subpoenaed documents, taking the testimony of subpoenaed witnesses, and utilizing a notary public from outside the RTC to administer oaths and affirmations and preserve the witness's testimony.

§ 1625.6 Investigation nonpublic.

(a) Unless otherwise ordered by the RTC, investigations shall be nonpublic. Information and documents obtained by the RTC in the course of such investigations and for which a claim of confidentiality has been asserted shall be treated in accordance with the provisions of the Freedom of Information Act (5 U.S.C. 552), where applicable, and paragraphs (b) through (e) of this section.

(b) The submitter may designate as confidential any document provided in response to an RTC subpoena that discloses trade secrets or other confidential commercial or financial information. The submitter shall plainly stamp each page of any such document "CONFIDENTIAL" in a manner that does not interfere with the document's legibility. On each page stamped in accordance with this paragraph, the submitter shall mark with brackets information designated as confidential, unless the entire page is designated as confidential.

(c) Except as provided in paragraph (d) of this section, documents or portions thereof designated as confidential by the submitter shall not be disclosed outside the RTC without ten days' advance notice to the submitter.

(d) Paragraph (c) of this section shall not apply to:

(1) Disclosure to any outside counsel or other contractor of the RTC solely for purposes of performing RTC assignments, and subject to the recipient's obligation pursuant to 12 CFR 1606.11 (b) and (c), or any successor provision, and as otherwise required by law, to maintain information received from the RTC in confidence;

(2) Disclosure in response to any request from the chairman or ranking minority member of a committee or subcommittee of Congress acting pursuant to committee business, or from any agency of the United States, but the submitter will be given ten days' advance notice of such disclosure or such other prior notice as can reasonably be given under the circumstances;

(3) Disclosure of any document, or any portion thereof, marked "CONFIDENTIAL" if, at any time, the RTC determines such document or portion thereof does not contain trade secrets or other confidential commercial or financial information. The RTC shall provide the submitter ten days' notice of such determination and may thereafter disclose such document or portion thereof;

(4) Disclosure of information which:

(i) Is in the public domain;

(ii) Was in the possession of the RTC prior to having been provided by the submitter or which is also given to the RTC by another person lawfully in possession of the information; or

(iii) Is information over which the RTC may exercise proprietary rights under applicable law;

(5) Disclosure in the course of interviewing or examining any witness in an RTC investigation, but the witness will be advised that the document has been designated confidential and will not be allowed to retain any copy of the document;

(6) Disclosure in response to a judicial or administrative subpoena. If documents designated confidential are subpoenaed, the submitter will be given ten days' notice, or as much notice as can reasonably be given under the circumstances, before the documents are provided, except that no notice will be given in the case of grand jury subpoenas; and

(7)(i) Disclosure to:

(A) The Office of Thrift Supervision (OTS) pursuant to the Agreement Regarding Confidential Information dated April 29, 1991, among the FDIC, RTC, and OTS; or

(B) The FDIC pursuant to the Statement Of Policy And Procedures Concerning The Sharing Of Confidential Information Between The FDIC And The RTC, dated January 1, 1992; or

(C) Any other federal or state agency pursuant to a written confidentiality agreement between the RTC and such agency.

(ii) Copies of interagency agreements and policy statements referred to in § 1625.6(d)(7)(i) (A) and (B) are available at the RTC Reading Room, 801 17th Street NW., Washington, DC 20434–0001.

(e) Notwithstanding the provisions of paragraphs (a) through (d) of this section, disclosure by the RTC in the course of any judicial or administrative proceeding shall be governed by the rules and procedures of the court or administrative body conducting the proceeding and the RTC shall give the submitter such notice as is reasonable under the circumstances of its intent to disclose such information in the proceeding and what protective measures are to be sought, if any.

(f) Nothing contained in this section shall be construed to limit the RTC's internal use of information or documents obtained in the course of an investigation, such use to be determined solely by the RTC.

(g) Nothing contained in this section shall be construed as authority to withhold information or documents if disclosure by the RTC is otherwise required by law, or to permit disclosure if disclosure is otherwise prohibited by law.

§ 1625.7 Rights of witnesses.

(a) Any person compelled or requested to furnish testimony, documents, or other information in the course of an investigation shall, on request, by shown the Order of Investigation. Copies of such Order may be furnished to such persons for their retention in the discretion of the RTC.

(b) Any person compelled or requested to appear and testify in the course of an investigation may be represented by an attorney.

(1) Such attorney shall be a member in good standing of the bar of the highest court of any state, Commonwealth, possession, territory, or the District of Columbia, who has not been suspended or disbarred from practice by the bar of any such political entity or before the RTC or any other federal agency or instrumentality, and has not been excluded from the same investigation as provided in this part. The attorney may be required to state on the record that he or she is qualified to represent the witness in accordance with this paragraph.

(i) Such attorney may be present and may advise the witness before, during, and after such testimony, may briefly question the witness on the record at the conclusion of such testimony solely for the purpose of clarifying the witness's testimony, and may make summary notes during such testimony solely for the use and benefit of the witness.

(ii) If the witness refuses to answer a question, then counsel may briefly state on the record whether counsel has advised the witness not to answer the question and the legal grounds for such refusal. Where it is claimed that the testimony or other evidence sought from a witness is outside the scope of the investigation, or that the witness is privileged to refuse to answer a question or to produce other evidence, the witness or counsel for the witness may

object on the record to the question or requirement and may state briefly and precisely the ground therefor. The witness and his counsel shall not otherwise object to or refuse to answer any question, and they shall not otherwise interrupt the oral examination.

(iii) Counsel for a witness may not, for any purpose or to any extent not allowed by paragraphs (b)(1) (i) and (ii) of this section, interrupt the examination of the witness by making any objections or statements on the record.

(2) (i) In any case where an attorney or law firm represents more than one witness in an investigation, and in any case where there is a perceived or actual conflict of interest arising out of an attorney's or law firm's representation of a witness and another person (including prior representation of the savings association which is the subject of the RTC's investigation), counsel may be required to state, in writing under penalty of perjury or on the record of the witness's testimony, that:

(A) Counsel has personally and fully discussed the possibility of conflicts of interest with each such witness or other person;

(B) Each such witness or other person has advised the counsel that there is no existing or anticipated material conflict between its interests and those of others represented by the same attorney or law firm; and

(C) Each such witness or other person waives any right to assert any known conflicts of interest or to assert any nonmaterial conflicts during the course of the proceeding.

(c) All witnesses shall be sequestered. Unless otherwise permitted in the discretion of the designated representative, all persons shall be excluded from the room in which a witness's testimony is given, except for the witness, the witness's counsel, the persons by whom the testimony is to be taken, and the stenographer recording such testimony.

§ 1625.8 Obstruction of proceedings.

(a) The RTC may exclude an attorney from any investigation in which the RTC finds that the attorney has engaged in dilatory, obstructionist, egregious, contemptuous, or contumacious conduct, or has otherwise violated any provision of this part. After due notice to the attorney, the RTC may take such action as the circumstances warrant based upon a written record evidencing the conduct of the attorney in that investigation or such other or additional written or oral presentation as the RTC may permit or require.

(b) The designated representative shall report to the RTC any instances where any person other than an attorney has engaged in dilatory, obstructionist, egregious, contemptuous, or contumacious conduct, or has otherwise violated any provision of this part, and the RTC may take such action as the circumstances warrant.

§ 1625.9 Subpoenas.

(a) *Service.* Service of a subpoena in connection with an investigation shall be made in the following manner:

(1) *Service upon a natural person.* Service of a subpoena upon a natural person may be made by handing it to such person, by leaving it at such person's office with the person in charge thereof, by leaving it at such person's residence with some person of suitable age and discretion, by sending it by registered or certified mail or by delivery service to the person's last known address, or by any other method reasonably calculated to give actual notice.

(2) *Service upon other persons.* When the person to be served is not a natural person, service of the subpoena may be made by handing the subpoena to a registered agent for service, or to any director, officer, partner or to any agent in charge of any office of such person, by sending it to any such representative by registered or certified mail or by a delivery service to the person's last known address, or by any other method reasonably calculated to give actual notice.

(b) *Testimony of entity.* When the witness is not a natural person, the subpoena may describe with reasonable particularity the matters on which the witness is to testify. In that event, the entity so named shall designate one or more directors, officers, managing agents, or other persons with knowledge of such matters, and may for each such person designate the matters on which the person will testify. The subpoena shall advise the entity of its duty to make such a designation. The persons so designated shall testify as to matters known or reasonably available to the entity. This paragraph does not preclude the issuance of subpoenas for individuals by any other procedure authorized in this part.

(c) *Motions to quash.* (1) Any application to limit or quash a subpoena shall be filed within ten days after service of the subpoena or, if the return date is less than ten days after service, prior to the return date. Such application shall be filed with the designated representative, who shall refer the application to the RTC for decision. The application shall be filed only by the person to whom the subpoena is directed or such person's counsel and shall set forth all factual and legal objections to the subpoena, including all assertions of privilege. The RTC may deny the application, quash or limit the subpoena, or condition the granting of the application on such terms as the RTC determines to be just, reasonable, and propen Where material is withheld on the basis of an assertion of privilege, the subpoena recipient or such person's counsel shall submit a schedule of the documents withheld which states as to each such item the subject matter of the document, the name of each author, writer, sender or initiator of such document, the recipient, addressee, or party for whom such document was intended, the date of the document, and the specific grounds on which the assertion of privilege is based.

(2) Each application shall be accompanied by a signed statement representing that counsel for the applicant has conferred with counsel for the RTC in a good faith effort to resolve by agreement the issues raised by the application and has been unable to reach such agreement. If some of the issues in controversy have been resolved by agreement, the statement shall specify the issues resolved and those remaining unresolved.

(3) The timely filing of an application to quash or limit a subpoena shall stay the time permitted for compliance with the portion challenged. If the application is denied in whole or in part, the ruling will specify a new return date.

(d) *Attendance of witnesses.* Subpoenas issued in connection with an investigation may require the attendance and/or testimony of witnesses from any state, territory, or other place subject to the jurisdiction of the United States, and the production of documentary or other tangible evidence at any designated place where the investigation is being or is to be conducted. Foreign nationals are subject to such subpoenas if service is made upon them within the United States or on an agent located within a place subject to the jurisdiction of the United States.

(e) *Witness fees and mileage.* Witnesses shall be paid the same fees for attendance and mileage that are paid to witnesses in the United States district court. Failure to tender such fees shall not render any subpoena invalid or constitute any grounds for refusal to comply with any such subpoena. Fees need not be tendered at the time a subpoena is served.

(f) *Inapplicability of RFPA.* In issuing subpoenas pursuant to any of the capacities listed in 12 U.S.C. 3413(n), the RTC is exempt from the provisions of 12 U.S.C. 3401 through 3422.

§ 1625.10 Transcripts.

(a) Transcripts of testimony, if any, or other records in an investigation shall be prepared solely by an official reporter or by any other person or means authorized by the designated representatives.

(b) A person who has given testimony in an investigation is entitled to inspect the transcript, if any (including nonconfidential exhibits), of such person's own testimony, upon request.

(c) A person who has submitted documents or given testimony in an investigation may procure a copy of his or her own documents or the transcript, if any (including exhibits), of his or her own testimony upon payment of the cost thereof; provided, that a person seeking a transcript of his or her own testimony must file a written request with the RTC stating the reason for such request, and the RTC may for good cause deny such request; provided further that if any exhibit to such transcript consists of a document that has been designated confidential by the submitter of the document, a copy of the exhibit may be withheld, unless the submitter of the document is the person having given the testimony.

By Order of the Chief Executive Officer of the Resolution Trust Corporation.

Dated at Washington, DC, this 2nd day of November 1993.

Resolution Trust Corporation.

John M. Buckley, Jr.,

Secretary.

[FR Doc. 93-27296 Filed 11-4-93; 8:45 am]

BILLING CODE 6714-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1221

NASA Seal and Other Devices, and Congressional Space Medal of Honor

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This rule establishes NASA policy, responsibilities, and procedures for the use of the NASA Seal, NASA Insignia, NASA Logotype, NASA Program Identifiers, and NASA Flags. It also establishes and sets forth the concept and scope of the NASA Unified Visual Communications System.

EFFECTIVE DATE: November 5, 1993.

FOR FURTHER INFORMATION CONTACT: Robert Schulman, NASA Graphics Coordinator, (202) 358-1750.

SUPPLEMENTARY INFORMATION: This revision updates the official(s) authorized to develop and implement the NASA Unified Visual Communications System; updates the officials authorized to designate Graphics Coordinators; updates the official authorized to approve the manufacture and use of the NASA Insignia, NASA Logotype, and the NASA Program Identifiers; changes Program Badges to Program Identifiers; and removes all reference to Astronaut Badges and the Space Shuttle Program Badge and Add-on Bar transferring responsibility to the Associate Administrator for Space Flight. Since this involves administrative and editorial management decisions and procedures, no public comment period is required.

The National Aeronautics and Space Administration has determined that:

1. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601-612, since it will not exert a significant economic impact on a substantial number of small entities.

2. This rule is not a major rule as defined in Executive Order 12291.

List of Subjects in 14 CFR Part 1221

Decorations, Medals, Awards, Flags, Seals, Insignia, Unified Visual Communications System.

PART 1221—THE NASA SEAL AND OTHER DEVICES, AND THE CONGRESSIONAL SPACE MEDAL OF HONOR

For reasons set forth in the Preamble, 14 CFR part 1221, subpart 1221.1 is revised to read as follows:

Subpart 1221.1—NASA Seal, NASA Insignia, NASA Logotype, NASA Program Identifiers, NASA Flags, and the Agency's Unified Visual Communications System

Sec.
1221.100 Scope.
1221.101 Policy.
1221.102 Establishment of the NASA Seal.
1221.103 Establishment of the NASA Insignia.
1221.104 Establishment of the NASA Logotype.
1221.105 Establishment of the NASA Program Identifiers.
1221.106 Establishment of the NASA Flag.
1221.107 Establishment of the NASA Administrator's, Deputy Administrator's, and Associate Deputy Administrator's Flags.
1221.108 Establishment of the NASA Unified Visual Communications System.
1221.109 Use of the NASA Seal.
1221.110 Use of the NASA Insignia.
1221.111 Use of the NASA Logotype.
1221.112 Use of the NASA Program Identifiers.
1221.113 Use of the NASA Flags.
1221.114 Approval of new or change proposals.
1221.115 Violations.
1221.116 Compliance and enforcement.

Authority: 42 U.S.C. 2472(a) and 2473(c)(1).

§ 1221.100 Scope.

This subpart sets forth the policy governing the use of the NASA Seal, the NASA Insignia, NASA Logotype, NASA Program Identifiers, and the NASA Flags. This subpart also establishes and sets forth the concept and scope of the NASA Unified Visual Communications System and prescribes the policy and guidelines for implementation of the system.

§ 1221.101 Policy.

(a) The NASA Seal, the NASA Insignia, NASA Logotype, NASA Program Identifiers, the NASA Flags, and the Agency's Unified Visual Communications System, as prescribed in § 1221.102 through § 1221.108 of this subpart, shall be used exclusively to represent NASA, its programs, projects, functions, activities, or elements. The use of any devices other than those provided by or subsequently approved in accordance with the provisions of this subpart is prohibited.

(b) The use of the devices prescribed in this section shall be governed by the provisions of this subpart. The use of the devices prescribed in this section for any purpose other than as authorized by this subpart is prohibited. Their misuse shall be subject to the penalties authorized by statute, as set forth in § 1221.115 and shall be reported as provided in § 1221.116.

(c) Any proposal for a new NASA Insignia, NASA Logotype, NASA Program Identifier, or for modification to those prescribed in this section shall be processed in accordance with § 1221.114.

§ 1221.102 Establishment of the NASA Seal.

The NASA Seal was established by Executive Order 10849 (24 FR 9559), November 27, 1959, as amended by Executive Order 10942 (24 FR 4419), May 22, 1961. The NASA Seal, established by the President, is the Seal of the Agency and symbolizes the achievements and goals of NASA and the United States in aeronautical and space activities. The NASA Seal shall be used as set forth in § 1221.109.

BILLING CODE 7510-01-M

FIGURE A

The NASA Seal

TECHNICAL DESCRIPTION:

The official seal of the National Aeronautics and Space Administration is a disc of blue sky strewn with white stars. To the left, there is a large yellow sphere bearing a red flight vector symbol. The wings of the vector symbol envelope and cast a brown shadow upon it. A white horizontal orbit also encircles the sphere. To the right, there is a small light blue sphere. A white band which circumscribes the disc is edged in gold and is inscribed with "National Aeronautics and Space Administration U.S.A." in red letters.

BILLING CODE 7510-01-C

§ 1221.103 Establishment of the NASA Insignia.

The NASA Insignia was designed by the Army Institute of Heraldry and approved by the Commission of Fine Arts and the NASA Administrator. It symbolizes NASA's role in aeronautics and space and is established by the NASA Administrator as the signature an design element for visual communications formerly reserved for the NASA Logotype. The NASA Insignia shall be used as set forth in § 1221.110, the NASA Graphics Standards Manual, NASA Insignia Standards Supplement, and any related NASA directive or specification approved by the NASA Administrator and published subsequent hereto.

BILLING CODE 7510-01-M

FIGURE B

The NASA Insignia

TECHNICAL DESCRIPTION:

The official insignia of the National Aeronautics and Space Administration is a dark blue disc with white stars. The white hand-cut letters "NASA" are in the center of the disc and are encircled by a white diagonal orbit. A solid red vector symbol also appears behind and in front of the letters.

REPRODUCTION:

The NASA Insignia may be reproduced black-on-white (single color) as shown above or two-color (blue and red on white). The colors are PMS 286 blue and PMS 185 red.

The Insignia may be reproduced in various sizes but not less than five-eighths (5/8) of an inch. The sizes are determined on the basis of (a) desired effect for visual identification or publicity purposes, (b) relative size of the object on which the Insignia is to appear, and (c) consideration of any design, layout, reproduction, or other problems involved. For more information, refer to the NASA Insignia Standards Supplement.

BILLING CODE 7510-01-C

§ 1221.104 Establishment of the NASA Logotype.

The NASA Logotype was approved by the Commission of Fine Arts and the NASA Administrator. It symbolizes NASA's role in aeronautics and space from 1975 to 1992 and has been retired. The NASA Logotype shall be used as set forth in § 1221.111.

BILLING CODE 7510-01-M

FIGURE C

The NASA Logotype

REPRODUCTION:

Black-on- white or single color: As shown.

One color: The preferred color of the NASA Logotype is NASA red (PMS 179), used only when a second color is available and appropriate. Against a white background, the NASA Logotype may be shown in NASA red, black, or NASA warm gray (PMS 416). For background of other values, the Graphics Standards Manual is to be consulted and followed.

SIZE:

The NASA Logotype may be reproduced or used in various sizes. Size to be determined on the basis of (a) desired effect for visual identification or publicity purposes, (b) relative size of the object on which the NASA Logotype is to appear, and (c) consideration of any design, layout, reproduction or other problems involved. Refer to the Graphics Standards Manual for details.

RESTRICTION:

The NASA Logotype will not be used for any purpose without the written approval of the Administrator.

BILLING CODE 7510-01-C

§ 1221.105 Establishment of NASA Program Identifiers.

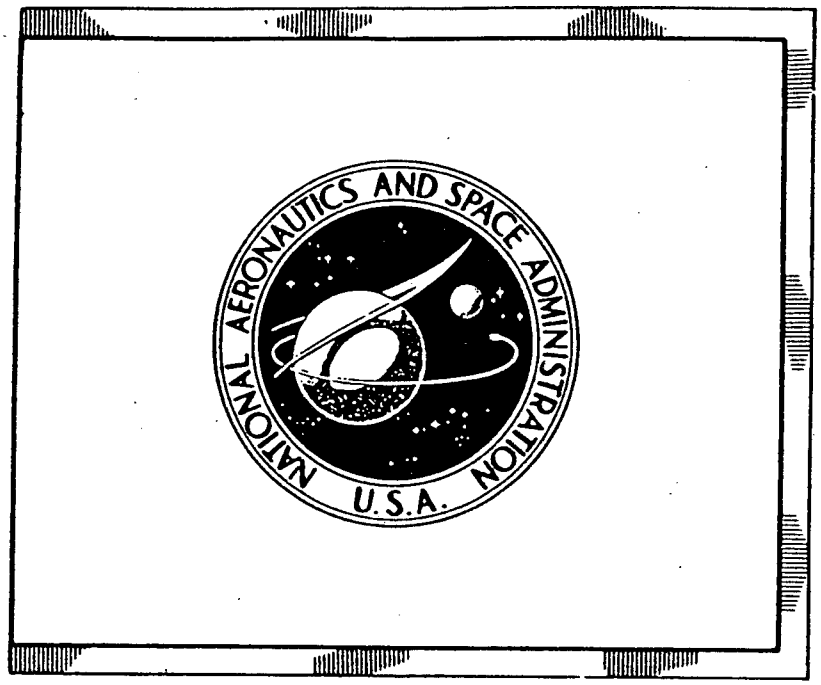
A separate and unique identifier may be designed and approved in connection with or in commemoration of a major NASA program. Each approved identifier shall be officially identified by its title such as "Apollo," "Skylab," "Viking," "Space Shuttle," "Space Station," or a major NASA anniversary. NASA Program Identifiers shall be used as set forth in § 1221.112 pursuant to approval as set forth in § 1221.114.

§ 1221.106 Establishment of the NASA Flag.

The NASA Flags for interior and exterior use were created by the NASA Administrator in January 1960. Complete design, size, and color of the NASA interior and exterior flags for manufacturing purposes are detailed in U.S. Army QMG Drawing 5–1–269, revision September 14, 1960. The NASA Flags shall be used as set forth in § 1221.113.

BILLING CODE 7510-01-M

FIGURE D



The NASA Flag

REFERENCE:

U.S. Army QMG Drawing 5-1-269; Revision 14 September 1960, Note: Recommend use of Military Specification (MIL F-2692D dated 14 March 1969, as amended) in conjunction with referenced drawing as a guideline for procurement purposes.

Technical Description of Interior Flag:

The color of the National Aeronautics and Space Administration flag will be of blue Bemberg taffeta-weave rayon, three (3) feet, four (4) inches on the hoist by five (5) feet, six (6) inches fly. In the center of the color will be the Official Seal of the National Aeronautics and Space Administration thirty inches in diameter. The devices and stars of the Seal will be embroidered by the Bonnaz Process. The color will be trimmed on three edges with a knotted fringe of rayon two and one half (2½) inches wide. Cord and tassels will be yellow rayon strands. See drawing referenced above for complete details.

Technical Description of Exterior Flag:

NASA flags for external use may be procured in two sizes: 5' x 9'-6" (without fringe) or 10' x 19' (without fringe). Detailed design, colors and size specifications are as set forth in the drawing referenced above.

BILLING CODE 7510-01-C

§ 1221.107 Establishment of the NASA Administrator's, Deputy Administrator's, and Associate Deputy Administrator's Flags.

(a) Concurrently with the establishment of the NASA Flag in January 1960, the NASA Administrator also established NASA Flags to represent the NASA Administrator, Deputy Administrator, and Associate Deputy Administrator. Each of these flags conforms to the basic design of the NASA Flag except for the following:

(1) The size of the flag is 3 feet x 4 feet;

(2) The Administrator's Flag has four stars;

(3) The Deputy Administrator's Flag has three stars; and

(4) The Associate Deputy Administrator's Flag has two stars.

(b) Flags representing these senior officials shall be used as set forth in § 1221.113.

§ 1221.108 Establishment of the NASA Unified Visual Communications System.

(a) The NASA Administrator directed the establishment of a NASA Unified Visual Communications System. The system was developed under the Federal Design Improvement Program initiated by the President in May 1972. This system is the Agencywide program by which NASA projects a contemporary, business-like, progressive, and forward-looking image through the use of effective design for improved communications. The system provides a professional and cohesive NASA identity by imparting continuity of graphics design in all layout, reproduction art, stationery, forms, publications, signs, films, video productions, vehicles, aircraft, and spacecraft markings and other items. It creates a unified image which is representative and symbolic of NASA's progressive attitudes and programs.

(b) The Associate Administrator for Public Affairs is responsible for the development and implementation of the NASA Unified Visual Communications System. With the development of the NASA Unified Visual Communications System, the Office of Public Affairs at NASA Headquarters created the NASA Graphics Standards Manual and the NASA Insignia Standards Supplement which are the official guides for the use and application of the NASA Insignia and the NASA Unified Visual Communications System.

(c) The Associate Administrator for Public Affairs, NASA Headquarters, has designated a NASA Graphics Coordinator to implement and monitor Agencywide design improvements in consonance with the NASA Graphics Standards Manual, the NASA Insignia Standards Supplement, and the NASA Unified Visual Communications System. The NASA Graphics Coordinator will develop and issue changes and additions to the manual as required and as new design standards and specifications are developed and approved. Copies of the NASA Graphics Standards Manual and the NASA Insignia Standards Supplement may be obtained directly from the NASA Graphics Coordinator, Office of Public Affairs, NASA Headquarters.

(d) The Director of each Field Installation has designated an official to serve as Graphics Coordinator for his/her Installation. The Director, HQ Operations Division, has designated an official to serve as the Headquarters Graphics Coordinator. Any changes in these assignments shall be reported to the NASA Graphics Coordinator, NASA Headquarters, Code POS.

(e) Graphics Coordinators are responsible for ensuring compliance with the NASA Graphics Standards Manual, the NASA Insignia Standards Supplement, and the NASA Unified Visual Communications System for their respective Installations.

§ 1221.109 Use of the NASA Seal.

(a) The Associate Deputy Administrator shall be responsible for custody of the NASA Impression Seal and custody of NASA replica (plaques) seals. The NASA Seal is restricted to the following:

(1) NASA award certificates and medals.

(2) NASA awards for career service.

(3) Security credentials and employee identification cards.

(4) NASA Administrator's documents; the Seal may be used on documents such as interagency or intergovernmental agreements and special reports to the President and Congress, and on other documents, at the discretion of the NASA Administrator.

(5) Plaques; the design of the NASA Seal may be incorporated in plaques for display in Agency auditoriums, presentation rooms, lobbies, offices of senior officials, and on the fronts of buildings occupied by NASA. A separate NASA seal in the form of a 15-inch, round, bronze-colored plaque on a walnut-colored wood base is also available, but prohibited for use in the above representational manner. It is restricted to use only as a presentation item by the Administrator and the Deputy Administrator.

(6) The NASA Flag and the NASA Administrator's, Deputy Administrator's, and Associate Deputy Administrator's Flags, which incorporate the design of the Seal.

(7) NASA prestige publications which represent the achievements or missions of NASA as a whole.

(8) Publications (or documents) involving participation by another Government agency for which the other Government agency has authorized the use of its seal.

(b) Use of the NASA Seal for any purpose other than as prescribed in this section is prohibited, except that the Associate Deputy Administrator may authorize, on a case-by-case basis, the use of the NASA Seal for purposes other than those prescribed when the Associate Deputy Administrator deems such use to be appropriate.

§ 1221.110 Use of the NASA Insignia.

The NASA Insignia is authorized for use on the following:

(a) *NASA articles.*

(1) NASA letterhead stationary.

(2) Films, videotapes, and sound recordings produced by or for NASA.

(3) Wearing apparel and personal property items used by NASA employees in the performance of their duties.

(4) Required uniforms of contractor employees when performing public affairs, guard or fire protection duties, and similar duties within NASA Installations or at other assigned NASA duty stations, and on any required contractor-owned vehicles used exclusively in the performance of these duties, when authorized by NASA contracting officers.

(5) Spacecraft, aircraft, automobiles, trucks and similar vehicles owned by, leased to, or contractor-furnished to NASA, or produced for NASA by contractors, but excluding NASA-owned vehicles used and operated by contractors for the conduct of contractor business.

(6) Equipment and facilities owned by, leased to, or contractor-furnished to NASA, such as machinery, major tools, ground handling equipment, office and shop furnishings (if appropriate), and similar items of a permanent nature, including those produced for NASA by contractors.

(7) NASA publications, including pamphlets, brochures, manuals, handbooks, house organs, bulletins, general reports, posters, signs, charts, exhibits, and items of similar nature for general use, as specified in the NASA Graphics Standards Manual and the NASA Insignia Standards Supplement.

(8) Briefcases or dispatch cases issued by NASA.

(9) Certificates covering authority to NASA and contractor security personnel to carry firearms.

(10) NASA occupied buildings when the use of the NASA Insignia is more appropriate than use of the NASA Seal.

(b) *Personal articles—NASA employees.*

(1) Business calling cards of NASA employees may carry the imprint of the NASA Insignia.

(2) Limited usage on automobiles. If determined appropriate by the cognizant Installation official, it is acceptable to place a NASA Insignia sticker on personal automobiles where such identification will facilitate entry or control of such vehicles at NASA Installations or parking areas.

(3) Personal items used in connection with NASA employees' recreation association activities.

(4) Items for sale through NASA employees' nonappropriated fund activities subject to paragraph (c) of this section.

(5) NASA employees shall not use the NASA Insignia in any manner that would imply that NASA endorses a commercial product, service, or activity or that material of a nonofficial nature represents NASA's official position.

(c) *Miscellaneous articles.* (1) The manufacture and commercial sale of the NASA Insignia as a separate and distinct device in the form of an emblem, patch, insignia, badge, decal, vinylcal, cloth, metal, or other material which would preclude NASA's control over its use or application is prohibited.

(2) Use of the NASA Uniform Patches, which incorporate the NASA Insignia, is authorized only as prescribed in the NASA Graphics Standards Manual and the NASA Insignia Standards Supplement, for NASA personnel and NASA contractor personnel identification.

(3) No approval for use of the NASA Insignia will be authorized when its use can be construed as an endorsement by NASA of a product or service.

(4) Items bearing the NASA Insignia such as souvenirs, novelties, toys, models, clothing, and similar items (including items for sale through the NASA employees' nonappropriated fund activities) may be manufactured and sold only after the NASA Insignia application has been submitted to, and approved by, the Associate Administrator for Public Affairs, or designee, NASA Headquarters, Washington, DC 20546.

(d) Use of the NASA Insignia for any other purpose than as prescribed in this section is prohibited, except that the Associate Administrator for Public Affairs may authorize on a case-by-case basis the use of the NASA Insignia for other purposes when the Associate Administrator for the Public Affairs deems such use to be appropriate.

§ 1221.111 Use of the NASA Logotype.

The NASA Logotype has been retired and is used only in an authentic historical context, and only with prior written approval of the NASA Administrator.

§ 1221.112 Use of the NASA Program Identifiers.

(a) Official NASA Program Identifiers will be restricted to the uses set forth in this section and to such other uses as the Associate Administrator for Public Affairs may specifically approve.

(b) Specific approval is given for the following uses:

(1) Use of exact reproductions of a badge in the form of a patch made of cloth or other material, or a decal, or a gummed sticker on articles of wearing apparel and personal property items; and

(2) Use of exact renderings of a badge on a coin, medal, plaque, or other commemorative souvenirs.

(c) The manufacture and sale or free distribution of identifiers for the uses approved or that may be approved under paragraphs (a) and (b) of this section are authorized.

(d) Portrayal of an exact reproduction of a badge in conjunction with the advertising of any product or service will be approved on a case-by-case basis by the Associate Administrator for Public Affairs.

(e) The manufacture, sale, or use of any colorable imitation of the design of an official NASA Program Identifier will not be approved.

§ 1221.113 Use of the NASA Flags.

(a) The NASA Flag is authorized for use only as follows:

(1) On or in front of NASA buildings.

(2) At NASA ceremonies.

(3) At conferences (including display in NASA conference rooms).

(4) At governmental or public appearances of NASA executives.

(5) In private offices of senior officials.

(6) As otherwise authorized by the NASA Administrator or designee.

(7) The NASA Flag must be displayed with the United States Flag. When the United States Flag and the NASA Flag are displayed on a speaker's platform in an auditorium, the United States Flag must occupy the position of honor and be placed at the speaker's right as the speaker faces the audience, with the NASA Flag at the speaker's left.

(b) The NASA Administrator's, Deputy Administrator's and Associate Deputy Administrator's Flags shall be displayed with the United States Flag in the respective offices of these officials but may be temporarily removed for use at the discretion of the officials concerned.

§ 1221.114 Approval of new or change proposals.

(a) Except for NASA Astronaut Mission Crew Badges/Patches, any proposal to change or modify the emblematic devices set forth in this subpart or to introduce a new emblematic device other than as prescribed in this subpart requires the written approval of the NASA Administrator with prior approval and recommendation of the Director, Public Services Division.

(b) In addition to the written approval of the NASA Administrator, any proposal for a new or for a modification to the design of the NASA Insignia may also be submitted to the Commission of Fine Arts for its advice as to the merit of the design. If approved in writing by the NASA Administrator and advice received from the Commission of Fine Arts, the NASA Insignia and the use of such NASA Insignia must be prescribed in this subpart and published in the **Federal Register.**

(c) Proposals to establish, change, or modify NASA Astronaut Crew Mission Badges/Patches requires the written approval of the Director, Flight Crew Operations, Johnson Space Center; Center Director, Johnson Space Center; and the Associate Administrator for Space Flight. Decals/patches/badges may be produced as soon as the approval cycle is completed.

§ 1221.115 Violations.

(a) *NASA Seal.* Any person who uses the NASA Seal in a manner other than as authorized in this subpart shall be subject to the provisions of Title 18 U.S.C. 1017.

(b) *NASA Insignia, NASA Logotype, and NASA Program Identifiers.* Any person who uses the NASA Insignia, NASA Logotype, or NASA Program Identifier in a manner other than as authorized in this subpart shall be subject to the provisions of title 18 U.S.C. 701.

§ 1221.116 Compliance and enforcement.

In order to ensure adherence to the authorized uses of the NASA Seal, the NASA Insignia, the NASA Logotype, NASA Program Identifiers, and the NASA Flags as provided, in this subpart, a report of each suspected violation of this subpart (including the use of unauthorized NASA Insignias) or of questionable usages of the NASA Seal, the NASA Insignia, the NASA

Logotype, NASA Program Identifiers, or the NASA Flags, shall be submitted to the Inspector General, NASA Headquarters, in accordance with NASA Management Instruction 9810.1, "The NASA Investigations Program."

Daniel S. Goldin,

Administrator.

[FR Doc. 93-27242 Filed 11-4-93; 8:45 am]

BILLING CODE 7510-01-M

DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Parts 1 and 5

Procedures for Predetermination of Wage Rates; Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction and to Certain Nonconstruction Contracts

AGENCY: Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Notice of suspension of regulations and reinstatement of former regulation.

SUMMARY: Congress has enacted legislation that prohibits the Department of Labor from implementing or administering, during fiscal year 1994, the Davis-Bacon "helper" regulations. President Clinton signed this legislation on October 21, 1993. Accordingly, the Department of Labor is suspending these regulations with respect to all contracts entered into on or after October 21, 1993.

EFFECTIVE DATE: October 21, 1993. This action is applicable only to contracts awarded on or after October 21, 1993.

FOR FURTHER INFORMATION CONTACT: William W. Gross, Acting Assistant Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, room S-3028, 200 Constitution Avenue NW., Washington, DC 20210. Telephone (202) 219-8353. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: On January 27, 1989, the Department of Labor published a final rule governing the use of semi-skilled helpers on federal and federally-assisted construction contracts subject to the Davis-Bacon and Related Acts (54 FR 4234). On December 4, 1990, the Department published a **Federal Register** notice implementing the helper regulations effective February 4, 1991 (55 FR 50148). In April 1991, Congress passed the Dire Emergency Supplemental Appropriations Act of 1991, Public Law 102-27 (105 Stat. 130), which was signed into law on April 10, 1991. Section 303 of Public Law 102-27 (105 Stat. 151) prohibited the Department of Labor from spending any funds to implement or administer the helper regulations as published, or implement or administer any other regulation that would have the same or similar effect. In compliance with this directive from the Congress, the Department did not implement or administer the helper regulations for the remainder of fiscal year 1991.

After fiscal year 1991 concluded and subsequent continuing resolutions expired, a new appropriations act was passed which did not include a ban restricting the implementation of the helper regulations. The Department issued All Agency Memorandum No. 161 on January 29, 1992, instructing the contracting agencies to include the helper contract clauses in contracts for which bids were solicited or negotiations were concluded after that date. On April 21, 1992, the United States Court of Appeals for the District of Columbia Circuit invalidated one of the provisions of these regulations that prescribed a maximum ratio governing the use of helpers, at 29 CFR 5.5(a)(4)(iv), and upheld the remaining helper provisions as valid (*Building and Construction Trades Department, AFL-CIO* v. *Martin*, 961 F.2d 269 (DC Cir. 1992)). On June 26, 1992, the Department issued a **Federal Register** notice removing 29 CFR 5.5(a)(4)(iv) from the Code of Federal Regulations to comply with the ruling of the court. Further advice regarding implementation of the helper regulations in light of the lifting of the appropriations ban and the court action was given in All Agency Memorandum No. 163, dated June 22, 1992, and All Agency Memorandum No. 165, dated July 24, 1992.

Section 104 of the Department of Labor Appropriations Act, 1994, Public Law 103-112, prohibits the Department of Labor from expending funds to implement or administer the helper regulations at 29 CFR 1.7(d), 5.2(n)(4), and 5.5(l)(ii)(A), published in the **Federal Register** at 54 FR 4234 (January 27, 1989). The conference report accompanying the appropriations measure states that the conferees are taking this action on a one-time basis and that it prohibits the Department from implementing, during fiscal year 1994 only, the Davis-Bacon helper regulations.

Accordingly, the regulations presently codified at 29 CFR 1.7(d), 5.2(n)(4), and 5.5(a)(1)(ii) are suspended until the Department of Labor publishes notice in the **Federal Register** that the prohibition on implementation of the regulations has been lifted. With respect to any contracts awarded on or after October 21, 1993, contracting agencies should advise contractors, except as set forth below, that helpers may not be used on such contracts. Additionally, contracting agencies should ensure that no other action is taken that would give force or effect to the helper regulations.

Prior to promulgation of the helper regulations which are being suspended by this notice, it was the policy of the Department that a helper classification would be approved only if it was a separate and distinct class of worker, that prevailed in the area, to perform duties that could be differentiated from the duties of journeylevel workers in the classification, as well as other classifications on the wage determination. Helpers could not ordinarily use "tools of the trade," nor could they be used as informal apprentices or trainees.

The suspension of these helper regulations reinstates this prior practice of the Department. Therefore the Department will issue helper classifications on wage determinations and approve additional helper classifications only if they meet the requirements set forth above. It has been the Department's practice, where helpers meet these requirements, to set forth a specific definition applicable to the particular classification in the wage determination. Therefore, a helper classification included in a wage determination may be utilized under contracts awarded on or after October 21, 1993, only if the wage determination includes a specific definition applicable to the particular helper classification. That definition shall apply in lieu of the definition in 29 CFR 5.2(n)(4), which is suspended by this notice.

Contracting agencies should also ensure that instead of the contract clause set forth at 29 CFR 5.5(a)(1)(ii), all contracts awarded on or after October 21, 1993, contain the contract clause which was in effect prior to implementing the revised helper regulations, and which is incorporated in the regulations at section 5.5(a)(1)(v) by this notice. This clause will be withdrawn when the appropriations bar is lifted and the suspended clause at 5.5(a)(1)(ii) is reinstated.

In the near future the Department will issue additional guidance regarding the effect of the prohibition in Public Law 103-112, on contracts entered into prior to and after October 21, 1993, by All-Agency Memorandum, to be published in the **Federal Register**.

Administrative Procedure Act

Pursuant to section 553(b)(B) of the Administrative Procedure Act, the Department finds that there is good cause for dispensing with notice and public comment concerning this suspension of a fiscal rule. Congress has directed that the Department not expend funds to implement or administer this rule for the duration of the fiscal year.

The Department also finds that there is good cause for waiving the 30-day delay in effectiveness under section 553(d)(3) of the Administrative Procedures Act, for the reason set forth above regarding waiver of prior notice and opportunity for public comment. Therefore this rule shall become effective upon October 21, 1993, the date of enactment of Public Law 103-112.

This document was prepared under the direction and control of Maria Echaveste, Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor.

List of Subjects

29 CFR Part 1

Administrative practice and procedures, Government contracts, Labor, Minimum wages, Wages.

29 CFR Part 5

Administrative practice and procedures, Government contracts, Labor, Minimum wages, Penalties, Reporting and recordkeeping requirements, Wages.

Accordingly, the following action is taken:

PART 1—PROCEDURES FOR PREDETERMINATION OF WAGE RATES

1. The authority citation for part 1 reads as follows:

Authority: 5 U.S.C. 301; R.S. 161, 64 Stat. 1267; Reorganization Plan No. 14 of 1950, 5 U.S.C. appendix; 29 U.S.C. 259; 40 U.S.C. 276a—276a-7; 40 U.S.C. 276c; and the laws listed in appendix A of this part.

2. Section 1.7(d) is suspended.

PART 5—LABOR STANDARDS PROVISIONS APPLICABLE TO CONTRACTS COVERING FEDERALLY FINANCED AND ASSISTED CONSTRUCTION (ALSO LABOR STANDARDS PROVISIONS APPLICABLE TO NONCONSTRUCTION CONTRACTS SUBJECT TO THE CONTRACT WORK HOURS AND SAFETY STANDARDS ACT)

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

Authority: 40 U.S.C. 276a-276a-7; 40 U.S.C. 276c; 40 U.S.C. 327-332; Reorganization Plan No. 14 of 1950, 5 U.S.C. appendix; 5 U.S.C. 301; and the statutes listed in section 5.1(a) of this part.

2. Section 5.2 (n)(4) is suspended.

3. Section 5.5(a)(1) is amended by suspending paragraph (a)(1)(ii) and by adding a new paragraph (a)(1)(v) to read as follows:

§ 5.5 Contract provisions and related matters.

(a) * * *

(1) * * *

(v)(A) The contracting officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

(*1*) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(*2*) The classification is utilized in the area by the construction industry; and

(*3*) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination with 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(v) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

Signed at Washington, DC, on this 29th day of October 1993.

Maria Echaveste,

Administrator, Wage and Hour Division.

[FR Doc. 93-27371 Filed 11-3-93; 11:03 am]

BILLING CODE 4510-27-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

RIN-0720-AA16

[DoD 6010.8-R]

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Specialized Treatment Services; Nonavailability Statements; Peer Review Organization Program; Supplemental Care

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This final rule: establishes a Specialized Treatment Services Program, under which CHAMPUS beneficiaries in need of certain highly specialized medical care will be referred to specially designated national or regional, military or civilian treatment facilities; revises a number of procedures applicable to the CHAMPUS Peer Review Organization program; and expands reliance on CHAMPUS payment rules and procedures for purposes of the supplemental care program, which applies to services provided by civilian providers to active duty members and certain other patients referred by military providers.

EFFECTIVE DATE: This final rule is effective December 6, 1993.

ADDRESSES: Office of the Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS), Office of Program Development, Aurora, CO 80045-6900. For copies of the **Federal Register** containing this final rule, contact the Superintendent of

Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783–3238.

FOR FURTHER INFORMATION CONTACT: Steve Lillie, Office of the Assistant Secretary of Defense for Health Affairs, telephone (703) 695–3350.

Questions regarding payment of specific claims should be addressed to the appropriate CHAMPUS contractor.

SUPPLEMENTARY INFORMATION:

I. Introduction and Background

A. Specialized Treatment Services Program

Under this rule, a new Specialized Treatment Services (STS) Program will be established, under an authority provided in the National Defense Authorization Act for Fiscal Year 1992. The STS Program will establish new requirements for CHAMPUS beneficiaries to obtain some highly specialized health care services from selected sources, either military or civilian. The specific types of care to be covered and the sites at which particular types of care must be obtained will be announced annually by the Assistant Secretary of Defense for Health Affairs. The program will operate through the designation and management of care within catchment areas, larger than the traditional catchment areas of about 40 miles around military hospitals. Two broad categories of specialized treatment services are established: first, for extraordinarily specialized care, such as some organ transplants, a nationwide catchment area could be established; second, for less extraordinary, but still highly specialized services, a catchment area of up to 200 miles could be established. Beneficiaries who live within the specified catchment area for a particular service will have to obtain the needed service from the designated source, unless they obtain a Nonavailability Statement (NAS). Existing NAS requirements also continue to apply.

B. Additional Nonavailability Statement Requirements

The proposed rule added a number of health care services to the list of those for which CHAMPUS beneficiaries must obtain a Nonavailability Statement (NAS) from their local military hospital before obtaining the service in the private sector. In part, these services were proposed to be added in response to a new statutory authority added by the National Defense Authorization Act for Fiscal Year 1992, which permits a hospital commander to consider the availability of services in a civilian provider network in determining whether to issue an NAS.

The additional NAS requirements in the proposed rule have not been included in this final rule, because of pending Congressional action on the 1994 Defense Authorization Act which may affect authority for additional NAS requirements. We anticipate issuance of a final rule amendment soon after enactment of the 1994 Defense Authorization Act.

C. Quality and Utilization Review Peer Review Organization Program

The rule establishes a set of common rules and procedures for the operation of all quality and utilization review activities under CHAMPUS. Such functions are conducted under contract by Regional Review Centers (formerly called Peer Review Organizations) and by other contractors with broad health care management responsibilities. The recently awarded CHAMPUS National Quality Management contract will incorporate oversight of quality and utilization review activities conducted for CHAMPUS.

D. Supplemental Care Program

The rule increases the reliance on CHAMPUS payment policies and practices for the operation of the Supplemental Care Program, which reimburses civilian providers for care rendered to active duty service members.

E. Miscellaneous Provisions

The rule contains additional provisions related to preauthorization of care, the impermissibility of waiving beneficiary cost sharing requirements, and other matters.

F. Public Comments

The proposed rule was published in the **Federal Register** on May 11, 1993. We received 16 comment letters; 15 were from providers and provider organizations, and one was from a beneficiary organization. Many of the letters were quite similar in comment and wording. Some were very detailed and provided helpful input. We thank those who provided comments. Specific matters raised by commenters and our analysis of the comments are summarized below.

II. Specialized Treatment Services Program

A. Provisions of Proposed Rule (Revisions to § 199.4(a) (10) and (11))

The proposed rule introduced a new program called the Specialized Treatment Services (STS) Program. This program would utilize two new statutory authorities included in the National Defense Authorization Act for Fiscal Year 1992. These are the authority to expand the normal 40-mile catchment area for purposes of NAS requirements (applicable during fiscal years 1992 and 1993) and the authority to consider also the availability of care in a designated civilian provider network when determining whether to issue an NAS. These authorities are provided in 10 U.S.C. 1079(a)(7) and 1105.

Under the STS Program, as proposed, certain military treatment facilities, based on demonstrated capability, would be designated as Specialized Treatment Services Facilities for certain highly specialized types of medical care. For example, for extremely specialized procedures such as specific organ transplants, one or more military STS Facilities may be designated for the United States. If so, beneficiaries requiring an organ transplant would, if medically appropriate, be referred to that facility.

Other types of procedures, less extraordinary than transplants, but still highly specialized, could be referred to a military STS Facility, if the beneficiary lives within a designated, regional catchment area of about 200 miles from the military STS Facility. An example of this type of care could be open heart surgery. The mechanism for requiring CHAMPUS beneficiaries to use the STS Facilities would be similar to the familiar NAS, with the difference being that for designated highly specialized care, the catchment area would not be the normal 40-mile radius area around a military hospital, but a nationwide or 200-mile catchment area.

In cases in which the needed care could not be provided by a designated military STS Provider, but could be provided in a similarly designated civilian STS Facility, the referral would be made to that facility.

As with the routine type of NAS within a 40-mile catchment area, if the needed care could not be provided by either a military or civilian STS Facility, an NAS would be issued, allowing the beneficiary to receive the care from any civilian facility that is an authorized CHAMPUS provider for that service. Similarly, if the care could be provided by a designated military or civilian STS Facility, an NAS would be denied and the beneficiary would not be authorized to use CHAMPUS benefits if the care were obtained elsewhere.

Recognizing that, even in cases in which care would be available from a designated STS Facility, there may be good reasons to waive the requirement because of medical factors or personal

or family hardship, the proposed rule included specific procedures for waivers to be requested and granted.

B. Analysis of Major Public Comments

1. Standards for Designation of STS Facilities

Several commenters expressed concern about standards for Specialized Treatment Service Facilities (STSFs), focusing on several related issues. First, commenters were concerned that military STSFs be required to meet the same standards for designation as civilian STSFs. Second, commenters were concerned that quality standards for STSFs be developed in consultation with civilian authorities, and that they be published for review and comment prior to implementation. Lastly, an organization representing providers of care to children suggested that separate standards be used for pediatric care, that military STSFs not be designated for pediatric care unless they meet those special standards, and that pediatric care be exempted from the explicit preference of military STSFs over civilian STSFs.

Response. The proposed rule specified in § 199.4(a)(10)(x) that military or civilian STSFs would be required to meet quality standards established by the Assistant Secretary of Defense for Health Affairs, to be based on nationally recognized standards to the extent feasible. Also, § 199.4(a)(11)(iv)(B) specified that civilian STSFs would be designated on the basis of standards similar to those applicable to designation of military STSFs. Another relevant provision is § 199.4(a)(11)(v), which specified that military STSFs be given preference over civilian STSFs if both are available.

Our assessment is that the proposed § 199.4(a)(10)(x) provisions are adequate to assure that military and civilian STSFs must meet the same standards. On the issue of consultation with civilian authorities in development of standards, we agree, and have modified this provision to provide for such consultation in the development of standards.

We disagree that publication of proposed standards for comment is necessary or appropriate. The development and refinement of standards will call for an effective dialogue among DoD health professionals, officials of other Federal agencies, representatives of medical specialty societies, and other interested parties, rather than something akin to the rulemaking process.

Regarding special treatment of pediatric care under the STS program, we agree that the special needs of sick children demand careful consideration. The development of separate standards for pediatric care, where clinically appropriate, will be an important component of the STS program, and the rule makes clear that any facility, military or civilian, must meet the standards established in order to qualify for designation as an STSF. Given this, we do not believe that a blanket exemption of pediatric care from military hospital preference is warranted. A military hospital which is designated as an STSF for a particular service will meet quality standards comparable to those applicable to civilian facilities similarly designated.

2. Reimbursement of Travel Costs for the Patient and an Accompanying Family Member

One commenter raised concerns about the financial burden of potential high travel costs associated with the requirement to use regional or national STSFs for health care services, and suggested that travel costs for the patient and at least one accompanying family member be reimbursed by the Government.

Response. We agree. We have added a new paragraph to § 199.4(a)(10) regarding the potential availability of reimbursement of transportation and lodging costs for the patient and one accompanying family member in STSF cases. Authority for such reimbursement is included in the FY 1994 Defense Authorization Act.

3. Exception Criteria for Children

Several commenters suggested that the special needs of children demand (1) development of specific exception criteria which would favor use of pediatric facilities close to home rather than making children travel long distances for specialized care, and (2) development of explicit pediatric emergency care exemption criteria for children for STSFs as well as for standard NAS requirements.

Response. We acknowledge that children may have differing needs from adults and that special consideration is warranted in some circumstances. However, on the issue of separate criteria to favor pediatric facilities closer to a patient's home, it seems more appropriate to rely on the development of appropriate standards for STSF designation, as well as on the exception and waiver processes built into the rule at § 199.4(a)(10) (vi) and (vii). It should be noted that the exception criteria in the rule allow consideration of exceptions on grounds of medical inappropriateness and, in addition, because of family hardship. These provisions are intended to assure that maximum consideration is given to accommodating the needs of patients and their families in the administration of the program.

Involvement of civilian medical specialty societies and other appropriate parties in the standards development process will assure that full consideration of the special needs of children, as well as other patient groups, is incorporated. An essential component of the standards for STSFs, as well as of the administration of the exception and waiver processes, will be assuring that beneficiaries' health is not put at risk because of travel burdens.

In a similar vein, it does not seem appropriate to embrace, as a universal constant, separate pediatric emergency care exemption criteria for STSFs and for standard NAS requirements. Rather, responsible administration of the requirements demand careful, well-informed consideration of the health needs of the individual patient on a case-by-case basis. The blanket exemptions for emergencies provided in § 199.4(a)(10)(vi)(A) of the proposed rule for STSF cases, and in § 199.4(a)(9)(i) of the existing regulation for non-STSF cases would appear to provide adequate regulatory protections. Assuring appropriate recognition of emergency cases is an administrative issue, not requiring special regulatory provisions.

4. Application for Designation as a Civilian STSF

Several commenters, representing providers of highly specialized diagnostic or therapeutic services, expressed interest in being designated as the civilian STSF for a particular type of service, and desired information on the process which DoD would undertake to identify civilian STSFs.

Response. Designation of civilian STSFs will be carried out in accordance with applicable acquisition law. For example, DoD has some ongoing procurements for regional, at-risk contracts for CHAMPUS services, and anticipates additional procurements in the future. Requirements for regional STSFs might be incorporated into such procurements. Another possibility would be separate procurements for STSF activities. When acquisitions are undertaken, notice will be given in accordance with applicable procedures, including publication in the Commerce Business Daily.

5. Waiver Criteria

One commenter raised concerns regarding the criteria for medical

appropriateness waivers of the requirement to use an STSF. The commenter suggested that special consideration be given to the need for follow-up treatment, such as radiation or chemotherapy in cancer cases, which might weigh in favor of local provision of some services. On the issue of hardship waivers, the commenter suggested that obtaining such waivers could be made more difficult by the explicit preference for military STSFs stated in § 199.4(a)(11)(v), and by the fact that waivers are based on the medical judgment of the military hospital commander, who may have a conflict of interest.

Response. On the issue of criteria for issuing waivers, we agree that considerations such as those suggested by the commenter should be among those weighed in the decision whether to grant a waiver. Both the medical waiver and the hardship waiver process are intended to give sufficient latitude for consideration of all significant factors; provisions for written determinations and appeals of determinations are intended to maximize beneficiary protections.

Regarding the preference for military facilities in § 199.4(a)(11)(v), this provision is not intended to influence the decision making process regarding medical appropriateness or hardship waivers; rather, in accordance with long-standing Congressional and DoD policies, it is intended only to maximize use of military facilities, where the Government has a substantial investment, in cases where the appropriateness of a case for STS referral is not in question.

The appropriateness of the military STSF commander being empowered as the decision maker on waivers is not, in our view, problematic. The predominant interests of this senior military officer will be first, assuring that the individual patient has a successful outcome; and second, that the STS program operates successfully on the whole at the facility. That will hinge on the quality of care rendered, the successful outcomes of treatment, and beneficiary satisfaction with the program. Also, as noted above, the waiver process requires that a written decision on the waiver request be provided, and that an additional level of appeal be made available to the beneficiary.

6. Classification of Procedures as "Highly Specialized"

One commenter questioned the inclusion of inpatient diagnoses with a DRG weight of 2.0 or greater as "highly specialized," suggesting that many items in that category would not warrant designation as STS procedures.

Response. We agree that many diagnoses with a DRG weight of 2.0 or more will not warrant inclusion in the STS Program because of their wide availability and other characteristics. It is our intention to designate annually the specific types of cases to which STS provisions will apply. The limitation to diagnoses with a DRG weight of 2.0 or more is only intended to limit consideration to those cases which, by definition, are at least twice as complex as the average case.

C. Provisions of the Final Rule

The final rule is consistent with the proposed rule except that § 199.4(a)(11)(iv)(B) has been modified to provide for consultation with medical specialty groups and other appropriate parties in the development of standards for STSFs.

III. Additional Nonavailability Statement Requirements

A. Provisions of Proposed Rule (Revisions to § 199.4(a)(9) and 199.4(a)(11))

The proposed rule expanded the requirements for NASs for outpatient care to include most outpatient surgery, major diagnostic procedures (endoscopic procedures and invasive radiologic procedures), certain courses of therapy, and routine prenatal care. CHAMPUS beneficiaries would be required to obtain such services in the military treatment facility unless they had other primary insurance coverage.

B. Provisions of the Final Rule

The final rule does not include the provisions of the proposed rule associated with the expanded NAS requirements, because of pending action on the FY 1994 National Defense Authorization Act. The final rule restricts consideration of availability of services from civilian providers to specialized treatment services only. We expect to issue a final rule on the subject of expanded NAS requirements soon after enactment of the FY 1994 National Defense Authorization Act.

IV. Quality and Utilization Review Peer Review Organization Program

A. Provisions of Proposed Rule (Revisions to § 199.15)

The CHAMPUS Quality and Utilization Review Peer Review Organization Program has been in operation for several years, several times expanded to cover additional activities. In connection with ongoing program improvements, quality and utilization review activities under CHAMPUS will again expand. For this reason, the proposed rule included revisions to § 199.15 of the CHAMPUS regulation to address a number of rules and procedures concerning this program.

The principal thrust of these proposals is to establish a common set of rules and procedures for all of the utilization and quality review activities under CHAMPUS. This includes functions conducted by regional contractors whose sole responsibilities are under this program (previously referred to as Peer Review Organizations; now called Regional Review Centers) and similar activities conducted by contractors with broad health care management responsibilities.

Included in the proposed rule was a provision that would apply current procedures for limitations on beneficiary liability in connection with health care services determined to have been not medically necessary to all utilization review activities under CHAMPUS. Similarly, broad authority for requiring preauthorization approvals was proposed. Services actually subject to preauthorization requirements could, subject to the approval of the Assistant Secretary of Defense for Health Affairs, vary in different localities, but medical standards and basic rules and procedures would be the same.

The proposed rule also included a number of detailed provisions concerning payment reductions when providers fail to comply with required utilization review procedures, special procedures in cases in which peer review activities are carried out by contractors with broad responsibilities for the delivery and financing of services, and other matters.

B. Analysis of Major Public Comments

1. Reductions in Payments for Noncompliance With Utilization Review Requirements

One commenter suggested that provisions be included for exceptions to the rule barring provider payments in cases where preauthorization of an admission is not obtained timely, if compelling circumstances explain the delay and necessity for the services can be retroactively determined. Other commenters suggested that reducing DRG-based payments for noncompliance with preauthorization requirements is unfair because the prospective payment approach already provides incentives for efficiency. In addition, some commenters suggested that the calculation of the penalty for noncompliance DRG cases was punitive,

because it is based on the average length of stay for the diagnosis, so that cases with exceptionally long stays could see a dramatic payment reduction for a minor violation.

Response. Proposed § 199.15(b)(4)(iii) would reduce allowable payments by 10 percent for failure to comply with preauthorization requirements. This seems to us a reasonable reduction for noncompliance with well-publicized, easily-met administrative requirements, even under the DRG-based payment system, where other incentives to encourage appropriate care are at play. Many health care programs impose even more onerous utilization review requirements, and may bar payment completely in cases of noncompliance. Finally, § 199.15(b)(4)(iii)(C) provides for a waiver of the payment reduction when the provider could not reasonably have been expected to know of the preauthorization requirement or some other special circumstance justifies the waiver.

Regarding the assertion that the calculation method for DRG cases is potentially excessive because long-stay cases may be unfairly affected, we agree, and will revise the calculation methodology to use the proportion of the number of days which violated preauthorization procedures to the actual length of stay for the case.

C. Provisions of the Final Rule

The final rule is consistent with the proposed rule except that § 199.15(b)(4)(iii)(B) has been revised to incorporate the actual length of stay for DRG case rather than the average length of stay in the calculation of payment reductions.

V. Application of Additional CHAMPUS Payment and Related Rules to Supplemental Care Program

A. Provisions of the Proposed Rule (Revisions to § 199.16)

As part of the Department of Defense's ongoing efforts to improve coordination between military treatment facilities and CHAMPUS, the proposed rule expanded on the current practice of using CHAMPUS payment rules to reimburse providers for care provided to active duty members under the Supplemental Care Program. This is currently the practice with respect to all inpatient hospital care covered by the CHAMPUS DRG-based payment system.

The proposed rule, under the authority of 10 U.S.C. section 1074(c), included a provision to extend this practice to all services provided by CHAMPUS-authorized providers to active duty members (and in other special cases involving military treatment facility patients referred for civilian health care services but not disengaged from the MTF). Waiver authority exists to exceed CHAMPUS allowable payment amounts if necessary to assure availability of services. Because CHAMPUS allowable payment amounts are quite reasonable, we believe that the vast majority of providers will accept these payment amounts for care provided to active duty members of the uniformed services, and waivers will be needed very rarely.

B. Analysis of Major Public Comments

No public comments were received on this portion of the proposed rule.

C. Provisions of the Final Rule

The final rule is consistent with the proposed rule.

VI. Miscellaneous Provisions

A. Provisions of the Proposed Rule

The proposed rule contained a number of other provisions, including some proposed technical and conforming amendments. These include the following:

- Certain preadmission authorization requirements for mental health services would conform with similar requirements for other services. See section 199.4(a)(12)(ii)(B).
- Provisions generally making preauthorization approvals valid for 90 days would be replaced by a general 30 day standard, which may be varied based on the circumstances presented in any given case. See sections 199.4(b)(4)(viii)(D), 199.7(f)(1)(ii), and 199.15(b)(4)(ii).
- A long-standing CHAMPUS interpretation of applicable legal requirements would be expressly stated in the rule concerning the general impermissibility of waiving beneficiary cost sharing requirements. See section 199.4(f)(9).
- A 60-day deadline, similar to a Medicare requirement, would be established for hospitals to request reclassification of a claim into a higher weighted DRG.

B. Analysis of Major Public Comments

No public comments were received on this portion of the proposed rule.

C. Provisions of the Final Rule

The final rule is consistent with the proposed rule.

VII. Regulatory Procedures

Executive Order 12866 requires certain regulatory assessments for any "significant regulatory action," defined as one which would result in an annual effect on the economy of $100 million or more, or have other substantial impacts.

The Regulatory Flexibility Act (RFA) requires that each Federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues a regulation which would have a significant impact on a substantial number of small entities.

This is not a significant regulatory action under the provisions of Executive Order 12866, and it would not have a significant impact on a substantial number of small entities.

This rule imposes no additional information collection requirements on the public under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3511).

Accodingly, 32 CFR part 199 is amended as follows:

PART 199—[AMENDED]

1. The authority citation for part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. 1079, 1086.

2. Section 199.2(b) is amended by adding the definition "Specialized Treatment Service Facility" and placing it in alphabetical order to read as follows:

§ 199.2 Definitions.

* * * * *

(b) * * *

Specialized Treatment Service Facility. A military or civilian medical treatment facility specifically designated pursuant to § 199.4(a)(10) to be a referral facility for certain highly specialized care. For this purpose, a civilian medical treatment facility may be another federal facility (such as a Department of Veterans Affairs hospital).

* * * * *

3. Section 199.4 is amended by revising the heading for paragraph (a)(9), paragraph (a)(10), paragraph (a)(11), paragraph (a)(12)(ii)(B), paragraph (a)(13), and paragraph (b)(4)(viii)(D); by removing the NOTE at the end of paragraph (a)(9)(i)(C) and removing and reserving paragraph (f)(6); and by adding paragraph (a)(9)(i)(D) and paragraph (f)(9) to read as follows:

§ 199.4 Basic program benefits.

(a) *General.* * * *

* * * * *

(9) *Nonavailability Statements within a 40-mile catchment area.* * * *

(i) * * *

(D) In addition to NAS requirements set forth in paragraph (a)(9) of this

section, additional NAS requirements are established pursuant to paragraph (a)(10) of this section in connection with highly specialized care in national or 200-mile catchment areas of military or civilian STS facilities.

(10) *Nonavailability Statements in national or 200-mile catchment areas for highly specialized care available in selected military or civilian Specialized Treatment Service Facilities*—(i) *Specialized Treatment Service Facilities.* STS Facilities may be designated for certain high cost, high technology procedures. The purpose of such designations is to concentrate patient referrals for certain highly specialized procedures which are of relatively low incidence and/or relatively high per-case cost and which require patient concentration to permit resource investment and enhance the effectiveness of quality assurance efforts.

(ii) *Designation.* Selected military treatment facilities and civilian facilities will be designated by the Assistant Secretary of Defense for Health Affairs as STS Facilities for certain procedures. These designations will be based on the highly specialized capabilities of those selected facilities. For each STS designation for which NASs in national or 200-mile catchment areas will be required, there shall be a determination that total government costs associated with providing the service under the Specialized Treatment Services program will in the aggregate be less than the total government cost of that service under the normal operation of CHAMPUS. There shall also be a determination that the Specialized Treatment Services Facility meets a standard of excellence in quality comparable to that prevailing in other highly specialized medical centers in the nation or region that provide the services involved.

(iii) *Organ transplants and similar procedures.* For organ transplants and procedures of similar extraordinary specialization, military or civilian STS Facilities may be designated for a nationwide catchment area, covering all 50 states, the District of Columbia and Puerto Rico (or, alternatively, for any portion of such a nationwide area).

(iv) *Other highly specialized procedures.* For other highly specialized procedures, military or civilian STS Facilities will be designated for catchment areas of up to approximately 200 miles radius. The exact geographical area covered for each STS Facility will be identified by reference to State and local governmental jurisdictions, zip code groups or other method to describe an area within an approximate radius of 200 miles from the facility. In paragraph (a)(10) of this section, this catchment area is referred to as a "200-mile catchment area".

(v) *NAS requirement.* For procedures subject to a nationwide catchment area NAS requirement under paragraph (a)(10)(iii) of this section or a 200-mile catchment area NAS requirement under paragraph (a)(10)(iv) of this section, CHAMPUS cost sharing is not allowed unless the services are obtained from a designated civilian Specialized Treatment Services program (as authorized) or an NAS has been issued. This rule is subject to the exceptions set forth in paragraph (a)(10)(vi) of this section. This NAS requirement is a general requirement of the CHAMPUS program.

(vi) *Exceptions.* Nationwide catchment areas NASs and 200-mile catchment area NASs are not required in any of the following circumstances:

(A) An emergency.

(B) When another insurance plan or program provides the beneficiary primary coverage for the services.

(C) A case-by-case waiver is granted based on a medical judgment made by the commander of the STS Facility (or other person designated for this purpose) that, although the care is available at the facility, it would be medically inappropriate because of a delay in the treatment or other special reason to require that the STS Facility be used; or

(D) A case-by-case waiver is granted by the commander of the STS Facility (or other person designated for this purpose) that, although the care is available at the facility, use of the facility would impose exceptional hardship on the beneficiary or the beneficiary's family.

(vii) *Waiver process.* A process shall be established for beneficiaries to request a case-by-case waiver under paragraphs (a)(10)(vi) (C) and (D) of this section. This process shall include:

(A) An opportunity for the beneficiary (and/or the beneficiary's physician) to submit information the beneficiary believes justifies a waiver.

(B) A written decision from a person designated for the purpose on the request for a waiver, including a statement of the reasons for the decision.

(C) An opportunity for the beneficiary to appeal an unfavorable decision to a designated appeal authority not involved in the initial decision; and

(D) A written decision on the appeal, including a statement of the reasons for the decision.

(viii) *Notice.* The Assistant Secretary of Defense for Health Affairs will annually publish in the **Federal Register** a notice of all military and civilian STS Facilities, including a listing of the several procedures subject to nationwide catchment area NASs and the highly specialized procedures subject to 200-mile catchment area NASs.

(ix) *Specialized procedures.* Highly specialized procedures that may be established as subject to 200-mile catchment area NASs are limited to:

(A) Medical and surgical diagnoses requiring inpatient hospital treatment of an unusually intensive nature, documented by a DRG-based payment system weight (pursuant to § 199.14(a)(1)) for a single DRG or an aggregated DRG weight for a category of DRGs of at least 2.0 (i.e., treatment is at least two times as intensive as the average CHAMPUS inpatient case).

(B) Diagnostic or therapeutic services, including outpatient services, related to such inpatient categories of treatment.

(C) Other procedures which require highly specialized equipment the cost of which exceeds $1,000,000 (e.g., lithotriptor, positron emission tomography equipment) and such equipment is underutilized in the area; and

(D) Other comparable highly specialized procedures as determined by the Assistant Secretary of Defense for Health Affairs.

(x) *Quality standards.* Any facility designated as a military or civilian STS Facility under paragraph (a)(10) of this section shall be required to meet quality standards established by the Assistant Secretary of Defense for Health Affairs. In the development of such standards, the Assistant Secretary shall consult with relevant medical specialty societies and other appropriate parties. To the extent feasible, quality standards shall be based on nationally recognized standards.

(xi) *NAS procedures.* The provisions of paragraphs (a)(9)(ii) through (a)(9)(v) of this section regarding procedures applicable to NASs shall apply to expanded catchment area NASs required by paragraph (a)(10) of this section.

(xii) *Travel and lodging expenses.* In accordance with guidelines issued by the Assistant Secretary of Defense for Health Affairs, certain travel and lodging expenses associated with services under the Specialized Treatment Services program may be fully or partially reimbursed.

(xiii) *Preference for military facility use.* In any case in which services subject to an NAS requirement under paragraph (a)(10) of this section are available in both a military STS Facility

and from a civilian STS Facility, the military Facility must be used unless use of the civilian Facility is specifically authorized.

(11) *Quality and Utilization Review Peer Review Organization program.* All benefits under the CHAMPUS program are subject to review under the CHAMPUS Quality and Utilization Review Peer Review Organization program pursuant to § 199.15. (Utilization and quality review of mental health services are also part of the Peer Review Organization program, and are addressed in paragraph (a)(12) of this section.)

(12) * * *

(ii) *Preadmission authorization.*

* * *

(B) In cases of noncompliance with preauthorization requirements, a payment reduction shall be made in accordance with § 199.15(b)(4)(iii).

* * * * *

(13) *Implementing instructions.* The Director, OCHAMPUS shall issue policies, procedures, instructions, guidelines, standards and/or criteria to implement this section.

(b) *Institutional benefits.* * * *

(4) *Services and supplies provided by RTCs*—* * *

(viii) *Preauthorization requirement.*

* * *

(D) Preauthorization requests should be made not fewer than two business days prior to the planned admission. In general, the decision regarding preauthorization shall be made within one business day of receipt of a request for preauthorization, and shall be followed with written confirmation. Preauthorizations are valid for the period of time, appropriate to the type of care involved, stated when the preauthorization is issued. In general, preauthorizations are valid for 30 days.

* * * * *

(f) * * *

(9) *Waiver of deductible amounts or cost-sharing not allowed*—(i) *General rule.* Because deductible amounts and cost sharing are statutorily mandated, except when specifically authorized by law (as determined by the Director, OCHAMPUS), a provider may not waive or forgive beneficiary liability for annual deductible amounts or inpatient or outpatient cost sharing, as set forth in this section.

(ii) *Exception for bad debts.* This general rule is not violated in cases in which a provider has made all reasonable attempts to effect collection, without success, and determines in accordance with generally accepted fiscal management standards that the beneficiary liability in a particular case is an uncollectible bad debt.

(iii) *Remedies for noncompliance.* Potential remedies for noncompliance with this requirement include:

(A) A claim for services regarding which the provider has waived the beneficiary's liability may be disallowed in full, or, alternatively, the amount payable for such a claim may be reduced by the amount of the beneficiary liability waived.

(B) Repeated noncompliance with this requirement is a basis for exclusion of a provider.

* * * * *

4. Section 199.6 is amended by revising paragraph (b)(1)(i) to read as follows:

§ 199.6 Authorized providers.

* * * * *

(b) *Institutional providers*

(1) *General.* * * *

(i) *Preauthorization.* Preauthorization may be required by the Director, OCHAMPUS for any health care service for which payment is sought under CHAMPUS. (See §§ 199.4 and 199.15 for further information on preauthorization requirements.)

* * * * *

5. Section 199.7 is amended by revising paragraph (f)(1)(ii) to read as follows:

§ 199.7 Claims submission, review, and payment.

* * * * *

(f) *Preauthorization.* * * *

(1) *Preauthorization must be granted before benefits can be extended.* * * *

(ii) *Time limit on preauthorization.* Approved preauthorizations are valid for specific periods of time, appropriate for the circumstances presented and specified at the time of the preauthorization is approved. In general, preauthorization are valid for 30 days. If the preauthorized service or supplies are not obtained or commenced within the specified time limit, a new preauthorization is required before benefits may be extended.

* * * * *

6. Section 199.14 is amended by revising paragraph (a)(1)(i)(C)(*1*) to read as follows:

§ 199.14 Provider reimbursement methods.

(a) Hospitals. * * *

(1) *CHAMPUS Diagnosis Related Group (DRG)-based payment system.*

* * *

(i) *General.* * * *

(C) *Basis of payment.*

(*1*) *Hospital billing.* Under the CHAMPUS DRG-based payment system, hospitals are required to submit claims (including itemized charges) in accordance with § 199.7(b). The CHAMPUS fiscal intermediary will assign the appropriate DRG to the claim based on the information contained in the claim. Any request from a hospital for reclassification of a claim to a higher weighted DRG must be submitted, within 60 days from the date of the initial payment, in a manner prescribed by the Director, OCHAMPUS.

* * * * *

7. Section 199.15 is amended by revising the section heading, paragraphs (a), (b), (f) and (i)(4) and by removing paragraph (c)(5) to read as follows:

§ 199.15 Quality and utilization review peer review organization program.

(a) *General.*

(1) *Purpose.* The purpose of this section is to establish rules and procedures for the CHAMPUS Quality and Utilization Review Peer Review Organization program.

(2) *Applicability of program.* All claims submitted for health services under CHAMPUS are subject to review for quality of care and appropriate utilization. The Director, OCHAMPUS shall establish generally accepted standards, norms and criteria as are necessary for this program of utilization and quality review. These standards, norms and criteria shall include, but not be limited to, need for inpatient admission or inpatient or outpatient service, length of inpatient stay, intensity of care, appropriateness of treatment, and level of institutional care required. The Director, OCHAMPUS may issue implementing instructions, procedures and guidelines for retrospective, concurrent and prospective review.

(3) *Contractor implementation.* The CHAMPUS Quality and Utilization Review Peer Review Organization program may be implemented through contracts administered by the Director, OCHAMPUS. These contractors may include contractors that have exclusive functions in the area of utilization and quality review, fiscal intermediary contractors (which perform these functions along with a broad range of administrative services), and managed care contractors (which perform a range of functions concerning management of the delivery and financing of health care services under CHAMPUS). Regardless of the contractors involved, utilization and quality review activities follow the same standards, rules and procedures set forth in this section, unless otherwise specifically provided in this section or elsewhere in this part.

(4) *Medical issues affected.* The CHAMPUS Quality and Utilization Review Peer Review Organization

program is distinguishable in purpose and impact from other activities relating to the administration and management of CHAMPUS in that the Peer Review Organization program is concerned primarily with medical judgments regarding the quality and appropriateness of health care services. Issues regarding such matters as benefit limitations are similar, but, if not determined on the basis of medical judgments, are governed by CHAMPUS rules and procedures other than those provided in this section. (See, for example, § 199.7 regarding claims submission, review and payment.) Based on this purpose, a major attribute of the Peer Review Organization program is that medical judgments are made by (directly or pursuant to guidelines and subject to direct review) reviewers who are peers of the health care providers providing the services under review.

(5) *Provider responsibilities.* Because of the dominance of medical judgments in the quality and utilization review program, principal responsibility for complying with program rules and procedures rests with health care providers. For this reason, there are limitations, set forth in this section and in § 199.4(h), on the extent to which beneficiaries may be held financially liable for health care services not provided in conformity with rules and procedures of the quality and utilization review program concerning medical necessity of care.

(6) *Medicare rules used as model.* The CHAMPUS Quality and Utilization Review Peer Review Organization program, based on specific statutory authority, follows many of the quality and utilization review requirements and procedures in effect for the Medicare Peer Review Organization program, subject to adaptations appropriate for the CHAMPUS program.

(b) *Objectives and general requirements of review system*—(1) *In general.* Broadly, the program of quality and utilization review has as its objective to review the quality, completeness and adequacy of care provided, as well as its necessity, appropriateness and reasonableness.

(2) *Payment exclusion for services provided contrary to utilization and quality standards.* (i) In any case in which health care services are provided in a manner determined to be contrary to quality or necessity standards established under the quality and utilization review program, payment may be wholly or partially excluded.

(ii) In any case in which payment is excluded pursuant to paragraph (b)(2)(i) of this section, the patient (or the patient's family) may not be billed for the excluded services.

(iii) Limited exceptions and other special provisions pertaining to the requirements established in paragraphs (b)(2) (i) and (ii) of this section, are set forth in § 199.4(h).

(3) *Review of services covered by DRG-based payment system.* Application of these objectives in the context of hospital services covered by the DRG-based payment system also includes a validation of diagnosis and procedural information that determines CHAMPUS reimbursement, and a review of the necessity and appropriateness of care for which payment is sought on an outlier basis.

(4) *Preauthorization and other utilization review procedures*—(i) *In general.* All health care services for which payment is sought under CHAMPUS are subject to review for appropriateness of utilization. The procedures for this review may be prospective (before the care is provided), concurrent (while the care is in process), or retrospective (after the care has been provided). Regardless of the procedures of this utilization review, the same generally accepted standards, norms and criteria for evaluating the necessity, appropriateness and reasonableness of the care involved shall apply. The Director, OCHAMPUS shall establish procedures for conducting reviews, including identification of types of health care services for which preauthorization or concurrent review shall be required. Preauthorization or concurrent review may be required for any categories of health care services. Except where required by law, the categories of health care services for which preauthorization or concurrent review is required may vary in different geographical locations or for different types of providers.

(ii) *Preauthorization procedures.* With respect to categories of health care (inpatient or outpatient) for which preauthorization is required, the following procedures shall apply:

(A) The requirement for preauthorization shall be widely publicized to beneficiaries and providers.

(B) All requests for preauthorization shall be responded to in writing. Notification of approval or denial shall be sent to the beneficiary. Approvals shall specify the health care services and supplies approved and identify any special limits or further requirements applicable to the particular case.

(C) An approved preauthorization shall state the number of days, appropriate for the type of care involved, for which it is valid. In general, preauthorizations will be valid for 30 days. If the services or supplies are not obtained within the number of days specified, a new preauthorization request is required.

(iii) *Payment reduction for noncompliance with required utilization review procedures.* (A) Paragraph (b)(4)(iii) of this section applies to any case in which:

(*1*) A provider was required to obtain preauthorization or continued stay (in connection with required concurrent review procedures) approval.

(*2*) The provider failed to obtain the necessary approval; and

(*3*) The health care services have not been disallowed on the basis of necessity, appropriateness or reasonableness.

In such a case, reimbursement will be reduced, unless such reduction is waived based on special circumstances.

(B) In a case described in paragraph (b)(4)(iii)(A) of this section, reimbursement will be reduced, unless such reduction is waived based on special circumstances. The amount of this reduction shall be ten percent of the amount otherwise allowable for services for which preauthorization (including preauthorization for continued stays in connection with concurrent review requirements) approval should have been obtained, but was not obtained. In the case of hospital admissions reimbursed under the DRG-based payment system, the reduction shall be taken against the percentage (between zero and 100 percent) of the total reimbursement equal to the number of days of care provided without preauthorization approval, divided by the total length of stay for the admission. In the case of institutional payments based on per diem payments, the reduction shall be taken only against the days of care provided without preauthorization approval. For care for which payment is on a per service basis, the reduction shall be taken only against the amount that relates to the services provided without preauthorization approval. Unless otherwise specifically provided under procedures issued by the Director, OCHAMPUS, the effective date of any preauthorization approval shall be the date on which a properly submitted request was received by the review organization designated for that purpose.

(C) The payment reduction set forth in paragraph (b)(4)(iii)(B) of this section may be waived by the Director, OCHAMPUS when the provider could not reasonably have been expected to know of the preauthorization

requirement or some other special circumstance justifies the waiver.

(D) Services for which payment is disallowed under paragraph (b)(4)(iii) of this section may not be billed to the patient (or the patient's family).

* * * * *

(f) *Special procedures in connection with certain types of health care services or certain types of review activities*—(1) *In general.* Many provisions of this section are directed to the context of services covered by the CHAMPUS DRG-based payment system. This section, however, is also applicable to other services. In addition, many provisions of this section relate to the context of peer review activities performed by Peer Review Organizations whose sole functions for CHAMPUS relate to the Quality and Utilization Review Peer Review Organization program. However, it also applies to review activities conducted by contractors who have responsibilities broader than those related to the quality and utilization review program. Paragraph (f) of this section authorizes certain special procedures that will apply in connection with such services and such review activities.

(2) *Services not covered by the DRG-based payment system.* In implementing the quality and utilization review program in the context of services not covered by the DRG-based payment system, the Director, OCHAMPUS may establish procedures, appropriate to the types of services being reviewed, substantively comparable to services covered by the DRG-based payment system regarding obligations of providers to cooperate in the quality and utilization review program, authority to require appropriate corrective actions and other procedures. The Director, OCHAMPUS may also establish such special, substantively comparable procedures in connection with review of health care services which, although covered by the DRG-based payment method, are also affected by some other special circumstances concerning payment method, nature of care, or other potential utilization or quality issue.

(3) *Peer review activities by contractors also performing other administration or management functions*—(i) *Sole-function PRO versus multi-function PRO.* In all cases, peer review activities under the Quality and Utilization Review Peer Review Organization program are carried out by physicians and other qualified health care professionals, usually under contract with OCHAMPUS. In some cases, the Peer Review Organization contractor's only functions are pursuant to the quality and utilization review program. In paragraph (f)(3) of this section, this type of contractor is referred to as a "sole function PRO." In other cases, the Peer Review Organization contractor is also performing other functions in connection with the administration and management of CHAMPUS. In paragraph (f)(3) of this section, this type of contractor is referred to as a "multi-function PRO." As an example of the latter type, managed care contractors may perform a wide range of functions regarding management of the delivery and financing of health care services under CHAMPUS, including but not limited to functions under the Quality and Utilization Review Peer Review Organization program.

(ii) *Special rules and procedures.* With respect to multi-function PROs, the Director, OCHAMPUS may establish special procedures to assure the independence of the Quality and Utilization Review Peer Review Organization program and otherwise advance the objectives of the program. These special rules and procedures include, but are not limited to, the following:

(A) A reconsidered determination that would be final in cases involving sole-function PROs under paragraph (i)(2) of this section will not be final in connection with multi-function PROs. Rather, in such cases (other than any case which is appealable under paragraph (i)(3) of this section), an opportunity for a second reconsideration shall be provided. The second reconsideration will be provided by OCHAMPUS or another contractor independent of the multi-function PRO that performed the review. The second reconsideration may not be further appealed by the provider.

(B) Procedures established by paragraphs (g) through (m) of this section shall not apply to any action of a multi-function PRO (or employee or other person or entity affiliated with the PRO) carried out in performance of functions other than functions under this section.

* * * * *

(i) *Appeals and hearings.* * * *

(4) For purposes of the hearing process, a PRO reconsidered determination shall be considered as the procedural equivalent of a formal review determination under § 199.10, unless revised at the initiative of the Director, OCHAMPUS prior to a hearing on the appeal, in which case the revised determination shall be considered as the procedural equivalent of a formal review determination under § 199.10.

* * * * *

8. Section 199.16 is amended by revising paragraphs (a)(1), (a)(3), (b), (c), (d) introductory text, (d)(2), (d)(3), (d)(4), and paragraph (e); and by adding paragraphs (d)(5) and (f)(3) to read as follows:

§ 199.16 Supplemental Health Care Program for active duty members.

(a) *Purpose and applicability.* (1) The purpose of this section is to implement, with respect to health care services provided under the supplemental health care program for active duty members of the uniformed services, the provision of 10 U.S.C. 1074(c). This section of law authorizes DoD to establish for the supplemental care program the same payment rules, subject to appropriate modifications, as apply under CHAMPUS.

* * * * *

(3) This section applies to all health care services covered by the CHAMPUS. For purposes of this section, health care services ordered by a military treatment facility (MTF) provider for an MTF patient (who is not an active duty member) for whom the MTF provider maintains responsibility are also covered by the supplemental care program and subject to the requirements of this section.

(b) *Obligation of providers concerning payment for supplemental health care for active duty members*—(1) *Hospitals covered by DRG-based payment system.* For a hospital covered by the CHAMPUS DRG-based payment system to maintain its status as an authorized provider for CHAMPUS pursuant to § 199.6, that hospital must also be a participating provider for purposes of the supplemental care program. As a participating provider, each hospital must accept the DRG-based payment system amount determined pursuant to § 199.14 as payment in full for the hospital services covered by the system. The failure of any hospital to comply with this obligation subjects that hospital to exclusion as a CHAMPUS-authorized provider.

(2) *Other participating providers.* For any institutional or individual provider, other than those described in paragraph (b)(1) of this section that is a participating provider, the provider must also be a participating provider for purposes of the supplemental care program. The provider must accept the CHAMPUS allowable amount determined pursuant to § 199.14 as payment in full for the hospital services covered by the system. The failure of any provider to comply with this

obligation subjects the provider to exclusion as a participating provider.

(c) *General rule for payment and administration.* Subject to the special rules and procedures in paragraph (d) of this section and the waiver authority in paragraph (e) of this section, as a general rule the provisions of § 199.14 shall govern payment and administration of claims under the supplemental care program as they do claims under CHAMPUS. To the extent necessary to interpret or implement the provisions of § 199.14, related provisions of this part shall also be applicable.

(d) *Special rules and procedures.* As exceptions to the general rule in paragraph (c) of this section, the special rules and procedures in this section shall govern payment and administration of claims under the supplemental care program. These special rules and procedures are subject to the waiver authority of paragraph (e) of this section.

* * * * *

(2) Preauthorization by the uniformed services of each service, except for services in cases of medical emergency (for which the definition in § 199.2 shall apply), is required for the supplemental care program. It is the responsibility of the active duty members to obtain preauthorization for each service. With respect to each emergency inpatient admission, after such time as the emergency condition is addressed, authorization for any proposed continued stay must be obtained within two working days of admission.

(3) With respect to the filing of claims and similar administrative matters for which this part refers to activities of the CHAMPUS fiscal intermediaries, for purposes of the supplemental care program, responsibilities for claims processing, payment and some other administrative matters may be assigned by the Director, OCHAMPUS to the same fiscal intermediaries, other contractor, or to the nearest military medical treatment facility or medical claims office.

(4) The annual cost pass-throughs for capital and direct medical education costs that are available under the CHAMPUS DRG-based payment system are also available, upon request, under the supplemental care program. To obtain payment include the number of active duty bed days as a separate line item on the annual request to the CHAMPUS fiscal intermediaries.

(5) For providers other than participating providers, the Director, OCHAMPUS may authorize payment in excess of CHAMPUS allowable amounts. No provider may bill an active duty member any amount in excess of the CHAMPUS allowable amount.

(e) *Waiver authority.* With the exception of statutory requirements, any restrictions or limitations pursuant to the general rule in paragraph (c) of this section, and special rules and procedures in paragraph (d) of this section, may be waived by the Director, OCHAMPUS, at the request of an authorized official of the uniformed service concerned, based on a determination that such waiver is necessary to assure adequate availability of health care services to active duty members.

(f) *Authorities.* * * *

(3) The Director, OCHAMPUS shall issue procedural requirements for the implementation of this section, including requirement for claims submission similar to those established by § 199.7.

Dated: October 28, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93-27050 Filed 11-4-93; 8:45 am]

BILLING CODE 5000-04-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 763

[OPPTS-62114A; FRL-4635-7]

Asbestos, Manufacture, Importation, Processing and Distribution Prohibitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Continuing restrictions on certain asbestos-containing products.

SUMMARY: EPA is announcing its factual determinations concerning the regulatory status of asbestos-containing product categories originally banned in the Asbestos Ban and Phaseout Rule. The United States Court of Appeals for the Fifth Circuit (the "Court") vacated and remanded most of the rule which prohibited the future manufacture, importation, processing, and distribution in commerce of certain asbestos-containing products, and required the labeling of those products in the interim. In a subsequent clarification, the Court noted that the rule continued to govern asbestos-containing products that were not being manufactured, imported, or processed on July 12, 1989. EPA has concluded that six asbestos-containing product categories were not being manufactured, processed, or imported on July 12, 1989, and thus are still subject to the rule. The remaining product categories were being manufactured, processed, or imported on July 12, 1989, and are no longer subject to the rule. In the near future EPA will publish a technical amendment to 40 CFR part 763 to bring it in line with the Court's ruling.

FOR FURTHER INFORMATION CONTACT: For general information contact: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: (202) 554-1404, TDD: (202) 554-0551. For technical information contact: Mike Mattheisen, Chemical Management Division (7404), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: (202) 260-1866.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of July 12, 1989 (54 FR 29460), EPA issued a final rule under section 6 of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2605. The rule prohibited, at staged intervals, the future manufacture, importation, processing, and distribution in commerce of almost all asbestos-containing products, and required labeling of such products in the interim (40 CFR 763.160 through 763.179). The first stage of the ban regulated any "new uses of asbestos," and certain specifically identified asbestos-containing products. "New uses of asbestos" means those commercial uses of asbestos not identified in 40 CFR 763.165, and not excluded specifically by the definition, the manufacture, importation, or processing of which would be initiated for the first time after August 25, 1989 (40 CFR 763.163). After August 27, 1990, the rule banned the manufacture, importation, and processing of all stage one products, and required that those products be labeled while they remained in distribution (40 CFR 763.165(a), 763.167(a), and 763.171(a)). After August 27, 1992, the rule also prohibited the distribution in commerce of all stage one products (40 CFR 763.169(a)). The second and third stages of the ban regulated additional types of asbestos-containing products. These two later stages of the rule contained provisions that were comparable to the first stage, but that were to take effect from 1992 through 1997 (40 CFR 763.165(b) through (e), 763.167(b) and (c), 763.169(b) through (d), and 763.171(b) and (c)).

On October 18, 1991, the United States Court of Appeals for the Fifth Circuit vacated and remanded most of the rule (*Corrosion Proof Fittings v. EPA*, 947 F.2d 1201 (5th Cir., 1991)). The Court agreed with EPA's determination that asbestos is hazardous and presents similar risks throughout different industries. It also affirmed EPA's authority to issue rules that ban all uses of a toxic substance under TSCA. The Court, however, held that parts of the rule were not supported by substantial evidence because EPA failed to sustain its burden under TSCA section 6(a) of showing that the products banned by the rule present an unreasonable risk, and that a less burdensome regulation would not adequately protect against that risk. The Court also found that EPA failed to give adequate notice and opportunity to comment on the use of analogous exposure data to support some parts of the rule.

Although the Court vacated and remanded most of the rule, it left intact the portion of the rule that regulates products that were not being manufactured, produced, or imported when the rule was published on July 12, 1989. The Court concluded that it "will not disturb the agency's decision to ban products that no longer are being produced in or imported into the United States." *Id.* at 1229. In arriving at this decision, the Court found that TSCA gave EPA the general authority to ban future uses of asbestos. Moreover, the Court determined that EPA properly evaluated the benefits and risks of banning such products when it promulgated the rule. Petitioners had argued that the benefits outweighed the risks because the benefits of a product that is not being produced is more than zero, in that it may find a future use, while the estimated risk is zero. The Court noted, however, that this balance would soon change when the product returned to the marketplace. As a result, the Court found "it was not error on the part of the EPA" to ban products that "temporarily show[ed] no risk because they were not part of this country's present stream of commerce." *Id.* Even if some future use should arise for these products, the Court noted, manufacturers and importers have access to the waiver provisions in the rule. *Id.* Finally, the Court explicitly rejected Petitioners' argument that "EPA overstepped TSCA's bounds by seeking to ban products that once were, but no longer are, being produced in the United States." *Id.* at 1228.

Based upon the above language in the opinion, EPA tentatively concluded that the Court intended to leave in effect that part of the rule that governed products that were not being produced or imported. To ensure that it was properly interpreting the decision, however, EPA filed a Motion for Clarification ("the Motion") with the Court. In the Motion, EPA noted that, while one section of the opinion seemed to leave intact the portion of the rule that governed asbestos-containing products that were no longer being produced or imported, another section of the opinion could arguably be interpreted as vacating and remanding the entire rule. EPA asked the Court to resolve the possible inconsistency. *Id.* at 591–592. EPA specifically requested clarification with respect to the status of the various asbestos-containing products that were banned in the first phase of the rule, and thus were no longer being manufactured, produced, or imported.

The Petitioners, including the Asbestos Information Association (AIA), opposed the Motion. They argued that EPA had improperly suggested that portions of the rule were not vacated, and asserted that the Court had vacated and remanded the rule in its entirety. They also noted that there was some uncertainty regarding whether some products banned by EPA were being manufactured or imported as of July 12, 1989, and suggested that the Agency, rather than the Court, should resolve this issue. Petitioners' Response to EPA's Motion for Time Extension, *Corrosion Proof Fittings v. EPA*, 947 F.2d 1201 (5th Cir. 1991)(No. 89–4596).

The Court granted EPA's Motion. It did not adopt Petitioners' argument that the entire rule was vacated. Instead, the Court clarified the identity of the class of asbestos-containing products that continue to be subject to the rule. It specified that the "holding in part V.D. of our opinion applies only to products that were not being manufactured, imported, or processed on July 12, 1989." *Id.* at 1230. It also left it to EPA to resolve any factual disputes regarding whether a particular product fell within that category. *Id.*

In light of this clarification, it is clear that the Court did not require EPA to go through an entirely new rulemaking process, but instead authorized a factual inquiry into the actual status of particular asbestos-containing products as necessary.

EPA also filed a Request for Rehearing, which the Court denied on November 27, 1991. The Government decided not to file a petition for a Writ of Certiorari to the United States Supreme Court.

Because the Court's date of July 12, 1989, corresponded to the date of publication, rather than to any time benchmark in the rule, EPA decided that additional information regarding the July 12, 1989, status of various asbestos-containing products would assist the Agency in identifying the products that continue to be subject to the rule. Although published in 1989, the Regulatory Impact Analysis (RIA) only contained information that was current as of 1986. (The purpose of a RIA is to show that the rule complies with the requirements of Executive Order 12291. The RIA includes information on the need for the rule, the available options, the costs and benefits of each option, and the justification for the option selected. In addition, the RIA supports the finding of "unreasonable risk" required under TSCA section 6(a), and the determination of the least burdensome requirements to protect adequately against the risk.) However, two surveys conducted by EPA in 1991 confirmed information in the RIA. Moreover, in pleadings in *Corrosion Proof Fittings*, AIA and the Asbestos Institute (AI) acknowledged to the Court that some products were not in production when the final rule was issued in 1989. Joint Brief of Petitioners, the Asbestos Information Association/North America and the Asbestos Institute, at 94–95 and n. 241, *Corrosion Proof Fittings* (No. 89–4596). Other information submitted to EPA, however, raised questions about the status of some products.

As a result, EPA issued a notice in the **Federal Register** of April 2, 1992, (57 FR 11364) that requested information on the status of 14 product categories in the rule that, based on information contained in the RIA for the rule, may no longer have been manufactured, processed, or imported when the rule was published on July 12, 1989. The information was solicited in order to determine which of these categories were in fact no longer being manufactured, processed, or imported on July 12, 1989, and are, therefore, still subject to the rule. In addition, EPA solicited information on the status of any other product category in the rule that also may no longer have been manufactured, processed, or imported on July 12, 1989.

EPA supplemented the original information in the RIA with the comments received in response to the **Federal Register** notice and with additional research. In evaluating the information, EPA did not conclude that a product category was no longer being manufactured, processed, or imported simply because no information was available, or just because no comment was received in response to the **Federal Register** notice. Rather, EPA only

concluded that a product was no longer being manufactured, processed, or imported if there were a factual basis to support such a conclusion. Doubts were resolved in favor of concluding that a product was still being manufactured, processed, or imported.

This document gives EPA's final factual determinations and summarizes the information upon which each determination was made. The documents supporting EPA's conclusions have been deposited in the docket for this fact-finding.

II. Status of Products

In accordance with the Court decision, and based on information from the RIA for the rule, responses to EPA's April 2, 1992, notice in the **Federal Register**, and additional EPA research, EPA concludes that:

1. The six asbestos-containing product categories that are still subject to the rule are corrugated paper, rollboard, commercial paper, specialty paper, flooring felt, and new uses of asbestos.

2. The asbestos-containing product categories that are no longer subject to the rule are: asbestos-cement corrugated sheet, asbestos-cement flat sheet, asbestos clothing, pipeline wrap, roofing felt, vinyl-asbestos floor tile, asbestos-cement shingle, millboard, asbestos-cement pipe, automatic transmission components, clutch facings, friction materials, disc brake pads, drum brake linings, brake blocks, gaskets, non-roofing coatings, and roof coatings.

A. Products Still Subject to the Asbestos Ban

EPA has concluded that the Court in *Corrosion Proof Fittings* left intact the provisions of the rule that governed asbestos-containing products that were not being manufactured, produced, or imported on July 12, 1989. In its clarification, the Court recognized that EPA could undertake a factual inquiry into the July 12, 1989, status of particular products to determine whether such products continued to be regulated by the rule.

In response to EPA's April 2, 1992, **Federal Register** notice, AIA, one of the Petitioners in *Corrosion Proof Fittings*, submitted comments stating that the decision voided the entire rule and that "bans on discontinued products must take the form of a new rule." As indicated previously, EPA does not believe that AIA's interpretation is supported by the language of the decision. See discussion in Unit I of this document. Therefore, EPA concludes that the following product catagories remain subject to the ban rule:

1. *New uses of asbestos.* By definition, new uses of asbestos are those that were not manufactured, processed, or imported on July 12, 1989. The rule defines "new uses of asbestos" as "commercial uses of asbestos not identified in § 763.165 the manufacture, importation, or processing of which would be initiated for the first time after August 25, 1989" (40 CFR 763.163). Based upon this definition, any product that was being manufactured, imported, or processed on July 12, 1989, automatically cannot be a "new use of asbestos" because the manufacture, importation, or processing of such a product would have been initiated on or before August 25, 1989. Thus, any product that is a "new use of asbestos" could not have been manufactured, imported, or processed on July 12, 1989, and continues to be governed by the rule pursuant to the Court's clarified decision.

2. *Corrugated paper.* The 1989 RIA for the rule concluded that there were no longer any manufacturers, processors, or importers of corrugated paper in 1986. Responses to EPA's April 2, 1992, **Federal Register** notice did not include any comment indicating that asbestos-containing corrugated paper was being manufactured, processed, or imported on July 12, 1989. Thus, EPA's conclusion in the RIA is not refuted. Therefore, EPA concludes that asbestos-containing corrugated paper was not being manufactured, processed, or imported on July 12, 1989, and is still subject to the rule.

3. *Rollboard.* The 1989 RIA for the rule concluded that there were no longer any manufacturers, processors, or importers of rollboard in 1986. Responses to EPA's April 2, 1992, **Federal Register** notice did not include any comment indicating that asbestos-containing rollboard was being manufactured, processed, or imported on July 12, 1989. Thus, EPA's conclusion in the RIA is not refuted. Therefore, EPA concludes that asbestos-containing rollboard was not being manufactured, processed, or imported on July 12, 1989, and is still subject to the rule.

4. *Commercial paper.* The 1989 RIA for the rule concluded that there were no longer any manufacturers, processors, or importers of commercial paper in 1986, although one company was selling small amounts out of inventory. Responses to EPA's April 2, 1992, **Federal Register** notice did not include any comment indicating that asbestos-containing commercial paper was being manufactured, processed, or imported on July 12, 1989. The company that was selling small amounts out of inventory, Quin-T, did not comment on commercial paper, although it did comment on pipeline wrap. Thus, EPA's conclusion in the RIA is not refuted. Therefore, EPA concludes that commercial paper was not being manufactured, processed, or imported on July 12, 1989, and is still subject to the rule.

5. *Specialty paper.* The 1989 RIA for the rule assumed that two companies that were producing asbestos-containing specialty paper in 1981 were still producing specialty paper in 1986 because the companies did not respond to a 1985 survey. The RIA allocated 50 percent of the market for specialty paper to each company, indicating that there was no importation. In response to a phone inquiry from EPA in 1992, both companies reported that they stopped using asbestos before 1986.

In its response to the April 2, 1992, **Federal Register** notice, AIA expressly declined to address specialty paper, but stated that EPA's 1989 notice in the **Federal Register** "found [specialty paper] still in commerce," because "specialty paper was noted to still be in production, and cancers avoided by a ban were calculated." The 1989 **Federal Register** notice did include an estimate of the number of cancer cases avoided that would result from the ban on specialty paper. At the time, EPA assumed, for purposes of analysis, that the two companies that had been producing asbestos-containing specialty paper in 1981, were still producing asbestos-containing specialty paper. However, as indicated above, the companies reported that they actually had stopped using asbestos before 1986.

Responses to EPA's April 2, 1992, **Federal Register** notice did not provide any evidence that specialty paper was being manufactured, processed, or imported on July 12, 1989. Therefore, EPA concludes that asbestos-containing specialty paper was not being manufactured, processed, or imported on July 12, 1989, and is still subject to the rule.

6. *Flooring felt.* The 1989 RIA for the rule concluded that there were no producers, processors, or importers of flooring felt in 1986.

In response to EPA's April 2, 1992, **Federal Register** notice, the Resilient Floor Covering Institute (RFCI) submitted a letter to EPA stating that its members had not manufactured or imported asbestos-containing products since the mid-80s. RFCI also submitted Department of Commerce import reports for 1989 and 1990 which showed importation of "asbestos vinyl tile" and "sheet vinyl flooring." RFCI asserted that "because vinyl tile containing

asbestos was imported during this time period, it is reasonable to assume that a portion of the sheet vinyl imports contained an asbestos felt backing." RFCI, however, did not submit any information that would support its assertion that that assumption would be reasonable, and EPA is not aware of any such information.

AIA expressly declined to submit information concerning the status of flooring felt. AIA simply alleged that EPA "found [flooring felt] still in commerce" in the preamble to the rule, because the preamble purportedly said that "flooring felt was 'largely' no longer produced in the U.S." The preamble statement referenced by AIA actually referred to several different types of felt product categories, including roofing felt, pipeline wrap and flooring felt, and provided that "these products are largely no longer produced in the U.S." 54 FR 29490. Because the statement was general in nature, referring to the status of several product categories, it cannot logically be relied upon to demonstrate that one particular category of felt product, flooring felt, was actually in production. Moreover, the preamble discussion of felt products specifically provides that there was "no current U.S. manufacture or import" of flooring felt.

EPA was not able to locate any company that manufactured, processed, or produced asbestos-containing flooring felt, and no direct evidence was submitted to show that asbestos-containing flooring felt was, in fact, being manufactured, processed, or imported in July 1989. Therefore, EPA concludes that asbestos-containing flooring felt was no longer being manufactured, processed, or imported on July 12, 1989, and is still subject to the rule.

B. Products No Longer Subject to the Asbestos Ban

Except as provided in Unit II.A of this document, EPA concludes that all other products originally subject to the ban rule were being manufactured, processed, or imported on July 12, 1989, and are therefore no longer subject to the ban rule. Of the 14 products mentioned in the April 2, 1992, **Federal Register** notice, the following eight are no longer subject to the ban rule:

1. *Pipeline wrap.* In the 1989 RIA for the rule, EPA concluded that in 1986, one former producer was selling pipeline wrap out of inventory and might restart production if demand warranted it, and that only one company was importing the product.

In response to EPA's April 2, 1992, **Federal Register** notice, the AIA submitted production summaries from the Quin-T Company indicating that it had produced asbestos-containing pipeline wrap until the end of 1989. AIA also submitted U.S. Customs Declarations that showed importation of asbestos-containing pipeline wrap after July 1989. Based upon this information, EPA concludes that asbestos-containing pipeline wrap was being manufactured, processed, or imported on July 12, 1989, and is no longer subject to the rule.

2. *Vinyl/asbestos tile.* The 1989 RIA for the rule concluded that there were no manufacturers, processors, or importers of vinyl/asbestos tile in 1986.

In response to EPA's April 2, 1992, **Federal Register** notice, RFCI stated that its members had not manufactured an asbestos-containing product since the mid-80s. But RFCI also submitted Department of Commerce import reports for 1989 and 1990 that showed importation of "vinyl/asbestos tile." Therefore, EPA concludes that vinyl/asbestos tile was being manufactured, processed, or imported on July 12, 1989, and is no longer subject to the rule.

3. *Millboard.* The 1989 RIA for the rule concluded that in 1986 there was one primary processor, one former processor that continued to sell out of inventory, and four secondary processors, but no importers of asbestos-containing millboard.

In response to EPA's April 2, 1992, **Federal Register** notice, AIA submitted production notes from the Quin-T Company that showed production of asbestos-containing millboard in 1989, 1990, and 1992, and Department of Commerce import reports for 1989 and 1990 that showed importation of "asbestos paper, millboard, and felt." Thus, EPA concludes that asbestos-containing millboard was still being manufactured, processed, or imported on July 12, 1989, and is no longer subject to the rule.

4. *Asbestos clothing.* The 1989 RIA for the rule concluded that in 1986 "small quantities of asbestos-containing gloves and mittens have been and continue to be imported from foreign countries . . . but no specific data could be identified."

In response to EPA's April 2, 1992, **Federal Register** notice, AIA submitted Department of Commerce import reports for 1989 and 1990 that showed importation of "asbestos clothing, accessories, and headgear excl. footwear." Therefore, EPA concludes that asbestos-containing clothing was still being manufactured, processed, or imported on July 12, 1989, and is no longer subject to the rule.

5. *Asbestos-cement corrugated sheet.* The 1989 RIA for the rule concluded that asbestos-cement corrugated sheet was no longer produced in the U.S. and that there was only one importer in 1986.

In response to EPA's April 2, 1992, **Federal Register** notice, AIA submitted a number of documents to show that asbestos-cement corrugated sheet was still being processed or imported. Among the documents submitted by AIA were: (1) A January 1989, purchase order to Turner Building Products in Mission, British Columbia, Canada, from Western Specialty Products in San Jose, California, for Potlatch Corporation in Lewiston, Idaho, for "cavity deck roofing," (2) a March 1989, Canadian Customs export declaration from Turner to Western for "cavity deck," (3) a December 1990, Material Safety Data Sheet (MSDS) from Turner for "T Deck and Cavity Deck," and (4) undated product literature from Turner for "Asbestos Cement Roof Decks." AIA also submitted Department of Commerce import reports for "Corrugated Sheets of Asbestos Cement or Cellulose Fiber Cement or the like" that show imports in 1989.

One importer, AWMCO, stated that it had imported and fabricated asbestos-cement sheet until August 1990, and continued to sell asbestos-cement sheet out of inventory until 1992, when it resumed importing and fabrication after consultation with AIA. Therefore, EPA concludes that asbestos-cement corrugated sheet was being manufactured, processed, or imported on July 12, 1989, and is no longer subject to the rule.

6. *Asbestos-cement flat sheet.* The 1989 RIA for the rule concluded that there was one producer of asbestos-cement flat sheet and one importer in 1986.

In response to EPA's April 2, 1992, **Federal Register** notice, AIA submitted a number of documents to show that asbestos-cement flat sheet was still being processed or imported. Among the documents were: (1) Two 1989 Canadian Customs declarations from Turner to AWMCO, an MSDS from Turner, and product literature from Turner for asbestos-cement sheet products, (2) a 1989 Mexican Export Declaration and shipping papers from Versalite del Noroeste in Mexico to Supralite in the U.S. for asbestos-cement sheet, and (3) Department of Commerce import reports that show imports of "Sheets, Panels, Tiles and Similar Articles [Not Elsewhere Specified or Included] of Asbestos Cement, Cellulose Fiber Cement, or the like" in 1989 and 1990.

In its comments, AWMCO stated that it had imported and fabricated asbestos-cement sheet until August 1990, and

continued to sell out of inventory until 1992, when it resumed import and fabrication after consultation with AIA. Therefore, EPA concludes that asbestos-cement flat sheet was being manufactured, processed, or imported on July 12, 1989, and is no longer subject to the rule.

7. *Roofing felt.* The 1989 RIA for the rule concluded that, while there were no primary processors, there was one secondary processor, and one importer of asbestos-containing roofing felt in 1986.

The importer, Power Marketing Group, reported that it imported a large stock of asbestos-containing roofing felt before the ban went into effect, and continued to sell out of inventory until the stock was exhausted in 1991.

In response to EPA's April 2, 1992, **Federal Register** notice, AIA submitted product literature from Kingsey-Falls, Inc., for asbestos-containing roofing felt, and Canadian Customs declarations and shipping papers to show that asbestos-containing roofing felt was being imported in January and August 1989. AIA also submitted product literature from Supradur Manufacturing Corporation, an American manufacturer, that includes asbestos-containing roofing felt. EPA concludes that asbestos-containing roofing felt was still being processed, or imported in July 1989, and is no longer subject to the rule.

8. *Asbestos-cement shingle.* The 1989 RIA for the rule concluded that there was only one remaining domestic producer and one known importer of asbestos-cement shingle in 1986.

In response to EPA's April 2, 1992, **Federal Register** notice, AIA submitted product literature from the Supradur Manufacturing Corporation for asbestos-cement roofing shingles, and a letter from Supradur to AIA that stated Supradur was manufacturing asbestos-cement shingle in Pennsylvania "as of July 1, 1989" and "continued until 1992," and that asbestos-cement shingle products are "still being sold and applied in the U.S. market." As a result, EPA concludes that asbestos-cement shingles were still being manufactured, processed, or imported on July 12, 1989, and are no longer subject to the rule.

III. Public Record

EPA established a record (docket number OPPTS-62114) for comments submitted pursuant to the April 2, 1992, **Federal Register** notice, and for the information listed below regarding the July 12, 1989, status of asbestos-containing products received by EPA after the Court's decision. A public version of the record, from which all confidential business information has been deleted, is available for inspection in the TSCA Nonconfidential Information Center (NCIC), Rm. E-G102, 401 M St., SW, Washington, DC, from 8 a.m. to noon and from 1 p.m. to 4 p.m., Monday through Friday, except legal holidays. These documents include:

1. Decision of the U.S. Court of Appeals for the Fifth Circuit in *Corrosion Proof Fittings vs. EPA*, No. 89-4596 (5th Cir., October 18, 1991).

2. U.S. Fifth Circuit Court of Appeals Clarification of its Decision in *Corrosion Proof Fittings vs. EPA*, No. 89-456 (5th Cir., November 15, 1991).

3. *Regulatory Impact Analysis of Controls on Asbestos and Asbestos Products*, Final Report, Volume III, Appendix F, January 19, 1989.

4. *RM2 Scoping Asbestos: Current Commercial Status of Seven Asbestos Product Categories*, Mathtech, December 20, 1991.

5. *RM2 Scoping Asbestos: Industry/Use Profile*, Mathtech, November 26, 1991.

6. *ABPO Rule Remand Activities*, November 6, 1992, briefing for the Assistant Administrator of the Office of Pollution Prevention and Toxics.

7. Record of phone call to the Bureau of Mines concerning asbestos producer survey, October 1992.

8. Record of phone call to Alsop Engineering and to Beaver Industries concerning asbestos use, September 1992.

9. Memo from ICF Incorporated to Kent Benjamin, EPA, concerning Asbestos Rulemaking Support, August 28, 1992.

10. Record of phone call to Tuyaux Atlas concerning asbestos use, August 1992.

List of Subjects in 40 CFR Part 763

Environmental protection, Asbestos.

Dated: October 22, 1993.

Victor J. Kimm,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 93-26994 Filed 11-4-93; 8:45 am]

BILLING CODE 6560-50-F

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 7007

[NM 010-4210-06; NMNM 86825]

Withdrawal of Public Lands and Federal Minerals for the Ball Ranch Area of Critical Environmental Concern; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws 1,458.68 acres of public lands from surface entry and mining for a period of 20 years for the Bureau of Land Management to protect the rare and endemic plant populations and paleontological resources of the Ball Ranch Area of Critical Environmental Concern. The lands have been and will remain open to mineral leasing.

EFFECTIVE DATE: November 5, 1993.

FOR FURTHER INFORMATION CONTACT: Debby Lucero, BLM Rio Puerco Resource Area, 435 Montano NE., Albuquerque, New Mexico 87107, 505-761-8700.

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

1. Subject to valid existing rights, the following described public lands are hereby withdrawn from settlement, sale, location, or entry under the general land laws, including the United States mining laws (30 U.S.C. ch. 2 (1988)), but not from leasing under the mineral leasing laws, to protect a Bureau of Land Management Area of Critical Environmental Concern:

New Mexico Principal Meridian

T. 13 N., R. 6 E.,
Sec. 4, lots 3 and 4, S½NW¼ and SW¼;
Sec. 5, lots 1 and 2, S½NE¼ and SE ¼.
T. 14 N., R. 6 E.,
Sec. 19, E½;
Sec. 20, W½;
Sec. 31, NE¼ and N½NE¼SE¼.

The areas described aggregate 1,458.68 acres in Sandoval County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1988), the Secretary determines that the withdrawal shall be extended.

Dated: November 1, 1993.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 93-27234 Filed 11-4-93; 8:45 am]

BILLING CODE 4310-FB-M

43 CFR Public Land Order 7008

[CA-940-4210-06; CAS 047172]

Partial Revocation of Public Land Order No. 2301; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a public land order insofar as it affects a 0.29 acre parcel of National Forest System land withdrawn for use as a recreation area. The land is no longer needed for this purpose, and the revocation is needed to accommodate a land interchange under the Small Tracts Act of January 12, 1983, 16 U.S.C. 521(c)-521(i). This action will open the land to such forms of disposition as may by law be made of National Forest System land, including location and entry under the United States mining laws. The land has been and will remain open to mineral leasing and disposal of materials under the Act of July 31, 1947, 30 U.S.C. 601-604 (1988).

EFFECTIVE DATE: December 6, 1993.

FOR FURTHER INFORMATION CONTACT: Viola Andrade, BLM California State Office, 2800 Cottage Way, room E-2845, Sacramento, California 95825, 916-978-4820.

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

1. Public Land Order No. 2301, which withdrew National Forest System land for use as a recreation area, is hereby revoked insofar as it affects the following described land:

Mount Diablo Meridian

Tahoe National Forest

Indian Valley Recreation Area

T. 19 N., R. 9 E.,

Sec. 17, All that portion of the N½N½ described as follows: Beginning at the CN 1/16 corner of said sec. 17, thence from said point of beginning N. 0°58′ W. along the North-South centerline of said sec. 17, a distance of 43.11 feet to the southerly right-of-way line of State Highway 49, thence along the southerly right-of-way line N. 65°05′ W. a distance of 161.88 feet, thence leaving the southerly right-of-way line S. 23° W. a distance of 106.35 feet to the south line of the N½N½ said sec. 17, thence S. 85°57′ E. along said south line a distance of 189.58 feet to the point of beginning.

The area described contains 0.29 acre, in Sierra County.

2. At 10 a.m. on December 6, 1993, the land shall be opened to such forms of disposition as may by law be made of National Forest System lands, including location and entry under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of the land described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1988), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: October 29, 1993.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 93-27233 Filed 11-4-93; 8:45 am]

BILLING CODE 4310-40-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA-7588]

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 third 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			
North Dakota: Mercer County, unincorporated areas	380294	Oct. 20, 1993	Apr. 7, 1981.
Alabama: Wilsonville, town of Shelby County	010404	Oct. 27, 1993	Sept. 7, 1979.
Maine: Greenfield, township of Penobscot County	230388	.....do	Feb. 21, 1975.
Iowa: Masonville, city of Delaware County	190365	Oct. 28, 1993	Oct. 31, 1978.
New Eligibles—Regular Program			
Iowa: Boone, city of Boone County	190555	Oct. 7, 1993	NSFHAs [1].
Florida: Fellsmere, city of Indian River County	120120	Oct. 18, 1993	May 3, 1993.
Ohio: Knox County, unincorporated areas	390306	Oct. 27, 1993	July 18, 1982.
Reinstatements—Regular Program			
Pennsylvania: Dauphin, borough of Boone County	420375	Mar. 16, 1973, Emerg.; Apr. 15, 1977, Reg.; Aug. 2, 1993, Susp.; Oct. 11, 1993, Rein.	Apr. 15, 1977.
Minnesota: Browerville, city of Todd County	270475	Apr. 16, 1974, Emerg.; Sept. 30, 1988, Reg.; Sept. 30, 1988, Susp.; Oct. 15, 1993, Rein.	Sept. 30, 1988.
Pennsylvania: Wayne, township of Mifflin County	421240	May 3, 1974, Emerg.; Mar. 2, 1981, Reg.; Aug. 2, 1993, Susp.; Oct. 20, 1993, Rein.	Mar. 2, 1981.
West Virginia: Matoaka, town of Mifflin County	540126	Dec. 13, 1974, Emerg.; Dec. 15, 1983, Reg.; Mar. 15, 1993, Susp.; Oct. 20, 1993, Rein.	Dec. 15, 1983.
Washington: Lower Elwha S'Klallam Tribe, Clallam County.	530316	Feb. 22, 1977, Emerg.; Sept. 16, 1981, Reg.; Sept. 16, 1981, Susp.; Oct. 20, 1993, Rein.	July 18, 1983.
Pennsylvania: East Chillisquaque, township of Northumberland County.	422599	Oct. 15, 1975, Emerg.; May 4, 1987, Reg.; May 4, 1987, Susp.; Oct. 26, 1993, Rein.	May 4, 1987.
Regular Program Conversions			
Region I:			
Maine: Abbot, town of Piscataquis County	230406	Sept. 30, 1993, suspension withdrawn	Sept. 30, 1993.
Region V:			
Wisconsin: Outagamie County, unincorporated areas.	550302	.....do	Do.
Region IX:			
California: Highland, city of San Bernardino County.	060732	.....do	Do.
Region III:			
Virginia:			
Roanoke County, unincorporated areas	510190	Oct. 15, 1993, suspension withdrawn	Oct. 15, 1993.
Salem, city of	510141	.....do	Do.
Vinton, town of Roanoke County	510131	.....do	Do.

[1] No special flood hazard areas.
Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension, Rein.—Reinstatement.

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

Issued: November 1, 1993.

Donald L. Collins,

Acting Administrator, Federal Insurance Administration.

[FR Doc. 93-27261 Filed 11-4-93; 8:45 am]

BILLING CODE 6718-21-P

FEDERAL MARITIME COMMISSION

46 CFR Part 502

[Docket No. 93-10]

RIN 3072-AB71

Amendments to Rules Governing Rate Proceedings in the Domestic Offshore Trades

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The Federal Maritime Commission is amending its rules governing rate proceedings in the domestic offshore trades to enhance the Commission's and the parties' abilities to comply with the time constraints of the Intercoastal Shipping Act, 1933. This rule also clarifies that the burden of proof in any hearing under section 3 of the 1933 Act is on the carrier whose rates are under investigation.

EFFECTIVE DATE: December 6, 1993.

FOR FURTHER INFORMATION CONTACT: Seymour Glanzer, Director, Bureau of Hearing Counsel, Federal Maritime Commission, 800 North Capitol St., NW., Washington, DC 20573–0001, (202) 523–5783 (Phone), (202) 523–5785 (Fax).

SUPPLEMENTARY INFORMATION: On May 13, 1993, in this proceeding, the Federal Maritime Commission ("Commission" or "FMC") published a Notice of Proposed Rule ("NPR") in the **Federal Register**, 58 FR 28379, soliciting comments from the public on proposed amendments to the Commission's Rules of Practice and Procedure at 46 CFR part 502 ("Part 502"). These amendments are intended to enhance the Commission's and the parties' abilities to comply with the time constraints applicable to rate proceedings conducted under the provisions of the Intercoastal Shipping Act, 1933, 46 U.S.C. app. 843 *et seq.* ("1933 Act"). In addition, the rule would clarify that the burden of proof in any hearing under section 3 of the 1933 Act is on the carrier whose rates are under investigation, whether or not those rates have been suspended.

Comments in response to the NPR were filed by the State of Hawaii ("Hawaii"); Matson Navigation Company ("Matson"); Sea-Land Service, Inc. ("Sea-Land"); and Tobias E. Seaman/NASCCMA [1] ("Seaman"). Hawaii supports every facet of the rule. Seaman generally supports the proposed changes, but would amend two of the proposals to provide additional procedural benefits to protestants to rate changes. Matson opposes two of the Commission's proposals and suggests modifications to two others. Sea-Land opposes five of the six proposed changes. Specific comments are addressed *infra*, in connection with the respective proposals.

As discussed in the NPR, the changes proposed in this proceeding must be viewed in the context of the statutory framework within which the Commission investigates rate increases and decreases in the domestic offshore trades. In 1978, the 1933 Act was amended to make various changes to the Commission's authority. Included among those changes were time limits on Commission rate investigations and new definitions of general rate increase ("GRI") and general rate decrease ("GRD"). That legislation also enlarged the notice requirements and provided for other distinct treatment of such general rate changes. In 1979, the Commission published procedural rules to implement these amendments to the 1933 Act, which are set forth at 46 CFR 502.67,[2] and prescribe the method by which the Commission conducts rate proceedings in the domestic offshore trades under the terms of that statute.[3]

On January 9, 1992, Hawaii, by its Attorney General, filed a petition seeking review of certain portions of Part 502 and recommending specific changes to those rules. A Notice of Filing of the petition was published in the **Federal Register** on January 23, 1992, at 57 FR 2702, soliciting comments from interested persons. Five comments were received. Rulings on various recommendations contained in Hawaii's petition were the subject of a separate Commission Order issued simultaneously with the NPR in this proceeding.

Investigations of all tariff changes (not only GRIs and GRDs) under section 3 of the 1933 Act are subject to the following time constraints:

—Hearings must be completed within 60 days;
—Initial decisions by Administrative Law Judges ("ALJs") must be rendered within 120 days; and
—Final Commission decisions must be rendered within 180 days.

Each of these time limits begins on the day that the tariff change becomes effective, or, in the case of suspended matter, would have taken effect absent the suspension. The Commission can extend the overall time period for not more than 60 days, but then must furnish Congress with a detailed explanation of the reasons for the extension; the issues involved; the names of Commission personnel working on the matter; and a record of how each Commissioner voted on the extension. If a final decision is not issued within the deadline, the rates are deemed just and reasonable by operation of law.[4]

As noted above, the 1978 amendments to the 1933 Act also enlarged the notice requirements for general rate changes from 30 to 60 days. However, across-the-board changes of less than 3 percent do not meet the definition of GRI/GRD and can become effective 30 days after filing.[5] Since 1978, numerous across-the-board increases have been filed in these trades [6] and at least two of these non-GRIs were the subject of formal Commission investigations.[7]

In keeping with the distinct treatment accorded GRIs/GRDs by the statute, the Commission's regulations at 46 CFR 502.67 require carriers to file concurrently with any GRI/GRD, testimony and exhibits which would serve as the carrier's entire direct case in the event that the matter is set for formal investigation. No similar requirement exists for non-GRIs/GRDs, such as across-the-board increases. Thus, while the time constraints of the 1933 Act apply to investigations of across-the-board increases, advance carrier data are not available, in most instances,[8] to assist the Commission and the parties in complying with those time constraints.

The changes to Part 502 proposed in the NPR are designed to improve the procedures for investigating both GRIs/GRDs and non-GRIs/GRDs, such as across-the-board increases. The differences between these types of rate changes are important, however, in understanding the rationale for the various specific proposals.

[1] NASCCMA, aka National Association of Shippers, Consignees and Consumers for Maritime Affairs, is alleged by Seaman to be an association organized to protect the interests of shippers in the domestic offshore trades. Seaman has submitted pleadings, comments and other documents in various Commission proceedings as President of NASCCMA, but has never identified the organization's membership to the Commission.

[2] *Part 502—Rules of Practice and Procedure*, Docket No. 78–47, 21 F.M.C. 739 (1979).

[3] The Commission also has authority to determine the reasonableness of a carrier's rates in the domestic offshore trades under section 18 of the Shipping Act, 1916, 46 U.S.C. app. 817. Unlike rate proceedings brought under section 3 of the 1933 Act, investigations conducted under section 18 are not constrained by statutory time limits. However, in further contrast to the 1933 Act, section 18 includes neither the power to suspend rate changes nor specific statutory authority to order refunds.

[4] This result has occurred only once since the 1978 amendments to the 1933 Act imposed these deadlines. In Docket No. 85–3, *Matson Navigation Co., Inc. Proposed Overall Rate Increase of 2.5 Percent Between United States Pacific Coast Ports and Hawaii Ports*, 23 S.R.R. 263 (1985); Order Discontinuing Proceeding, 23 S.R.R. 662 (1985), the Commission deadlocked in a 2–2 vote on the issue of reasonableness.

[5] In Docket No. 92–36, Reduction of Notice Requirements for Tariff Increases in the Domestic Offshore Trades, 57 FR 44504 (September 28, 1992), the Commission reduced the notice period for rate increases, other than GRIs and across-the-board increases, from 30 days to 7 workdays, to attempt to conform as closely as possible to Interstate Commerce Commission requirements. The Commission also adopted a new definition of "across-the-board increase" which is codified at 46 CFR 550.2(a).

[6] In the Pacific Coast/Hawaii trade, for example, from 1983 to 1990, carriers filed thirteen across-the-board increases, compared with only seven GRIs.

[7] Docket No. 85–3, *supra*; and Docket No. 85–24, Matson Navigation Company, Inc., Proposed Overall Rate Increase of 2.5 Percent Between United States Pacific Coast Ports and Hawaii Ports, 23 S.R.R. 1216 (1986), Report on Remand, 25 S.R.R. 83 (1989); *aff'd per curiam sub nom. Tobias E. Seaman v. Federal Maritime Commission*, No. 89–1407 (D.C. Cir. March 23, 1990).

[8] In the Pacific Coast/Hawaii trade, Matson voluntarily has filed supporting data with several across-the-board increases since 1985.

1. Require Carriers To Respond to Protestants' Information Requests Within Seven Days After the Commission's Order of Investigation

The Commission's rules at 46 CFR 502.67(b)(1) require protests to GRIs/GRDs to include seven specific items, among which are any requests for additional carrier data. However, those rules do not contain a time within which the carrier must respond to such requests for data. In the NPR, the Commission expressed a belief that establishing such a time for carrier responses would serve to assist the ALJ in completing a hearing within 60 days, as the 1933 Act requires.

Hawaii supports this proposal as written. Seaman supports the concept of establishing a time for carrier responses, but expresses concern that carriers might "abuse" the rule by objecting to the requests instead of providing the data, citing experience in Docket No. 90–09, Matson Navigation Company, Inc., Proposed General Rate Increase of 3.6 Percent Between United States Pacific Coast Ports and Hawaii Ports, 25 S.R.R. 1192 (1990), *aff'd sub nom. Matson Navigation Company, Inc.* v. *Federal Maritime Commission*, 959 F.2d 1039, 26 S.R.R. 283 (D.C. Cir. 1992). Seaman suggests that the Commission "defer" the carrier's right to object until any of the discovered material is sought to be introduced into evidence later in the proceeding. In effect, Seaman would have the Commission eradicate, by rule, any right (including any substantive right) that a carrier may have to object to this particular form of discovery. Seaman's suggestion also would remove all discretion from the ALJ in controlling this stage of discovery.

Matson objects to this proposal for the very reason that Seaman seeks to broaden it. Matson assumes, erroneously, that the Commission is proposing to remove all right to object to information requests, and thus remove all discretion from the ALJ in preventing misuse of discovery. Matson also cites its experience in Docket No. 90–09, *supra*, in which it allegedly was subjected to several hundred information requests, "many in the days immediately following institution of the Order." Matson Comments at 6.

Contrary to Matson's assumption, nothing in this proposal is intended to remove either the carrier's right to object to a protestant's data requests or the ALJ's discretion to rule on such matters. The proposal was intended only to create a fixed date on which responses (which might take the form of objections) would be due, in order to avoid uncertainty and delay and the unnecessary diversion of the ALJ's attention from structuring an appropriate hearing. Furthermore, this rule would be applicable only to data requests filed simultaneously with a protest, pursuant to 46 CFR 502.67(b)(1), so that Matson's concern for information requests which may be filed subsequent to an order of investigation is irrelevant to this discussion.

Sea-Land objects to this proposal in the belief that it may "encourage open-ended discovery type requests as opposed to narrowly focused requests for additional carrier data relevant to the GRI and that it overlooks the Commission's responsibility to examine the validity of protestant's request for additional data before ordering an investigation." Sea-Land Comments at 8. Sea-Land views the data request provision of 46 CFR 502.67(b)(1) as an obligation on a protestant to inform the Commission of any relevant gaps in the carrier data filed with the GRI. Sea-Land also seems to share Matson's concern that the right to object to protestants' data requests might be foreclosed by the proposal.

As noted above, in response to Matson's comments, this proposal is not intended to foreclose legitimate objections to data requests, nor to limit the ALJ's role in ruling on any such objections. The final rule has been clarified in this respect to remove any misunderstanding. Objections to data requests will be due on the same date as other, unobjectionable data are produced. Disposition of any such objections will be within the discretion of the ALJ.

With respect to Sea-Land's other concerns, the proposed amendment alters neither the rights of protestants to seek additional carrier data, nor the Commission's rights to review such data requests, nor the rights of a carrier to reply to such requests as part of its reply to protests under 46 CFR 502.67(c) and 502.74. The proposed rule is intended only to establish a deadline for furnishing the data or filing objections to such requests in the event a carrier's GRI or GRD is made the subject of an investigation pursuant to section 3 of the 1933 Act.

2. Extend the Time for Protestants and Hearing Counsel To Serve Their Direct Cases in GRI/GRD Proceedings

Currently, § 502.67(d)(1) of the Commission's rules requires all parties to serve their respective direct cases in GRI/GRD proceedings within seven days after the proposed effectiveness of the tariff change. Hawaii argued persuasively in its petition that compliance with this requirement by protestants and Hearing Counsel is difficult, if not impossible, as demonstrated by experience in recent rate proceedings where this requirement has been waived. While the ALJ has discretion to adjust this requirement as necessary, the Commission recognized in proposing the Rule that such *ad hoc* adjustments could consume time, place additional burdens upon the ALJ and leave the parties in an uncertain status until any motions addressing these matters are decided.

As noted above, a carrier which files a GRI/GRD already is required by § 502.67(a)(2) to submit, concurrently with its tariff filing, testimony and exhibits which will serve as its direct case in the event the matter is set for formal investigation. The Commission expressed its opinion in the proposed rule that the further requirement to serve such material, under oath, upon the parties and the ALJ, within seven days after the tariff is scheduled to take effect, should place only a minimal burden upon the carrier. Moreover, the Commission noted that the justification offered by the carrier for its rate increase (or decrease) appears to be the logical starting point for any rate investigation.

Therefore, the Commission proposed to retain the requirement for carriers to serve their sworn direct testimony and exhibits, together with underlying workpapers, within seven days. However, the seven days would commence upon the issuance of the Commission's order of investigation so that adding a few extra days to the time limits for concluding rate proceedings may be possible if the order of investigation can be issued prior to the proposed effective date of the tariff change.

For parties other than the filing carrier, the Commission proposed to extend the time for filing direct cases from seven to fourteen days, which period would also commence on the date of issuance of the order of investigation. The remainder of the procedural schedule would remain entirely in the discretion of the ALJ, to accommodate the wide variety of situations which may be encountered in GRI/GRD proceedings.

Hawaii supports this proposal, although it would prefer more time to submit its direct case. Seaman also agrees generally, but believes that twenty-one days is a more appropriate time period for parties other than the filing carrier to submit their direct cases. Seaman cites its own experience in three previous rate investigations in suggesting that any period less than twenty-one days would prejudice protestants whose direct cases are

dependent upon information held by the carrier. Seaman alleges that carriers have, in the past, delayed the production of information requested.

Matson states that it has no objection to this proposal. Sea-Land generally opposes extending the time for the filing of direct cases and, in particular, opposes the proposal to eliminate the simultaneous filing of direct cases as procedurally unfair to carriers. Sea-Land relies on the legislative history of the 1978 amendments to the 1933 Act in arguing that the current rules are consistent with the expressed Congressional intent of expediting rate investigations.

We continue to believe that this proposal, as written, will improve domestic offshore rate proceedings. Fourteen days from the date of the order of investigation is a tight, but more realistic period for parties other than the filing carrier to prepare and submit testimony and exhibits constituting their direct cases. Unlike our experience under the current rule, we believe that this deadline should be met in most instances without requiring motions and replies and the intervention of the ALJ. However, the ALJ will continue to have complete authority to adjust this schedule as necessary.

3. Remove the Restriction on Protestants' Use of Workpapers in Subsequent Commission Proceeding

In order to obtain carrier workpapers underlying financial and operating data filed in connection with proposed rate changes, potential protestants must sign a certification, set forth at 46 CFR 502.67(a)(3), which states, in pertinent part, that the workpapers will be used solely in connection with protests related to and proceedings resulting from the particular rate change for which the workpapers have been prepared. In its petition, Hawaii pointed out that parties in possession of a carrier's prior years' workpapers must request and receive the same workpapers again before they can be used in a subsequent Commission proceeding, thus consuming precious time during the hearing phase of that proceeding. Persuaded by the inefficiency of that situation, the Commission proposed to amend the certification to permit the use of carrier workpapers in any Commission proceeding addressing the rates, in that same trade, of the carrier which prepared the workpapers. The use of such workpapers would still be subject to legitimate evidentiary objections, such as relevance, and the documents would remain protected from public disclosure unless otherwise authorized by the ALJ or the Commission.

Hawaii and Seaman support this proposal. Sea-Land does not address this issue in its comments. Matson opposes the proposal, primarily on the bases of relevance and potential damage to confidentiality. Matson also suggests that the problem sought to be addressed does not exist, because prior year workpapers already can be produced and used in a pending proceeding, if relevant, citing a discovery order issued by the ALJ in Docket No. 90–09, *supra*, 25 S.R.R. at 864–65. Matson argues further that indiscriminate use of prior years' workpapers make it likely that rate proceedings will be lengthened, not expedited.

We believe that Matson's comments are inapposite to the Commission's proposal. The relevance and confidentiality of prior years' workpapers will not be affected by this amendment to the certification. Objections still may be made to the ALJ if and when data from those workpapers are sought to be introduced into evidence. The agreement made by protestants to maintain confidentiality is not removed by this amendment. Moreover, the older the financial information becomes, the less potential there is for competitive harm which might be caused by its disclosure.[9]

Matson's citation to the discovery order in Docket No. 90–09, *supra*, is particularly unpersuasive. In that order, the ALJ ruled on information requests, including requests for prior years' financial data, that had been made by Hawaii in the early stages of the proceeding. The ruling was issued (and ordered Matson to produce the prior years' data) on April 6, 1990, just three days before Hawaii was required to file its direct case in that rate proceeding. This discovery order reinforces our belief that there is insufficient time in these rate cases for the ALJ to be faced with discovery issues that can be avoided, in most instances, by rule. The blanket restriction on the use of prior years' workpapers should be, and is, removed in the final rule.

4. Eliminate the Requirement for all Parties To File Prehearing Statements Seven Days After the Proposed Effective Date of Non-GRIs/GRDs

Section 502.67(d)(2) currently requires all parties to a proceeding involving rate changes other than GRIs/GRDs to file detailed prehearing statements no later than seven days after the proposed effective date of the tariff matter under investigation. The Commission proposed to eliminate this requirement because the parties do not have sufficient information to file useful prehearing statements at this stage of a non-GRI/GRD proceeding.

With one limited exception, carriers are not required to file supporting data for rate changes other than GRIs/GRDs.[10] Unless a carrier voluntarily files such data, as Matson has on several occasions since 1985, other parties to a proceeding cannot be expected to explain how they plan to challenge the carrier's case.

Hawaii and Seaman support this proposal. Matson supports the proposal so long as it is limited to cases where the carrier has not filed supporting data voluntarily. Sea-Land expresses strong opposition to this proposal because it believes that elimination of the prehearing requirement would induce delay and increase the expense of litigating rate cases.

Sea-Land points out, correctly, that the Commission's rules at 46 CFR 502.67(f)(1) contemplate prehearing statements prior to convening a prehearing conference in domestic offshore rate proceedings. This requirement is not eliminated by the instant proposal. Rather, that very section of the rules will govern prehearing statements in non-GRI/GRD proceedings when this proposal is adopted in the final rule. Only the timing of prehearing statements will be affected by this proposal, and the timing will be left entirely to the discretion of the ALJ. We do not expect this amendment to produce delay or increased expense in rate proceedings because the existing rule has not been effective in producing useful prehearing statements.

With respect to Matson's suggestion that prehearing statements continue to be required in instances where the carrier voluntarily has submitted justification for its non-GRI/GRD filing, we believe this suggestion to be unworkable in practice. A carrier can be, and Matson has been, selective in submitting such voluntary justification. For example, Matson filed a 2.9 percent across-the-board increase on November 20, 1991, to become effective on January 1, 1992. That filing was followed on November 29, 1991, by supporting rate of return and cargo forecast testimony and, on December 10, 1991, with supporting financial testimony. Hawaii allegedly received that latter testimony, but without copies of workpapers, on

[9] *See, e.g.*, Docket No. 90–09, *supra*, 25 S.R.R. 1069, 1130–31 (Initial Decision, 1990).

[10] Section 552.2(f) requires supporting data when the aggregate of non-GRI increases affecting more than 50 percent of a carrier's rates results in an increase in gross revenues of 9 percent or more in a twelve month period.

December 11, 1991, and was granted an extension by the Commission until December 16, 1991 to file its protest. As long as the submission of justification for tariff changes remains at the discretion of the carrier, the Commission cannot impose deadlines upon other parties which are dependent upon the timely receipt of that justification. We continue to believe that the best way to handle the myriad circumstances that might be presented in this phase of a non-GRI/GRD proceeding is to rely on the discretion of the ALJ.

5. Require Carriers To File Direct Cases in Support of Non-GRIs/GRDs Within Fourteen Days After an Order of Investigation

As discussed above, rate changes other than GRIs/GRDs normally are filed without supporting financial or operating data. A formal investigation of any such changes must, therefore, commence without the same factual basis and analysis that accompany a GRI/GRD. Of particular importance in the domestic offshore trades are across-the-board increases of 2.5 percent to 2.9 percent which have been a common feature of the Hawaii trade during at least the past decade.

To complete an investigation of an increase filed on 30 days' notice, without supporting data, the Commission or the ALJ must require the carrier to file its direct case as quickly as possible after the order of investigation is issued. The Commission proposed to prescribe such a requirement by rule in order to save valuable time while an ALJ is assigned to the case and then establishes a procedural schedule. The deadline of fourteen days after the order is issued could be adjusted by the ALJ as necessary to meet particular circumstances.

Hawaii and Seaman support this proposal. Matson suggests that, if such a requirement is to be imposed, the time be enlarged from 14 to 25 days because the Commission's rules at 46 CFR 502.101 include Saturdays, Sundays and holidays in this calculation. Sea-Land suggests that any such deadline should apply only to ordered investigations of rate changes filed on less than 30 days' notice pursuant to the authority granted in Docket No. 92–36, *supra*. Sea-Land also argues that "[a] carrier should not have to file its direct case until after the prehearing process has refined the issues actually required to be addressed in evidentiary submissions." Sea-Land Comments at 12.

With only 60 days normally available to complete a hearing in a rate proceeding under section 3 of the 1933 Act, the Commission would handicap the ALJ severely by adopting Matson's suggestion that a carrier's direct case be filed 25 days into the proceeding. We recognize that 14 days is a very tight deadline for submitting testimony and exhibits, but this is the same time frame proposed for Hearing Counsel and protestants to submit direct cases in GRI/GRD proceedings. In any event, this time can be adjusted by the ALJ as circumstances warrant.

Sea-Land's suggestion to limit this proposal to investigations of increases filed on less than 30 days' notice would vitiate the proposal. We believe that such proceedings will be rare, given the extremely brief time available to the Commission for reviewing the tariff and any protests, and the requirement of the statute that the Commission state, in detail, the reasons why it believes a hearing to be necessary and the specific issues to be resolved by such hearing. This proposal for carriers to file direct cases in non-GRI/GRD proceedings can have meaning only if its application includes investigations of across-the-board increases, which will continue to be filed on at least 30 days' notice.

Sea-Land's suggestion that a carrier should not have to submit its direct case until after a prehearing conference has refined the issues also is unworkable in the time-starved environment of these rate proceedings. In all of the proceedings in question, as discussed below, the carrier has the burden of justifying its rate changes. Thus, the law and procedural logic dictate that a carrier put forth its reasons for the rate action before other parties can be expected to challenge those rates. Unless the carrier is required to submit its direct case very early in these proceedings, there is little hope of conducting a fair and meaningful hearing.

6. Clarify the Rule Allocating the Burden of Proof in Commission Proceedings

Section 502.155 of the Commission's rules addresses the burden of proof in Commission proceedings as follows:

> At any hearing in a suspension proceeding under section 3 of the Intercoastal Shipping Act, 1933 (§ 502.67), the burden of proof to show that the suspended rate, fare, charge, classification, regulation, or practice is just and reasonable shall be upon the respondent carrier or carriers. In all other cases, the burden shall be on the proponent of the rule or order. [Rule 155.]

In *Commonwealth of Puerto Rico* v. *Federal Maritime Commission*, 468 F.2d 872 (DC Cir. 1972), the Commission was instructed that this language, and the language of the statute on which it relies, does not mean that the burden of proof is on parties other than the carrier in a section 3 investigation absent a suspension order. In fact, the court there examined the general regulatory pattern; considered that the carriers were the parties possessed of the pertinent evidence; and concluded that the burden of proof is on the carrier seeking a rate increase, whether or not that increase has been suspended.

No serious issue regarding the ultimate burden of proof in rate proceedings under section 3 of the 1933 Act had arisen since 1972. However, when Hawaii suggested in its petition that the rule be clarified to make it consistent with the case law, one of the major carriers in these trades commented that, in its view, under Rule 155, non-carrier parties have the burden of proof in proceedings where rates have not been suspended. Because of that apparent misunderstanding, the Commission proposed to clarify the rule.

Hawaii and Seaman support this proposal, and Matson states that it has no objection. Sea-Land, however opposes the amendment as being unnecessary and lacking precision. In particular, Sea-Land alleges that the proposed language fails to incorporate subtle distinctions found in the case law between the burdens assigned in connection with rate decreases vs. rate increases, the burden of going forward on various issues or sub-issues raised in the course of a rate proceeding, and the burdens assigned in challenging existing rates vs. new rates.

While we disagree with Sea-Land's conclusion that the proposed rule is unnecessary and lacks precision, we do share Sea-Land's appreciation for the subtle distinctions created by court decisions which have addressed this subject. First, the courts have enunciated a difference between the burden of proof in proceedings addressing newly filed rates as opposed to the burden of proof in proceedings in which existing rates are challenged. The Commission recognized and articulated this distinction in Docket No. 85–24, *supra*, 25 S.R.R. at 89. There, the Commission held that "the burden is upon those attacking existing rates to show that they are unreasonable. *Louisville & Nashville Railroad Co.* v. *United States*, 238 U.S. 1, 11 (1915); *ASG Industries, Inc.* v. *United States*, 548 F.2d 147, 151 (6th Cir. 1977)."

This distinction has no relevance to the amendment proposed to Rule 155 because the amendment addresses only

hearings conducted under section 3 of the 1933 Act. The Commission's authority under that statutory section is limited to investigations and suspensions of new rates, fares, charges, classifications, regulations and practices. Existing rates may be, and have been investigated under section 18 of the Shipping Act, 1916, *supra*. Nevertheless, in the final rule, albeit somewhat redundant, we have inserted the additional word "new" before "rate, fare, charge", etc. to clarify that the subject matter of investigations under section 3 of the 1933 Act does not include existing rates.

Second, courts have distinguished the ultimate burden of persuasion from the burden of going forward to produce evidence on a particular issue. In the same Matson decision, Docket No. 85–24, *supra*, the Commission stated, as pertinent here:

> [T]he burden of producing evidence on a particular fact in issue falls on the party pleading the existence of that fact. *Puerto Rico Maritime Shipping Authority* v. *FMC*, 678 F.2d 327, 353 (D.C.Cir. 1982), *cert. denied*, 459 U.S. 906 (1982). Hence, those parties arguing that an adjustment is necessary to the benchmark for current trends in rates of return, the cost of money or Matson's relative risk have the burden of producing evidence in support of their particular contention.

Id. at 25 S.R.R. 89.

This second distinction is also irrelevant to the proposed amendment to Rule 155. The amendment, and the existing rule, apply only to the ultimate burden of persuasion to show that the rate change is just and reasonable, and not to any particular subordinate issue that may be raised during the course of a rate investigation.

A third distinction is alleged by Sea-Land to have been drawn between investigations of rate increases and investigations of rate decreases. Neither the existing rule nor the proposed rule makes this distinction, and we believe that a proper reading of relevant statutes and case law supports identical treatment of both types of rate changes.

Some rationale for distinguishing between these two types of proceedings was offered in *dictum* by the court in Commonwealth of Puerto Rico, *supra*, as follows:

> A rate decrease is sought generally to enhance a carrier's competitive position, and so pits it against competitors and other affected businesses in *complaint* proceedings. Such opponents are more likely to have access to the same general fund of information concerning the rate proposals and so will not be at a decisive disadvantage if they have to bear the burden of proof. That is not the case when the contest pertains as here to a rate increase, which pits the carriers against its [sic] consumers, whether or not rates are suspended.

468 F.2d at 879 n. 15. (emphasis added).

Whether the court intended this distinction to apply only when a rate decrease is challenged in a complaint proceeding is unclear and has not been clarified by subsequent case law.[11] In any event, rate investigations conducted pursuant to section 3 of the 1933 Act are not complaint proceedings.

To draw a distinction between rate increases and rate decreases investigated by the Commission under section 3 of the 1933 Act would seem to be in conflict with the overall purpose and context of that statute. Both types of rate changes always have been subject to the same powers of investigation and suspension.[12] In amending that statute in 1978, Congress reinforced this like treatment of increases and decreases through its definitions of GRI and GRD and by imposing the same limits and procedures in connection with Commission investigations of each. For example, the 5 percent "no suspend zone" applies to GRDs as well as GRIs.

Additional support for the proposal as written appears in the text of the existing rule which incorporates a basic provision of the Administrative Procedure Act ("APA"), 5 U.S.C. 556(d). Both the rule and the statute specify that the burden of proof is on the proponent of a rule or order. Section 2 of the APA, 5 U.S.C. 551, defines ratemaking as rulemaking. Where a carrier is seeking to decrease its rates, it is no less the proponent of that change than if it were seeking to increase its rates under the regulatory scheme of the 1933 Act.[13] Thus, the Commission has decided to retain, in the final rule, this identical treatment of the burden of proof in rate increase and rate decrease proceedings.

In view of Sea-Land's comments, and the analysis of applicable law occasioned by those comments, the Commission also will take this opportunity to amend the second sentence of Rule 155 to remove the impression that the assignment of the burden of proof to carriers in section 3 investigations is an exception to the general rule set forth in the APA. As quoted above, the second sentence now reads, "In all *other* cases, the burden shall be on the proponent of the rule or order." (Emphasis added). Because the carrier is the proponent of a rate change investigated under section 3 of the 1933 Act, we believe the word "other" in the second sentence can be misleading and are removing it in the final rule. We are also adding to that sentence an appropriate citation to the section of the APA from which that sentence is adopted.

In addition to these changes, technical amendments also were proposed in the NPR to add section 3 of the 1933 Act to the authority cited for Part 502, and to revise section 502.67(e) to reflect deletion of the requirement to file prehearing statements within seven days of commencement of non-GRI/GRD proceedings. No comments were received on these technical amendments and they are adopted as part of the final rule.

Also included in this final rule document is a correction of an oversight in the Commission's final rule in Docket No. 93–02, published May 7, 1993, 58 FR 27208. In that document, the Commission removed § 502.28 from part 502, but inadvertently failed to remove the reference to § 502.28 which appears in § 502.27.

The Commission certifies, pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), that this rule will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units and small government jurisdictions. The rule is procedural only and will result in a slight easing of the procedural requirements imposed upon protestants to rate proceedings under section 3 of the 1933 Act.

This rule does not impose any reporting or recordkeeping requirements in addition to those already approved by the Office of Management and Budget.

List of Subjects in 46 CFR Part 502

Administrative practice and procedure, Claims, Equal access to justice, Investigations, Lawyers,

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[11] In *Kansas Gas & Electric Company* v. *Federal Energy Regulatory Commission*, 758 F.2d 713, 718 (D.C. Cir. 1985), *Commonwealth of Puerto Rico* is quoted for the proposition that "there is a basis for imposing different burdens of proof rules in justifying rate decreases." Again, this pronouncement is *dictum*, for the court in *Kansas Gas* found that the matters in issue there (minimum billing demand clauses) were filed as part of an increase in rates.

[12] While the occasions have been infrequent, the Commission has exercised its authority to suspend and investigate rate decreases in the domestic offshore trades. *E.g.*, Docket No. 72–14, Marine and Marketing International Corp., Reduced Rates on Automobiles from Miami and Jacksonville to San Juan, Puerto Rico, Order of Investigation and Suspension served April 11, 1972.

[13] *Cf. American Louisiana Pipe Line Company* v. *Federal Power Commission*, 344 F.2d 525, 529 (D.C. Cir. 1965), where the court found that the specific language of the Natural Gas Act, 15 U.S.C. 717c(e), required a distinction in the assignment of the burden of proof in investigations of rate increases as opposed to rate decreases.

Reporting and recordkeeping requirements.

Therefore, pursuant to 5 U.S.C. 553, sections 18 and 43 of the Shipping Act, 1916, 46 U.S.C. app. 817 and 841a, and section 3 of the Intercoastal Shipping Act, 1933, 46 U.S.C. app. 845, part 502 of title 46, Code of Federal Regulations is amended as follows:

PART 502—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for part 502 is revised to read as follows:

Authority: 5 U.S.C. 504, 551, 552, 553, 559; 12 U.S.C. 1141j(a); 18 U.S.C. 207; 26 U.S.C. 501(c)(3); 28 U.S.C. 2112(a); 46 U.S.C. app. 817, 820, 821, 826, 841a, 845, 1114(b), 1705, 1707–1711, 1713–1716; E.O. 11222 of May 8, 1965 (30 FR 6569); and 21 U.S.C. 853a.

§ 502.27 [Amended]

2. In § 502.27(c), the reference to "502.28," is removed.

3. In § 502.67, paragraphs (a)(3), (d), and the introductory text of paragraph (e)(1) are revised to read as follows:

§ 502.67 Proceedings under section 3(a) of the Intercoastal Shipping Act, 1933.

(a) * * *

(3) Workpapers underlying financial and operating data filed in connection with proposed rate changes shall be made available promptly by the carrier to all persons requesting them for inspection and copying upon the submission of the following certification, under oath, to the carrier:

Certification

I, (Name and title if applicable) _____, of (Full name of company or entity) _____, having been duly sworn, certify that the underlying workpapers requested from (Name of carrier) _____, will be used solely in connection with protests related to and proceedings resulting from (Name of carrier) _____'s rates, fares or charges in the _____ trade and that their contents will not be disclosed to any person who has not signed, under oath, a certification in the form prescribed, which has been filed with the Carrier, unless public disclosure is specifically authorized by an order of the Commission or the presiding officer.

Signature: _____

Date: _____

Signed and Sworn to before me this ____day of _____(month), _____(year).

Notary Public: _____

My Commission expires: _____

* * * * *

(d)(1) In the event the general rate increase or decrease of a VOCC is made subject to a docketed proceeding:

(i) The VOCC shall serve, under oath, testimony and exhibits constituting its direct case, together with underlying workpapers and responses (including objections, if any) to protestants' requests for additional carrier data, on all parties pursuant to subpart H of this part, and lodge copies of such testimony and exhibits with the presiding officer, no later than seven (7) days after the Commission issues its order of investigation in the docketed proceeding; and

(ii) Hearing Counsel and all Protestants shall serve, under oath, testimony and exhibits constituting their direct cases on all parties pursuant to subpart H of this part, and lodge copies with the presiding officer, no later than fourteen (14) days after the Commission issues its order of investigation in the docketed proceeding.

(2) If other proposed tariff changes are made subject to a docketed proceeding pursuant to section 3 of the Intercoastal Shipping Act, 1933, the carrier shall serve, under oath, testimony and exhibits constituting its direct case, together with underlying workpapers, on all parties pursuant to subpart H of this part, and lodge copies of such testimony and exhibits with the presiding officer, no later than fourteen (14) days after the Commission issues its order of investigation. Further procedural dates in such proceeding shall be established by the presiding officer.

(e)(1) Subsequent to the issuance of an order of investigation, the presiding officer may direct all parties to participate in a prehearing conference to consider:

* * * * *

4. Section 502.155 is revised to read as follows:

§ 502.155. Burden of proof.

At any hearing under section 3 of the Intercoastal Shipping Act, 1933 (§ 502.67), the burden of proof to show that the new rate, fare, charge, classification, regulation, or practice is just and reasonable shall be upon the respondent carrier or carriers. In all cases, as prescribed by the Administrative Procedure Act, 5 U.S.C. 556(d), the burden shall be on the proponent of the rule or order. [Rule 155.]

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 93–27232 Filed 11–4–93; 8:45 am]

BILLING CODE 6730–01–W

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 16

RIN 1018–AB13

Injurious Wildlife: Importation of Fish or Fish Eggs

AGENCY: U.S. Fish and Wildlife Service, DOI.

ACTION: Final rule.

SUMMARY: This rule relates to reducing the risk of spreading fish pathogens through the importation of certain fish or fish eggs. This final rule simplifies the importation of eviscerated fish destined for human consumption; removes inspection requirements for *Myxobolus cerebralis*, the causative agent for whirling disease; adds specific requirements for pre-importation egg disinfection; and describes in detail specific sampling, sample processing, and laboratory methods required for the detection of *Oncorhynchus masou* virus and the viruses causing infectious pancreatic necrosis (IPN), infectious hematopoietic necrosis (IHN), and viral hemorrhagic septicemia (VHS). The rule applies to all fish of the family Salmonidae.

EFFECTIVE DATE: December 6, 1993

FOR FURTHER INFORMATION CONTACT: Dr. John G. Nickum, Division of Fish Hatcheries, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240, telephone (703) 358–1878.

SUPPLEMENTARY INFORMATION:

Background

In August 1989, the U.S. Fish and Wildlife Service (USFWS) published in the **Federal Register** a "Notice of Intent to Revise" the regulation (50 CFR 16.13) pertaining to the importation of salmonid fish, fish eggs, and fish products for the purpose of preventing the introduction of the virus causing viral hemorrhagic septicemia or the protozoan parasite (*Myxobolus cerebralis*) causing whirling disease. The comments received were reviewed, and strong support for certain changes in 50 CFR 16.13 was clear. Data for the proposed rule were gathered from the information submitted as the result of the Notice of Intent to Revise.

Substantive changes included the following:

1. Fish pathogen inspections are no longer required for dead fish "when such fish have been eviscerated (all internal organs removed) or filleted or when such fish or eggs have been

processed by canning, pickling, or otherwise prepared in a manner whereby * * *" the four listed viruses have been killed.

2. Iodophor (polyvinylpyrrolidone iodine) disinfection is required for fish eggs within the 24 hours prior to shipment into the United States and disinfected eggs are to be held in pathogen-free water prior to packing/shipping and are to be shipped in pathogen-free water or ice.

3. Whirling disease, caused by *Myxobolus cerebralis*, has been dropped from the regulation.

4. *Oncorhynchus masou* virus and the viruses causing IHN and IPN have been added to the already listed viral hemorrhagic septicemia (VHS) virus for a total of four viruses.

5. Outdated technical procedures published in USFWS Fish Disease Leaflet No. 9 are replaced with procedures detailing sampling, sample processing, cell culture, and virus identification methods.

Summary of Comments

On July 7, 1992, the proposed rule was published in the **Federal Register** (57 FR 29856). The USFWS received comments from 40 respondents. Of these, 7 letters were received from foreign entities, 1 letter was received from a member of Congress, 5 letters were received from Federal agencies, 13 letters were received from State agencies, and 14 letters were received from the private sector. The comments were combined into six distinct categories: species aspect, pathogen aspect, sampling aspect, economic aspect, development of standardized forms, and authority of Federal agencies.

Analysis of Public Comments

Various comments related to the importation of mollusks and crustaceans, both fresh water and marine. Some respondents stated that mollusks and crustaceans should be included in the regulation because serious pathogens affect them. Most marine mollusk and crustacean issues are under the purview of the National Marine Fisheries Service (NMFS); therefore the USFWS plans to consult with NMFS about adding these animals to the future revision of the present regulation. One respondent interpreted these regulations as preventing the importation of all crustaceans. To address this misinterpretation, the sentence in (a)(2) has been changed to "The importation, transportation, or acquisition of any live fish or viable eggs of the walking catfish, family Clariidae, and live mitten crabs, genus *Eriocheir*, or their viable eggs, is prohibited except as provided under the terms and conditions set forth in § 16.22." Gametes and fertilized eggs were added to section (a) for consistency.

Numerous comments were received concerning the specific pathogens included in the final rule. These comments ranged from the list of pathogens being too restrictive to the list being not restrictive enough. Concern was expressed that *Gyrodactylus salaris*, a salmonid parasite, was not included in the proposed rule. The USFWS plans further study of this parasite and may consider including it in the next revision of this regulation. Some respondents stated that any additional "replicating agents" or pathogens found during the inspections should be listed on the inspection form. The USFWS has decided to limit the number of pathogens to be reported to those known to be serious and untreatable pathogens. Concern was expressed about the deletion of whirling disease. The USFWS does not think that whirling disease presents enough of a threat to the Nation's fisheries to warrant including it in the regulations because it effects are generally not severe, and the USFWS believes it can be effectively managed. Several persons commented that IHN and IPN viruses should be deleted from the regulations. For example, some indicated that the addition of the IPN virus to these regulations will prevent some Canadian companies from moving fish in the round into the United States. The reasons that these viruses are added to this regulation are that they cause severe diseases and there is no known treatment for these pathogens. They are listed in the final rule to limit further introductions that could increase both the total number and the number of strains of these pathogens.

Various respondents stated that fish caught in the wild in North America under a valid sport or commercial fishing license should not be exempt from sampling and certification requirements. One respondent felt that only wild salmon should be tested for IPN, IHN, and VHS because they can carry these viruses. The USFWS recognizes that wild fish can carry pathogens. However, the live fishes in coastal waters move freely across national boundaries while carrying pathogens. Transporting these fish into the United States after capture does not increase the risk of introducing additional pathogens. The risk from dead fish caught under a sport fishing license in inland waters is negligible.

Although most comments on iodophor disinfection were positive, some suggested that iodophoring be deleted or at a minimum modified. The USFWS believes that the method stated in the regulations will help prevent the spread of pathogens into the United States.

One respondent stated that evisceration should include the removal of gills. Removal of gills will not be required by this regulation because the condition of gills is often used for judging the freshness of the fish. Also, the USFWS thinks that the potential of transferring the listed pathogens through gills is minimal.

The proposed rule did not mention that ice used for shipping these products should be from the pathogen-free water from which they are shipped. This has been included in section (a)(4) of the final rule.

Although most comments supported the exemption of eviscerated fish from inspection, one comment was that eviscerated trout should be inspected for the VHS virus because some virologists think that there is a slight probability of it entering through gutted fish. The USFWS believes that the risk involved is negligible and therefore has not changed the exemption.

The end of the first sentence in section (b)(1) stated that the products will be determined to be free of the listed viruses. Due to respondents questioning the accuracy of the statement "free of listed viruses," the wording was changed to state that "none of the listed viruses were detected." For consistency, the second sentence in section (a)(3) was changed along with the wording in section (b)(3).

The sampling and testing of milt was suggested; however, the USFWS has found no documented evidence that viruses can be isolated from milt with acceptable efficiency.

Numerous respondents stated that only eggs and not live fish should be imported into the U.S. because eggs carry fewer diseases than do live fish. The USFWS thinks that, at a minimum, live fish need to be more strictly controlled and has added a sentence to (a)(3) stating "In addition, live fish can be imported into the United States only upon written approval from the Director of the U.S. Fish and Wildlife Service." For situations where disease conditions and pathogen distribution are well known and were disease programs are in place, provisions have been made in section(2)(c) for specific agreements for fish movement.

One respondent suggested that the American Fisheries Society Blue Book be referenced instead of giving

procedures in the regulation. The USFWS believes that stating specific laboratory procedures in the regulations will help ensure consistency in testing and that procedures will be easy to access. The USFWS must reserve final authority for these procedures.

A few comments were received questioning the sampling procedures and size of samples. For instance, a few respondents requested that the 180-day inspection requirement be changed to 365 days. Other respondents stated that testing 150 fish during one time period would not be as effective in determining pathogen status as would numerous inspections using fewer fish and looking at the history of the facility. One person stated that if 150 fish seems excessive for testing, the Certifying Official could adjust that number according to his professional judgment. Another respondent stated that if only fish from lots to be shipped are tested, it is possible that a listed pathogen could be present in non-tested lots. Certifying Officials are responsible for determining that the conditions that prevailed at the time of the inspection have not been compromised. A sample of 150 fish provides a confidence level of 95 percent with a presumed pathogen prevalence of 2 percent. The USFWS thinks that this level of sampling is needed when there is insufficient inspection and disease history on file for a specific facility or stock; however, a 60 fish sample, based on a presumed pathogen prevalence of 5 percent, will be accepted if all stocks at the facility from which the shipment originates have not tested positive, nor had disease outbreaks, for the pathogens of concern during the previous 2-year time period. A minimum of four negative inspections, at least 6 months apart, are required to be eligible for the lower sampling requirement.

In reference to the provision on assaying kidney and spleen tissues, (e)(1)(v) (C) and (D), one person commented "For detection of IPN, in the carrier state, in some species of salmonids, pyloric caeca and pancreas tissues are recommended for improved sensitivity." The USFWS selected spleen and kidney tissues because pyloric caeca and pancreas tissues can produce toxic reactions in cell cultures.

The wording in section (e)(1)(v)(D) has been changed from "Spawning adult broodstock: Assay ovarian fluid from females. Assay kidney and spleen tissues from males" to "Spawning adult broodstock: Assay kidney and spleen tissue from males and/or females and ovarian fluid from females. Ovarian fluid may make up to 50 percent of the samples collected." These changes allow the choice of sex for kidney/spleen analysis and improve clarity. The last sentence "Both sexes should be sampled in equal numbers in approximately equal sample volume or weight proportions" has been deleted because this is not necessary.

One respondent stated "Two- or three-fish pooling could be more sensitive than the five-fish pooling referred to in Section (e)(2) (i) and (ii)." The USFWS thinks that the amount of increased sensitivity would not warrant the extra workload of 2- or 3-fish pooling.

Section (e)(2)(vi), which directed the use of ovarian fluid pellets, was deleted because this method is not widely used. Due to this deletion, section (e)(2)(vii) was renumbered and reworded. Also, the first sentence of (e)(2)(vii) was confusing to a respondent. Therefore, it was changed from "Prior to inoculation" to "At the time of inoculation."

Questions were received as to why EPC and CHSE–214 cell lines were required in section (e)(3)(i). These lines were selected because EPC cell lines work well for rhabdoviruses and CHSE–214 cell lines work well for IPNV and OMV.

There were a few comments about section (e)(3)(iii). Some asked about using 96-well plates as opposed to 24-well plates and whether duplicates were involved. The USFWS chose 24-well plates because they give more surface area. To address the duplicate issue, the first sentence was changed to "Decant the medium from the required number of 24-well plates of each cell line, and inoculate four replicate wells per cell line with .10 ml per well of each processed sample." Also the efficacy of aspirating and decanting the inocula was questioned. The USFWS has decided to delete reference to the aspirating and decanting procedures in this section. A 21-day incubation period was thought by one respondent to be too long for routine assays, and the respondent suggested that it should be reduced to 14 days. The USFWS thinks that a 14-day incubation period is too short unless a blind passage is required, which would add to the workload.

In reference to section (e)(4), one respondent stated that "equivalent serological technique" could prove to be a self-imposed restriction, as other more sensitive methods, such as PCR and DNA hybridization, become more commonly available. As these techniques become available, the USFWS will consider them for future revisions.

One person felt that a mechanism should be provided to monitor the capability of the laboratories where the inspections are performed. This suggestion is valid in principle; however, the applications for inspectors are thoroughly reviewed and updated to help ensure the integrity of their work. In addition, the USFWS does not have the resources to physically monitor the inspection facilities and process.

Concerns were expressed as to how the final regulations would affect both large and small U.S. private growers financially due to the increased number of pathogens to be tested, increased sample size, elimination of testing eviscerated fish, and the effect this would have on foreign countries' regulations targeted at imports from the United States. Some private growers wanted the comment period extended or wanted public meetings to discuss these economic issues. The intent of these regulations is to reduce the possibility of spreading certain viral pathogens to either hatchery or wild stocks from imported salmonid fish and eggs. These regulations are no more restrictive than those of most other countries that commonly trade with the United States. In fact, comments pertaining to these regulations from other countries have been basically favorable. Most of the comments received by the USFWS did not indicate a need for either an extension or hearings. Those who requested hearings did not provide substantive reasons to warrant such action. The potential economic impacts were reviewed in the Determination of Effects. It was determined that these regulations will not have a significant negative economic impact on a substantial number of small businesses in the United States. The revisions should, in fact, benefit both the private growers and resource managers.

One respondent questioned the validity of the takings statement and the regulation's exception from the President's moratorium on Federal regulations. Because the regulation pertains to the prevention of fish diseases introduced from importation of foreign fish, fish eggs, and fish products into the United States, the takings statement, under Required Determinations, is accurate; there is no taking of property of U.S. citizens or businesses. The regulations were given an exception to the moratorium on the grounds that they will foster economic growth by improving the health of fish within the United States by preventing the introduction of certain fish pathogens into the United States. Also, this rule will reduce regulatory activity by eliminating restrictions on the importation of eviscerated trout or salmon and related fish products. It will

also accommodate the vast improvements in the knowledge of fish diseases that have developed since the original rule was established.

Other suggestions included producing standard forms for the certifying officials to use when reporting inspection results and changing the term "certification" to "inspection" on the form. This is being considered by the USFWS for future action.

Many comments from the State representatives related to dissatisfaction with the following wording in section (a)(3), "This provision does not affect authorities of Federal agencies in § 16.32." This sentence has been changed to "Notwithstanding § 16.32, all Federal agencies shall be subject to the requirements stated within this section."

Required Determinations

This rule has been reviewed under E.O. 12866. As required by the Regulatory Flexibility Act, it is hereby certified that this final rule will not have a significant economic impact on a substantial number of small business entities. The final rule will ease the movement of fresh dressed or fully processed fishery products from foreign countries into the United States. The quantity is already governed by competitive processes among and between aquaculture and capture fishery industries. The current regulations do not measurably restrict the movement of these products. The final changes would lessen any remaining effects.

Any takings implications that these regulatory changes may have are excluded by provisions in E.O. 12630 because they relate to criminal proceedings in law enforcement actions involving the seizure of property, for forfeiture or as evidence, for violation of law. The final regulations do not have significant Federalism effects or sufficient implications to warrant preparation of a Federalism Assessment under E.O. 12612. The USFWS has determined for the purposes of complying with the National Environmental Policy Act that this rule is a categorically excluded as provided by 516 Dm 6 Appendix 1.

Information Collection Requirements

The information collection requirements contained in 50 CFR part 16 has been approved by the Office of Management and Budget under 44 U.S.C. 3051 et seq. and assigned clearance number 1018–0078. The information is being collected to inform U.S. Customs and USFWS inspectors of the contents, origin, routing, and destination of fish and egg shipments and to certify that the fish lots were inspected for listed pathogens. The information will be used to protect the health of the fishery resource. Response is required to obtain a benefit. The estimated average time to provide this information is approximately 20 minutes.

Primary author is Dr. John G. Nickum, Division of Fish Hatcheries.

List of Subjects in 50 CFR Part 16

Fish, Imports, Reporting and recordkeeping requirements, Transportation, and Wildlife.

For reasons set forth in the preamble, part 16 of title 50 of the Code of Federal Regulations is amended as follows:

PART 16—[AMENDED]

1. The authority citation for part 16 is revised to read as follows:

Authority: 18 U.S.C. 42.

2. Section 16.13 is revised to read as follows:

§ 16.13 Importation of live or dead fish, mollusks, and crustaceans, or their eggs.

(a) Upon an exporter filing a written declaration with the District Director of Customs at the port of entry as required under § 14.61 of this chapter, live or dead fish, mollusks, and crustaceans, or parts thereof, or their gametes or fertilized eggs, may be imported, transported, and possessed in captivity without a permit except as follows:

(1) No such live fish, mollusks, crustacean, or any progency or eggs thereof may be released into the wild except by the State wildlife conservation agency having jurisdiction over the area of release or by persons having prior written permission from such agency.

(2) The importation, transportation, or acquisition of any live fish or viable eggs of the walking catfish, family Clariidae, and live mitten crabs, genus *Eriocheir*, or their viable eggs, is prohibited except as provided under the terms and conditions set forth in § 16.22.

(3) Notwithstanding § 16.32, all Federal agencies shall be subject to the requirements stated within this section. Live or dead uneviscerated salmonid fish (family Salmonidae), live fertilized eggs, or gametes of salmonid fish are prohibited entry into the United States for any purpose except by direct shipment accompanied by a certification that: as defined in paragraph (e)(1) of this section, the fish lots, from which the shipments originated, have been sampled; virus assays have been conducted on the samples according to methods described in paragraphs (e)(2) through (4); of this section; and *Oncorhynchus masou* virus and the viruses causing viral hemorrhagic septicemia, infectious hematopoietic necrosis, and infectious pancreatic necrosis have not been detected in the fish stocks from which the samples were taken. In addition, live salmonid fish can be imported into the United States only upon written approval from the Director of the U.S. Fish and Wildlife Service.

(4) All live fish eggs of salmonid fish must be disinfected within 24 hours prior to shipment to the United States. Disinfection shall be accomplished by immersion for 15 minutes in a 75 part per million (titratable active iodine) non-detergent solution of polyvinylpyrrolidone iodine (iodophor) buffered to a pH of 6.0 to 7.0. Following disinfection, the eggs shall be rinsed and maintained in water free of fish pathogens until packed and shipped. Any ice or water used for shipping shall be from pathogen-free water.

(b)(1) The certification to accompany importations as required by this section shall consist of a statement in the English language, printed or typewritten, stating that this shipment of dead uneviscerated salmonid fish, live salmonid fish, or live, disinfected fertilized eggs or gametes of salmonid fish has been tested, by the methods outlined in this section, and none of the listed viruses were detected. The certification shall be signed in the country of origin by a qualified fish pathologist designated as a certifying official by the Director.

(2) The certification must contain:

(i) The date and port of export in the country of origin and the anticipated date of arrival in the United States and port of entry;

(ii) Surface vessel name or number or air carrier and flight number;

(iii) Bill of lading number or airway bill number;

(iv) The date and location where fish, tissue, or fluid samples were collected;

(v) The date and location where virus assays were completed; and

(vi) The original handwritten signature, in ink, of the certifying official and his or her address and telephone number.

(3) Certification may be substantially in the following form:

I, _____, designated by the Director of the U.S. Fish and Wildlife Service on _____(date), as a certifying official for _____(country), as required by Title 50, CFR 16.13, do hereby certify that the fish lot(s) of origin for this shipment of _____ (weight in kilograms) dead uneviscerated salmonid fish, live salmonid fish, live

salmonid fish eggs disinfected as described in § 16.13, or live salmonid gametes to be shipped under _____ (bill of lading number or airway bill number), were sampled at _____ (location of fish facility) on _____ (sampling date) and the required viral assays were completed on _____ (date assays were completed) at _____ (location where assays were conducted) using the methodology described in § 16.13. I further certify that *Oncorhynchus masou* virus and the viruses causing viral hemorrhagic septicemia, infectious hematopoietic necrosis, and infectious pancreatic necrosis have not been detected in viral assays of the fish lot(s) of origin.

The shipment is scheduled to depart _____ (city and country) on _____ (date), via _____ (name of carrier) with anticipated arrival at the port of _____ (city), U.S.A., on _____ (date).

(Signature in ink of certifying official)

(Printed name of certifying official)
Date: _____
Organization employing certifying official: _____
Mailing address: _____
City: _____
State/Province: _____
Zip Code/Mail Code: _____
Country: _____
Office telephone number: International code
Telephone number _____
Fax number _____

(c) Nothing in this part shall restrict the importation and transportation of dead salmonid fish when such fish have been eviscerated (all internal organs removed, gills may remain) or filleted or when such fish or eggs have been processed by canning, pickling, smoking, or otherwise prepared in a manner whereby the *Oncorhynchus masou* virus and the viruses causing viral hemorrhagic septicemia, infectious hematopoietic necrosis, and infectious pancreatic necrosis have been killed.

(d) Any fish caught in the wild in North America under a valid sport or commercial fishing license shall be exempt from sampling and certification requirements and from filing the Declaration for Importation of Wildlife. The Director may enter into formal agreements allowing the importation of gametes, fertilized eggs, live fish, or dead, uneviscerated fish without inspection and certification of pathogen status, if the exporting Nation has an acceptable program of inspection and pathogen control in operation, can document the occurrence and distribution of fish pathogens within its boundaries, and can demonstrate that importation of salmonid fishes into the United States from that National will not pose a substantial risk to the public and private fish stocks of the United States.

(e) Fish sampling requirements, sample processing, and methods for virus assays.

(1) *Fish sampling requirements.* (i) Sampling for virus assays required by this section must be conducted within the six (6) months prior to the date of shipment of dead uneviscerated salmonid fish, live salmonid fish, live salmonid eggs, or salmonid gametes to the United States. Sampling shall be on a lot-by-lot basis with the samples from each lot distinctively marked, maintained, and processed for virus assay separately. A fish lot is defined as a group of fish of the same species and age that originated from the same discrete spawning population and that always have shared a common water supply. In the case of adult broodstock, various age groups of the same fish species may be sampled as a single lot, provided they meet the other conditions previously stated and have shared the same container(s) for at least 1 year prior to the sampling date.

(ii) In a sample, or sub-sample of a given lot, collection of 10 or more moribund fish shall be given first preference. The remainder of fish required for collection shall be randomly selected live fish from all containers occupied by the lot being sampled. Moribund fish shall be collected and processed separately from randomly selected fish. In the event the sample is taken from adult broodstock of different ages that share the same container, first preference shall be given to collecting samples from the older fish.

(iii) The minimum sample numbers collected from each lot must be in accordance with a plan that provides 95 percent confidence that at least one fish, with a detectable level of infection, will be collected and will be present in the sample if the assumed minimum prevalence of infection equals or exceeds 2 percent. A total of 150 fish collected proportionately from among all containers shared by the lot usually meets this requirement. A sampling strategy based on a presumed pathogen prevalence of 5 percent (60 fish) may be used to meet sampling requirements for shipments of gametes, fertilized eggs, or uneviscerated dead fish; provided that in the previous 2 years no disease outbreaks caused by a pathogen of concern have occurred at the facility from which the shipment originated and all stocks held at the facility have been inspected at least four times during that period (at intervals of approximately 6 months) and no pathogens of concern detected.

(iv) Fish must be alive when collected and processed within 48 hours after collection. Tissue and fluid samples shall be stored in sealed, aseptic containers and kept at 4° Celsius (C.) or on ice but not frozen.

(v) Tissue collection shall be as follows:

(A) Sac Fry and fry to 4 centimeter (cm): Assay entire fish. If present, remove the yolk sac.

(B) Fish 4–6 cm: Assay entire visceral mass including kidney.

(C) Fish longer than 6 cm: Assay kidney and spleen in approximately equal weight proportions.

(D) Spawning adult broodstock: Assay kidney and spleen tissues from males and/or females and ovarian fluid from females. Ovarian fluid may comprise up to 50 percent of the samples collected.

(2) *General sample processing requirements.* (i) Ovarian fluid samples shall be collected from each spawning female separately. All samples from individual fish shall be measured to ensure that similar quantities from each fish are combined if samples are pooled. Ovarian fluid samples from no more than five fish may be combined to form a pool.

(ii) Whole fry (less yolk sacs), viscera, and kidney and spleen tissues from no more than five fish may be similarly pooled.

(iii) Antibiotics and antifungal agents may be added to ovarian fluid or tissue samples to control microbial contaminant growth at the time of sample collection. Final concentrations shall not exceed 200–500 micrograms/milliliter μg/ml) of Gentamycin, 800 international units/milliliter IU/ml) of penicillin, or 800 μg/ml of streptomycin. Antifungal agent concentrations should not exceed 200 IU/ml of mycostatin (Nystatin) of 20 μg/ml of amphotericin B (Fungizone).

(iv) Sample temperature must be maintained between 4 at 15 °C. during processing. Use separate sets of sterile homogenization and processing equipment to process fluids or tissues from each fish lot sampled. Processing equipment need not be sterilized between samples within a single lot.

(v) Homogenized tissue samples may be diluted 1:10 with buffered cell culture medium (pH 7.4–7.8) containing antibiotics and antifungal agents not exceeding the concentrations described in paragraph (e)(2)(iii) of this section. Centrifuge tissue suspensions and ovarian fluid samples 4 °C. at 2,500 × gravity (g) (relative centrifugal force) for 15 minutes. Resulting supernatant solutions can be stored overnight at 4 °C.

(vi) At the time of inoculation onto cell cultures, total dilution of processed tissue samples must not exceed 1:100

((volume to volume) (v/v)); total dilution of ovarian fluid samples must not exceed 1:20 (v/v). In samples inoculated onto cell cultures, the final antibiotic concentration shall not exceed 100 µg/ml of Gentamicin, 100 IU/ml of penicillin, or 100 µg/ml of streptomycin and antifungal agent concentrations should not exceed 25 IU/ml of mycostatin (Nystatin) or 2.5 µg/ml of amphotericin B (Fungizone).

(3) *Cell culture procedures.* (i) Both epithelioma papulosum cyprini (EPC) and chinook salmon embryo (CHSE-214) cell lines must be maintained and used in all virus assays. Susceptible, normal appearing, and rapidly dividing cell cultures shall be selected. Penicillin (100 IU/ml), streptomycin (100 µg/ml), and antifungal agents, such as mycostatin/Nystatin (25 IU/ml) or amphotericin B/Fungizone (2.5 µg/ml), are permitted in media used for cell culture and virus assay work.

(ii) Cell cultures shall be seeded and grown, at optimum temperatures, to 80–90 percent confluence in 24-well plates for virus assay work.

(iii) Decant the medium from the required number of 24-well plates of each cell line, and inoculate four replicate wells per cell line with .10 ml per well of each processed sample. When all wells have been inoculated, tilt plates to spread the inocula evenly. Incubate inoculated plates for 1 hour at 15° C. for sample contact. After the 1 hour contact add cell culture medium. Medium shall be buffered or cells incubated so that a pH between 7.4 and 7.8 is maintained. All cell culture assays shall be incubated, without overlays, at 15°C. for 21 days.

(4) *Virus identification by serological methods.* All cell cultures showing cytopathic effects (CPE) must be sub-cultured onto fresh cell cultures. If CPE is observed, determine the presence and identity the virus by serum neutralization, dot blot, enzyme-linked immunosorbent assay, or other equivalent serological technique.

(f) Information concerning the importation requirements of this section and application requirements for designation as a certifying official for purposes of this section may be obtained by contacting: U.S. Department of the Interior, U.S. Fish and Wildlife Service, Division of Fish Hatcheries (820 Arlington Square), 1849 C Street, NW., Washington, DC 20240. Telephone 703–358–1878.

(g) The information collection requirements contained in this part have been approved by the Office of Management and Budget under 44 U.S.C. 3501 et seq. and assigned clearance number 1018–0078. The information is being collected to inform U.S. Customs and USFWS inspectors of the contents, origin, routing, and destination of fish and eggs shipments and to certify that the fish lots were inspected for listed pathogens. The information will be used to protect the health of the fishery resource. Response is required to obtain a benefit.

Dated: August 23, 1993.

Bruce Blanchard,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 93–26828 Filed 11–4–93; 8:45 am]

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Proposed Rules

Federal Register
Vol. 58, No. 213
Friday, November 5, 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.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 214 and 274a

[INS No. 1441-93]

RIN 1115-AC89

Nonimmigrant Classes; B Visitor for Business or Pleasure

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposal rule.

SUMMARY: This rulemaking proposes to incorporate into regulations the information contained in the Operations Instructions ("OIs") of the Immigration and Naturalization Service ("the Service") and the interpretive note material to Volume 9 of the Department of State's Foreign Affairs Manual ("FAM") relating to the B-1 (visitor for business) and B-2 (visitor for pleasure) classifications, with appropriate modifications due to the passage of the Immigration Act of 1990 ("IMMACT") and the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 ("MATINA"), and in light of numerous precedent decisions on the issue. This will clarify the criteria for according B-1 or B-2 classification to applicants for admission to the United States. In addition, by incorporating the applicable portions of the instructions presently contained in the OIs and FAM notes into regulations, such information will be more readily available to the public.

DATES: Written comments must be submitted on or before December 6, 1993.

ADDRESSES: Please submit written comments, in triplicate, to the Records Systems Division, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street NW., room 5307, Washington, DC 20536. Please include INS number 1441-93 on your correspondence to ensure proper and timely handling.

FOR FURTHER INFORMATION CONTACT: Helen V. deThomas, Senior Immigration Examiner or Jacquelyn A. Bednarz, Chief, Nonimmigrant Branch, Immigration and Naturalization Service, 425 I Street NW., room 7122, Washington, DC 20536, telephone (202) 514-5014.

SUPPLEMENTARY INFORMATION: The Immigration and Nationality Act ("Act") provides for the admission of aliens to the United States under a number of nonimmigrant or temporary classifications, including that of a visitor for business (B-1) and a visitor for pleasure (B-2). Section 101(a)(15) of the Act defines those classes of aliens who may be admitted to the United States as nonimmigrants. Section 101(a)(15)(B) of the Act defines the B-1 and B-2 classifications as follows:

> [A]n alien (other than one coming for the purpose of study or of performing skilled or unskilled labor or as a representative of foreign press, radio, film, or other foreign information media coming to engage in such vocation) having a residence in a foreign country which he has no intention of abandoning and who is visiting the United States temporarily for business or temporarily for pleasure;

The OIs and the FAM notes have enumerated a number of situations under which an alien may be classified as a B-1 or B-2 nonimmigrant.

Under what is commonly referred to as the "B-1 in lieu of H-1" classification, provided for in OI 214.2(b), an alien who will receive no salary or other remuneration from a United States source (other than an expense allowance or other reimbursement for expenses incidental to the temporary stay) may be admitted as a B-1 nonimmigrant, if he or she is otherwise classifiable as an H-1 nonimmigrant and is coming to perform temporary services in the United States. Under the OI, entertainers who are otherwise classifiable as H-1 nonimmigrants are, in most cases, ineligible for B-1 classification. (It should be noted that since this OI was written, changes in the statute split the H-1 category into H-1A, for nurses, and H-1B, for other temporary workers of distinguished merit and ability. The H-1B category has been further revised by IMMACT by the creation of the O and P categories, for professional athletes and entertainers.) OI 214.2(b) also provides that an alien may be admitted as a B-1 nonimmigrant to do missionary work or to participate in a voluntary service program conducted by a recognized religious body, subject to the same restrictions on remuneration.

Changes Under IMMACT and MATINA

The changes made by IMMACT affect several interpretations of the B-1 visa classification. Section 207 of IMMACT specifically provides two new nonimmigrant classifications for professional athletes and entertainers. The creation of the new O and P classifications constitutes evidence that Congress intended to address issues relating to professional athletes and entertainers within these two new categories. Therefore, activities within the scope of the O and P categories have been removed from the OIs and FAM notes. However, not all of the activities provided for by the OIs and FAM notes relating to professional athletes and entertainers have had to be omitted from the proposed rule as a result of the passage of IMMACT and MATINA.

IMMACT and MATINA amended the H-1B category by restricting it to aliens coming temporarily to perform services in a specialty occupation (as defined in section 214(i)(1) of the Act), or as a fashion model, with respect to whom the Secretary of Labor determines and certifies to the Attorney General that the intending employer has filed a labor condition application under section 212(n)(1) of the Act with the Secretary of Labor. IMMACT further amended the H-1B category by limiting the number of H-1B nonimmigrants to 65,000 annually.

It is the view of the Service that these statutory amendments to the H-1B category effectively supersede the "B-1 in lieu of H-1" provision of the OIs. The Service believes that, in light of the numerical restrictions, labor condition requirements, and revised definition of the H-1B category contained in IMMACT, it would violate Congressional intent to allow admission of an otherwise classifiable H-1B nonimmigrant as a B-1 simply because the alien will not receive any salary or other remuneration from a U.S. source. It is, therefore, the position of the Service that the section of the OIs providing for "B-1 in lieu of H-1" status is now inconsistent with the

Congressional intent to control the number of H–1B visas issued, as well as the intent to safeguard the working conditions of United States workers, and should be deleted.

In addition, section 209 of IMMACT created the new nonimmigrant R classification for ministers of religion and other religious workers. Congress' creation of a specific nonimmigrant visa classification to address religious workers has necessitated the removal from the OIs and FAM notes of activities relating to religion. Specifically, the creation of the new R nonimmigrant category obviates the need for admission of B–1 nonimmigrants as missionaries and religious service program volunteers. Accordingly, this rulemaking will also preclude admission of aliens under the B–1 classification when the alien is admissible as an R nonimmigrant. It is recognized, however, that under current law, aliens may seek to participate in a number of bona fide voluntary service programs which may or may not be related to religious organizations, but may not qualify for R classification. Aliens involved in such programs will continue to be considered for B–1 classification.

Other Interpretive Changes

Case law, notably *Matter of Hira*, 11 I. & N. Dec. 824 (BIA 1965, 1966; A.G. 1966), and *Matter of Neill*, 15 I. & N. Dec. 331 (BIA 1975), has further clarified the criteria for B–1 classification. In *Hira*, a case involving a tailor who had come to the United States on behalf of his Hong Kong employer to take the measurements of customers desiring Hong Kong-made apparel, the Board held, and the Attorney General affirmed, that a B–1 visitor for business must meet certain criteria:

1. The alien's activity must involve intercourse of a commercial character;
2. The alien must have a clear intent to continue a foreign residence and not to abandon any existing domicile;
3. The alien's salary must come from abroad;
4. The principal place of business and the actual place of eventual accrual of profits, at least predominantly, must remain in a foreign country; and
5. The alien's stay in the United States must be temporary, although the business activity itself need not be, and indeed may long continue.

Hira, 11 I. & N. Dec. at 827.

In Neill, an exclusion case involving a Canadian mechanical engineer seeking admission in order to primarily render his professional services and secondarily to solicit engineering work for his Canadian firm, the BIA held that:

> The nonimmigrant business visitor classification contained in section 101(a)(15)(B) must be construed within the framework of the Act. * * * For some time now, Congress has sought to protect American workers from job competition of an undesirable nature. See e.g. section 212(a)(14) [currently section 212(a)(5)(A)], Immigration and Nationality Act * * *. This protection clearly extends to members of the professions, as well as to workers who traditionally might be considered skilled or unskilled laborers. * * *
>
> In light of this congressional policy, the term "business" as used in section 101(a)(15)(B) has been held not to include ordinary labor for hire, but is limited to intercourse of a commerical character. * * * However, an alien need not be considered a "businessman" to qualify as a business visitor, if the function he performs is a necessary incident to international trade or commerce.

Neill, 15 I. & N. Dec. at 333. (citations omitted).

The Service recognizes the great utility these decisions have provided to the business community. They have facilitated the movement of employees in the interests of international commerce, and to our understanding, a great number of such employees make use of these interpretations on a regular basis. Needless to say, our recognition of the utility of such a vehicle provides us with the awareness of the adverse effect which would befall the business community upon the removal of such a tool. The essence of these decisions has been incorporated into the proposed regulation. The principles set forth in these decisions will apply generally except for the circumstances discussed here and listed specifically in the regulations.

However, the Service has become aware of certain trends which endanger the integrity of these decisions. Recently a number of parties ranging from individual citizens to labor and professional organizations to Members of Congress have raised concerns about the use of individuals hired by foreign firms solely for the purpose of fulfilling a contract to supply workers to a United States firm. These "job shops" are reportedly becoming increasingly common in the computer industry, in particular. Under these "job shop" arrangements, the aliens are sent to the United States where the U.S. firm employs them in every sense of the term, with the possible exception of directly paying the alien's salary. Typically, the United States firm is billed by the foreign firm on an hourly basis, at a set hourly rate, and the foreign firm then deposits the aliens' wages in an account in that country; the U.S. firm controls all aspects of the aliens' employment, including the location(s) in the United States where the aliens will work and the hours when they will work; all proprietary work product of the aliens belongs to the U.S. firm; and the U.S. firm has the right to interview and determine the acceptability of all aliens employed under the contract. In effect, the alien is an employee of the United States firm, but is being paid at a much lower salary level through a foreign agency which has no relationship to the alien other than to initially recruit him or her and to serve as a transfer point in the depositing of his or her paycheck. The alien may also receive directly from the U.S. firm an allowance to cover living expenses (room, board, etc.) while in the United States. However, the foreign salary level is so low that even when the expense allowance is added to it, the total is such that United States residents engaged in the same occupation are unable to compete for jobs. The Service views this as a clear abuse of the B–1 classification and, therefore, proposes the following additional criteria which must be met before an alien may be considered to be a visitor for business representing a foreign firm:

1. The foreign firm which the alien is representing must be regularly engaged in business of a commercial nature. Although there is no set minimum time that the firm must have been in operation, and even representatives of new businesses may qualify for the classification, "representatives" of businesses established merely for the purpose of providing labor (whether unskilled, skilled or professional level) to U.S. firms, and other firms doing business in the United States, will not be eligible for B–1 classification;

2. The alien's salary or other remuneration (other than an expense allowance) must come from the foreign employer, and there may not be any direct or indirect payment of the alien's salary by any United States entity. The practice whereby a United States firm is billed by the foreign firm on an hourly basis at a set hourly rate, and the foreign firm then deposits the aliens' wages in an account in that country, will not be permitted;

3. The foreign company must maintain ultimate control over the B–1 alien's employment, including, but not limited to, the location(s) in the United States where the alien will work and the hours when he or she will work. However, the foreign company need not control the day-to-day activities of the B–1 alien in order to maintain ultimate

control over the alien's employment in the United States;

4. All proprietary work product of the alien must belong to either the alien or the foreign firm and not to the United States firm;

5. The right to interview and determine the acceptability of a B–1 alien representing the foreign firm, and the right to make determinations about promotion, termination and other personnel matters must lie solely with the foreign employer; and

6. In the case of a purchase contract entered into between a United States company and a foreign company which includes provisions for installation, service, maintenance, or repair, the purchase must involve a physical product (for example, machinery or other forms of equipment), and not activities of a service nature.

Aliens not meeting these criteria may seek classification as H–1B or H–2B nonimmigrants, if otherwise eligible.

The district court decision and subsequent settlement reached in *International Union of Bricklayers* v. *Meese*, 616 F. Supp. 1387 (N.D. Cal. 1985), clarified that the OIs allowing the admission as a B–1 nonimmigrant of an alien coming to install, service or repair commercial or industrial equipment or machinery did not extend to those coming to perform building or construction work, whether on-site or in-plant, with the proviso that an otherwise admissible alien may enter as a B–1 nonimmigrant for the purpose of supervision or training of others involved in building or construction work. On December 9, 1986, the Service published a final rule at 51 FR 44266 incorporating the provisions of the *Bricklayers* settlement into regulations (see 8 CFR 214.2(b)(5)). The principles set forth in *Bricklayers* will not be affected by this rulemaking, but the provisions of current 8 CFR 214.2(b)(5) are being incorporated into the new 8 CFR 214.2(b)(2)(iv).

In addition, further regulations are set forth at 8 CFR 214.2(b)(4) which pertain to the admission of citizens of Canada as B–1 nonimmigrants pursuant to the United States-Canada Free-Trade Agreement ("FTA"). This section was established pursuant to the FTA and its provisions will not be affected by this rulemaking.

Although no alien will be admitted as a B–1 nonimmigrant pursuant to the existing provisions previously discussed after publication of the final rulemaking, an alien admitted prior to that date will be allowed to remain until the end of his or her authorized period of stay. However, he or she will not be granted an extension of stay as a B–1 nonimmigrant. An alien admitted prior to the date of publication of the final rulemaking will be allowed to apply for a change to another nonimmigrant status.

Other provisions of the OIs and FAM notes relating to B–1 and B–2 nonimmigrants will be incorporated into this regulation, with only minor corrections in syntax and grammar.

In accordance with 5 U.S.C. 605(b), the Commissioner of the Immigration and Naturalization Service certifies that this proposed rule does not have a significant adverse economic impact on a substantial number of small entities because, with certain exceptions necessitated by the enactment of IMMACT and MATINA, this proposed rule merely codifies current policy and practice with respect to the implementation of section 101(a)(15)(B) of the Act. This is not a major rule as defined in section 1(b) of E.O. 12291, nor does this rule have Federalism implications warranting the preparation of a Federal Assessment in accordance with E.O. 12612.

The information collection requirements contained in this rule have been cleared by the Office of Management and Budget under the provisions of the Paperwork Reduction Act. Clearance numbers for these collections are contained in 8 CFR 299.5, Display of Control Numbers.

List of Subjects

8 CFR Part 214

Administrative practice and procedure, Aliens, Authority delegation (Government agencies), Employment, Organization and functions (Government agencies), Passports and visas.

8 CFR Part 274a

Administrative practice and procedure, Aliens, Employment, Penalties, Reporting and recordkeeping requirements.

Accordingly, chapter I of title 8 of the Code of Federal Regulations is proposed to be amended as follows:

PART 214—NONIMMIGRANT CLASSES

1. The authority citation for part 214 is revised to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1184, 1186a, 1187, 1221, 1281, 1282; 8 CFR part 2.

2. Section 214.2 is amended by removing paragraph (b)(5) and by revising paragraphs (b)(1), (b)(2) and (b)(3) to read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(b) *Visitors*—(1) *General.* A B–1 visitor for business or B–2 visitor for pleasure may be admitted for not more than one year and may be granted extensions of temporary stay in increments of not more than six months each. However, the following aliens may be admitted for a period not to exceed one year and may be granted extensions of temporary stay in increments of not more than one year each:

(i) A B–1 employee of a foreign airline admitted under paragraph (b)(2)(iii)(C) of this section;

(ii) A B–1 personal or domestic servant of a United States citizen or nonimmigrant employer, providing the principal alien is maintaining status; or

(iii) A B–2 spouse or child of a Canadian citizen admitted under section 214(e) of the Act, providing the principal alien is maintaining status. Those B–1 and B–2 visitors admitted pursuant to the waiver provided at § 212.1(e) of this chapter may be admitted to and stay on Guam for a period not to exceed fifteen days and are not eligible for extension of stay. Special requirements for admission and maintenance of status for visitors admitted to the United States under the Visa Waiver Pilot Program are set forth in section 217 of the Act and part 217 of this chapter.

(2) *Temporary visitors for business.* (i) *General.* The term "business", as used in section 101(a)(15)(B) of the Act, refers to legitimate activities of a commercial or professional nature which need not be temporary and indeed may continue for a long period. It does not include gainful employment or other local employment or labor for hire. A B–1 nonimmigrant may not receive any salary or other remuneration from any United States source, other than an expense allowance or other reimbursement for expenses incidental to the temporary stay, unless specifically provided in this paragraph. Incidental expenses are those limited to the actual reasonable expenses an alien incurs in traveling to and from the place where he or she will be engaged in business, together with the actual reasonable living expenses the alien incurs for meals, lodging, laundry, and other basic services. Under no circumstances may an alien seeking to maintain B–1 status derive any other monetary or material benefit from payments made by a United States source. With the exception of certain aliens performing commercial or business activities described in

paragraph (b)(2)(ii), (iii), and (iv) of this section, an alien classifiable as a nonimmigrant under any other nonimmigrant classification may not be classified as a B–1 nonimmigrant, even if his or her salary is paid by a source outside the United States. An alien is classifiable as a nonimmigrant visitor for business (B–1) if the alien establishes that he or she qualifies under the provisions of section 101(a)(15)(B) of the Act, and that:

(A) The alien intends to leave the United States at the end of the temporary stay;

(B) The alien has permission to enter a foreign country at the end of the temporary stay;

(C) Adequate financial arrangements have been made to enable the alien to carry out the purpose of the visit to and departure from the United States;

(D) The alien's principal place of business and the actual place of eventual accrual of profits, at least predominantly, remains in the foreign country; and

(E) The alien's various entries into the United States made in the course of such business are individually or separately of a plainly temporary nature.

(ii) *Activities of a commercial nature.* (A) In order to be classified as a visitor for business, an alien seeking admission to the United States in order to pursue activities of a commercial nature must establish that:

(*1*) The foreign firm which the alien is representing is regularly engaged in business of a commercial nature. Although there is no set minimum time that the firm must have been in operation, and even though representatives of new businesses may qualify for the classification, "representatives" of businesses established merely for the purpose of providing labor (whether unskilled, skilled or professional level) to United States firms are not eligible for B–1 classification;

(*2*) The alien's salary or other remuneration (other than for incidental expenses incurred) comes entirely from the foreign employer, and there is no direct payment of the alien's salary by any United States entity. The practice whereby a United States firm is billed by a foreign firm on an hourly basis at a set hourly rate for work performed in conjunction with a purchase contract containing provisions for installation, service, maintenance, or repair, and the foreign firm's use of such funds to directly pay the wages of the aliens rendering such work, is not permitted;

(*3*) The foreign company maintains ultimate control over the B–1 alien's employment, including, but not limited to, the location(s) in the United States where the alien will work and the hours when he or she will work. However, the foreign company need not control the day-to-day activities of the B–1 alien in order to maintain ultimate control over the alien's employment in the United States;

(*4*) All proprietary work product of the alien belongs to either the alien or the foreign firm and not to the United States firm; and

(*5*) The right to interview and determine the acceptability of a B–1 alien representing the foreign firm, and the right to make determinations about promotion, termination and other personnel matters lies solely with the foreign employer.

(B) Permissible commercial activities include, but are not limited to, those in which the alien:

(*1*) Engages in commercial transactions which do not involve gainful employment or other local employment or labor for hire in the United States;

(*2*) Negotiates contracts or takes orders for goods or services on behalf of the foreign company;

(*3*) Consults with business associates;

(*4*) Is a party to, or a witness in, a litigation matter in the United States or is engaged in research or consultation in this country in connection with a foreign litigation matter;

(*5*) Participates in scientific, educational, professional or business conventions, conferences, or seminars; or

(*6*) Undertakes independent research.

(iii) *Legitimate business activities.* Legitimate business activities include, but are not limited to, those in which the alien:

(A) Is a member of the board of directors of a United States corporation seeking to enter the United States to attend a meeting of the board or to perform other functions resulting from membership on the board;

(B) Is coming to seek an investment which might be qualifying for status as an E–2 investor, provided that the alien does not perform productive labor or actively participate in the management of the business while in B–1 status;

(C) Is an employee of a foreign airline engaged in international transportation of passengers and/or freight who seeks to enter the United States for employment with the airline in an executive, supervisory or highly technical capacity, except that is a treaty or commerce and navigation is in effect between the United States and the country of the airline's nationality, the alien must be classified as an E–1 nonimmigrant (if he or she is otherwise qualified) unless the alien is not a national of the airline's country of nationality. Although the alien is deemed to be pursuing his or her foreign employment while in the United States, he or she may be issued an Employment Authorization Document in accordance with 8 CFR 274A.12(c)(17)(iii) in order to comply with Internal Revenue Service and Social Security Administration requirements;

(D) Is coming to the United States to open or be employed in a new branch, subsidiary, or affiliate of the foreign employer, if the alien will become eligible for status as an L–1 upon securing the evidence required in 8 CFR 214.2(1) regarding proof of acquisition of physical premises;

(E) Is a crewman of a private yacht, regardless of the nationality of the private yacht, which will be sailing out of a foreign home port and cruising in United States waters for more than twenty-nine days;

(F) Is a crewman of a vessel of United States, Canadian, or British registry engaged solely in traffic on the Great Lakes or the St. Lawrence River and connecting waterways (herein designated as a Great Lakes vessel or laker) who is a citizen of Canada or a resident of Canada having common nationality with Canadians;

(G) Is seeking to enter the United States as a "coasting officer" as defined in 22 CFR 41.41, Note 4;

(H) Is coming to the United States in order to reach the Outer Continental Shelf (OCS) and is in possession of a B–1 visa annotated "OCS;"

(I) Is a personal or domestic servant who meets the criteria set forth in this paragraph. Such servant is deemed to be pursuing his or her foreign employment while in the United States. However, in order to allow compliance with Internal Revenue Service and Social Security Administration requirements, the alien may be issued an Employment Authorization Document under the provisions of CFR 274A12(c)(17) (i) or (ii). A personal or domestic servant may be classified as a B–1 nonimmigrant if he or she is accompanying or following to join:

(*1*) His or her nonimmigrant employer who seeks admission to, or is already in the United States in B, E, F, H, I, J, L, M, O, P, R, or TC nonimmigrant status, provided that:

(*i*) The servant employee can show that he or she has a residence abroad that the servant does not intend to abandon, notwithstanding that the employer may be in a nonimmigrant status which does not require such a showing; and

(*ii*) The servant has been employed abroad by the employer as a personal or household domestic servant for at least one year prior to the date of the employer's admission to the United States. If the employer-employee relationship has existed for less than one year prior to the time or application, the employer must demonstrate that he or she has regularly employed (either year-round or seasonally) a personal or domestic servant over a period of several years immediately preceding the time of application, and that the employee has at least one year of experience as a personal or domestic servant; or

(*2*) His or her United States citizen employer who can establish through personnel records and statements from the citizen's employer, and a signed and dated copy of the contract between the employer and servant, that:

(*i*) The United States citizen employer is subject to frequent international transfers lasting two years or more as a condition of the citizen's employment, and that the citizen is returning to the United States from such an assignment;

(*ii*) The citizen's current assignment in the United States will not be for over 4 years;

(*iii*) The citizen has employed the personal or domestic servant abroad for at least six months prior to admission into the United States.

(*iv*) The servant will reside in the citizen's household and will be provided private room and board, without cost to the servant;

(*v*) The servant will work only for the citizen; and

(*vi*) Both the citizen and servant have signed a contract which guarantees that the servant will receive at least the prevailing wage for domestics in the area of employment, that all other benefits normally given to United States workers in the area of employment will be granted to the servant, that round trip airfare will be provided to the servant, that the servant will not be required to give more than two weeks notice of intent to leave the employment, and that the citizen employer will give at least two weeks notice of intent to terminate the employment;

(J) Is coming temporarily to perform services for his or her foreign employer as a jockey, sulky driver, or groom. The alien may not work in this country for any other foreign or United States employer;

(K) Is an amateur hockey player who is asked to join a professional team during the course of the regular professional season or playoffs for brief tryouts who has not signed a professional contract, but has signed a qualifying memorandum of agreement with a National Hockey League-parent team. Under the terms of the agreement the team will provide only for incidental expenses such as round-trip fare, hotel room, meals, and transportation;

(L) Is an amateur sports player who is asked to join a professional team prior to or during the course of the regular professional season or playoffs for brief tryouts who has not signed a professional contract. The team will provide only for incidental expenses such as round-trip fare, hotel room, meals and transportation;

(M) Is an athlete or team member who meets all of the following criteria:

(*1*) The player seeks to enter the United States as a member of a foreign-based team in order to compete with another sports team;

(*2*) The foreign sports team and the foreign athlete have their principal place of business or activity in a foreign country;

(*3*) The income of the foreign-based team and the salary of its players are principally accrued in a foreign country; and

(*4*) The foreign-based sports team is a member of an International Sports League or the sporting activities involved have an international dimension;

(N) Is coming to the United States as an official of an international sports league or association in order to officiate at international competitions provided that the following conditions are satisfied:

(*1*) The official is coming temporarily to the United States on league or association business for short periods of time to render services to his or her foreign employer;

(*2*) The official is being paid by his or her foreign employer and will receive only incidental expenses while in the United States;

(*3*) The profits from the official's services accrue outside the United States; and

(*4*) The official is not displacing any United States workers or engaging in skilled or unskilled labor in the United States;

(O) Is coming to the United States as a professional athlete, such as a golfer or race car driver, who has no contractual arrangement with a United States sponsor, and who receives no salary or payment other than prize money for his or her participation in a tournament or other similar sporting event;

(P) Is coming as an amateur in an entertainment or athletic activity. Such alien is, by definition, not a member of any of the professions associated with that activity, and will not be paid for performances. The alien may be admitted to perform in a social and/or charitable context or as a competitor in a talent show, contest or athletic event;

(Q) Is coming as a professional entertainer to participate in a cultural program sponsored by his or her government to perform before a non-paying audience, and all expenses, including per diem, will be paid by his or her government; or

(R) Is coming to the United States as an entertainer to audition his or her act or take part in tryouts solely for the purpose of negotiating an employment contract with the prospective employer. An alien who has been invited by a prospective employer in the United States solely for an interview, tryout, or audition may receive incidental expenses while in the United States. However, the alien may not perform temporary services for a United States employer on a trial basis, with or without a contract;

(iv) *Other legitimate business activities.* Other legitimate business activities include, but are not limited to, those in which the alien:

(A) Is a commercial or industrial worker coming to the United States to install, service, or repair commercial or industrial equipment, machinery, or computer software purchased from a company outside the United States, or to train United States workers to perform such services; provided that the contract of sale specifically requires the seller to provide such services or training, the alien possesses knowledge essential to the seller's contractual obligation to perform the services or training, and the alien receives no remuneration from a United States source. Such services may be performed at any time following the purchase provided the relevant service contract or warranty was completed at or prior to the purchase. Aliens seeking to enter the country to perform building or construction work, whether on-site or in-plant, are not eligible for classification or admission as B–1 nonimmigrants under section 101(a)(15)(B) of the Act. However, alien nonimmigrants otherwise qualified as B–1 nonimmigrants may be issued visas and may enter for the purpose of supervision or training of others engaged in building or construction work, but not for the purpose of actually performing any such building or construction work themselves;

(B) Is coming for the purpose of supervising a foreign combine harvester crew, but not for the purpose of actually

performing any combine harvester work him or herself;

(C) Is an employee of a foreign airline who is coming to the United States to pick up an aircraft, who is not transiting the United States, and who is not admissible as a crewman;

(D) Is a crewman on an aircraft arriving in a State of the United States directly from Canada on a flight originating in that country who is a Canadian citizen or resident of Canada having a common nationality with Canadians;

(E) Is a crewmember on an airline who is coming to the United States as a passenger solely for the purpose of taking an aircraft from the United States to a foreign port ("deadhead" crew) or is a seaman in transit to a vessel in the United States to assume crewman duties on board;

(F) Is coming to the United States as an employee of a foreign exhibitor at international fairs or expositions who does not qualify for "A" visa classification as a foreign government representative;

(G) Is a student at a foreign medical school, otherwise classifiable as an H-3 nonimmigrant, who is coming to take an "elective clerkship" (practical experience and instruction in the various disciplines of the practice of medicine under the supervision and direction of faculty physicians) at a United States medical school's hospital as an approved part of the foreign medical school education;

(H) Is otherwise classifiable as an H-3 nonimmigrant who is already employed abroad and will continue to receive his or her salary from the foreign employer on whose behalf the alien is coming to undertake training in the United States;

(I) Is coming to the United States merely and exclusively to observe the conduct of business or other professional or vocational activity provided the alien pays for his or her own expenses;

(J) Is entering the United States pursuant to an invitation to participate in any program furnishing technical information and assistance under section 635(f) of the Foreign Assistance Act of 1961, 75 Stat. 424;

(K) Is entering the United States pursuant to an invitation to participate in the training of Peace Corps volunteers or who is coming to the United States under contract pursuant to sections 9 and 10(a)(4) of the Peace Corps Act (75 Stat. 612), unless the alien qualifies for "A" visa classification. Aliens admitted under this provision may be paid a salary for services performed in accordance with the Peace Corps Act;

(L) Is entering the United States to participate in the United Nations Institute for Training and Research (UNITAR) program of internship for training and research of persons who are not employees of foreign governments; or

(M) Is coming temporarily to participate in a voluntary service program conducted by a recognized religious body or other long-established nonprofit voluntary service organization, unless the alien is able to qualify for classification under the provisions of section 101(a)(15)(R) of the Act, and no salary or remuneration will be paid from a United States source other than an allowance or other reimbursement for expenses incidental to the alien's stay in the United States. The alien shall present a written statement issued by the appropriate organization containing:

(*1*) The identity of the volunteer including name, date, place of birth, and address of foreign permanent residence;

(*2*) The name and address of the alien's initial destination in United States;

(*3*) The name and address of the project in the United States to which assigned; and

(*4*) The anticipated duration of the assignment;

(*3*) *Temporary visitors for pleasures.* (i) *General.* The term "pleasure", as used in section 101(a)(15)(B) of the Act, refers to legitimate activities of a recreational character, including, but not limited to, tourism, amusement, visits with friends or relatives, rest, medical treatment, and activities of a fraternal or social nature. An alien is classifiable as a nonimmigrant visitor for pleasure (B-2) if the alien establishes that he or she qualifies under the provisions of section 101(a)(15)(B) of the Act, and that:

(A) The alien intends to leave the United States at the end of the temporary stay;

(B) The alien has permission to enter a foreign country at the end of the temporary stay; and

(C) Adequate financial arrangements have been made to enable the alien to carry out the purpose of the visit to and departure from the United States. Under no circumstances may a visitor for pleasure receive any salary or other remuneration, including incidental expenses, from any United States source.

(ii) *Legitimate activities of a visitor for pleasure.* Legitimate activities of a visitor for pleasure include, but are not limited to, those previously described and those in which the alien:

(A) Is coming to the United States primarily for tourism who also incidentally may engage in a short course of study of no more than 18 hours per week during his or her visit;

(B) Is coming to the United States to participate in a program which is avocational or recreational in character, if the purpose of attendance is recreational or avocational;

(C) Is an entertainer who is a resident or national of Canada or Mexico and is coming to the border area of the United States to participate in a long-established religious festival or ceremony, or in a long established binational civic celebration;

(D) Is a dependent coming to the United States solely for the purpose of accompanying a principal alien if the dependent alien is:

(*1*) A dependent of an alien member of any branch of the United States Armed Forces temporarily assigned to duty in the United States;

(*2*) A dependent of a crewman classified under section 101(a)(15)(D) of the Act,

(*3*) A dependent of an alien admitted under the United States-Canada Free-Trade Agreement; or

(*4*) A dependent of a United States citizen who permanently resides outside the United States and is coming temporarily to the United States;

(E) Is the prospective spouse of a United States citizen or lawful permanent resident coming to the United States to marry with the intent to return to a residence abroad after the marriage;

(F) Is an alien proceeding to the United States to:

(*1*) Simply meet the fiance(e)'s family;

(*2*) Become engaged;

(*3*) Make arrangements for the wedding; or

(*4*) Renew a relationship with the prospective spouse;

(G) Is a fiance(e) coming to the United States for the sole purpose of marrying a nonimmigrant alien in the United States in a valid nonimmigrant status;

(H) Is a spouse married by proxy to an alien in the United States in a nonimmigrant status who is proceeding to the United States in order to join the spouse. Upon arrival in the United States the joining spouse must apply to the Service for permission to change to the appropriate derivative status after consummation of the marriage;

(I) Is entitled to the benefits of section 329 of the Act and seeks to enter the United States to take advantage of such benefits, irrespective of the foreign residence requirement of section (101)(a)(15)(B) of the Act;

(J) Is a dependent of an alien member of the United States Armed Forces who

qualifies for naturalization under section 328 of the Act and whose primary intent is to accompany the spouse or parent on the service member's assignment to the United States;

(K) Is a prospective F–1 or M–1 student seeking to enter the United States more than 90 days prior to his or her expected registration date as shown on the Form I–20A–B/I–20ID or the Form I–20M–N/I–20ID, is fully qualified for classification as an F–1 or M–1 student, and will apply for change of nonimmigrant classification pursuant to part 248 of this chapter; or

(L) Is a prospective F–1 student coming for the purpose of selecting a school, if the alien is an apparently bona fide academic or language student and has not definitely determined which school he or she will attend.

(iii) *Minimum six month admissions.* Any B–2 visitor who is found otherwise admissible and is issued a Form I–94, will be admitted for a minimum period of six months, regardless of whether less time is requested, provided, that any required passport is valid as specified in section 212(a)(7)(B) of the Act. Exceptions to the minimum six month admission may be made only as provided in paragraph (b)(1) of this section or in individual cases upon the specific approval of the district director for good cause.

* * * * *

PART 274a—CONTROL OF EMPLOYMENT OF ALIENS

3. The authority citation for part 274a continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1324a; 8 CFR part 2.

§ 274a.12 [Amended]

4. In § 274a.12, paragraph (c)(17)(i) is amended by revising the reference to "sections 101(a)(15) (B), (E), (F), (H), (I), (J), (L) or section 214(e) of the Act." to read: "Sections 101(a)(15) (B), (E), (F), (H), (I), (J), (L), (M), (O), (P), (R) or section 124(e) of the Act."

Dated: October 8, 1993.

Chris Sale,

Acting Commissioner, Immigration and Naturalization Service.

[FR Doc. 93–27222 Filed 11–4–93; 8:45 am]

BILLING CODE 4410–10–M

FEDERAL HOUSING FINANCE BOARD

12 CFR Parts 936 and 960

[No. 93–79]

Amendment of Affordable Housing Program and Community Support Requirements Regulations

AGENCY: Federal Housing Finance Board.

ACTION: Proposed rule.

SUMMARY: The Federal Housing Finance Board (Board) is proposing to amend the definitions of "very low-income household" and "low- or moderate-income household" in its Affordable Housing Program (AHP) regulation and in its Community Support Requirements (CSR) regulation. The Board also is adding a definition of "adjustment for family size" to the AHP and CSR regulations, as well as removing the definition of "median income" from the AHP and the CSR regulations. The proposed changes are intended to expand the range of lower-income households in different local housing markets throughout the United States that have access to affordable housing financed through the AHP and that can be included in determining whether the community support activities of a member of a Federal Home Loan Bank (Bank) are in compliance with the CSR.

DATES: Comments on this proposed rule must be received on or before January 4, 1994.

ADDRESSES: Comments may be mailed to: Executive Secretariat, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Brandon B. Straus, Attorney-Advisor, Office of Legal and External Affairs, (202) 408–2589, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

I. Amendment to the AHP Regulation and the CSR Regulation

A. Statutory and Regulatory Background

The AHP was established by section 10(j) of the Federal Home Loan Bank Act (Bank Act), see 12 U.S.C. 1430(j), to provide subsidized financing for the purchase, construction, and rehabilitation of affordable housing. See *id.* Under the AHP, the Banks provide subsidized loans, called advances, and other assistance to member institutions, which use the funds to finance affordable housing. The Banks' member institutions include savings associations, savings banks, commercial banks, credit unions, and insurance companies.

The AHP is funded entirely by annual contributions of the Banks from their net earnings. See *id.* § 1430(j)(5). In 1993, each Bank is required to contribute 5 percent of its net income for the preceding year or such prorated sums as may be required to assure that the aggregate contribution of all the Banks is not less than $50 million. See *id.* In 1994, each Bank is required to contribute 6 percent of its net income for the preceding year or such prorated sums as may be required to assure that the aggregate contribution of all the Banks is not less than $75 million. See *id.* Beginning in 1995, each Bank's required contribution will be 10 percent of its net income for the preceding year or such prorated sums as may be required to assure that the aggregate annual contribution of all the Banks is not less than $100 million. See *id.*

For the most part, the Banks' profits come from the differential between the interest rates they pay to obtain funds and the interest rates they charge to lend funds. The Banks' primary source of funds is the sale of debt obligations (called consolidated obligations) to the public. The Banks also obtain funds in the form of deposits made by member institutions and from the sale of stock to member institutions. The Banks are federally chartered entities that are exempt from federal, state, and local taxes. However, in addition to their annual contributions to the AHP, the Banks are required by federal law to make an aggregate contribution of $300 million per year, until 2030, to defray interest payments on bonds issued by the Resolution Funding Corporation. See 12 U.S.C. 1441b(f)(2)(C). The proceeds of these bonds have been used to assist in paying the costs of the resolution of insolvent savings associations that were insured by the Federal Savings and Loan Insurance Corporation.

The Banks do not receive appropriated funds from Congress, and AHP funds are not part of the federal budget. The Banks' consolidated obligations are not obligations of the United States. Further, all Bank stock is owned by member institutions, and the Banks pay dividends out of their profits. But for the statutory provisions of the Bank Act that require the Banks to make annual contributions to the AHP, funds contributed to the AHP might otherwise be paid to member institutions as dividends. In addition, for the reasons cited above, the Internal Revenue Service has concluded that AHP funds

are not federal funds for purposes of the low-income housing tax credit. See 56 FR 4588 (Feb. 5, 1991).

AHP assistance must be used to finance housing for very low-income households and low- or moderate-income households. See 12 U.S.C. 1430(j)(2). Bank members that are insured depository institutions, such as savings associations, savings banks, and commercial banks, use AHP assistance to provide loans and other assistance to very low- and low- or moderate-income households in their communities in connection with fulfilling their obligations under the Community Reinvestment Act (CRA). See *id.* 2901 *et seq.* The CRA requires each insured depository institution to be rated by its appropriate federal financial supervisory agency based on the institution's record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods. See *id.* § 2903.

Bank members also use AHP assistance to provide housing finance credit to very low- and low- or moderate-income households in connection with meeting the "community investment or service" requirement under section 10(g) of the Bank Act. See *id.* section 1430(g)(1). Section 10(g) requires members of the Banks to engage in "community investment or service" in order to maintain access to long-term advances from the Banks. See *id.*

The Board's CSR regulation generally establishes standards for meeting the "community investment or service" requirement of section 10(g). See 12 CFR 936.2. Among the member activities that are considered under the CSR regulation to reflect the statutory "community investment or service" standard is the provision of housing finance credit to very low- and low- or moderate-income households. See *id.* 936.1(i), 936.3(b)(6).

Section 10(j)(13)(B) of the Bank Act defines "very low-income household" as "any household that has an income of 50 percent or less of the area median." 12 U.S.C. 1430(j)(13)(B). Under section 10(j)(13)(D) of the Bank Act, rental housing is defined as affordable for very low-income households if rent does not exceed "30 percent of the adjusted income of a family whose income equals 50 percent or less of the income for the area (as determined by the Secretary of Housing and Urban Development [(HUD)]) with adjustment for family size." See *id.* § 1430(j)(13)(D). "Low- or moderate-income household" is defined as "any household which has an income of 80 percent or less of the area median." *Id.* 1430(j)(13)(A).

The Board's AHP regulation defines "median income" as "the median income for an area as determined and published by the U.S. Department of Housing and Urban Development." 12 CFR 960.1(h). "Area" is defined as "a metropolitan statistical area, a county, or a nonmetropolitan area, as established by the U.S. Office of Management and Budget." 12 CFR 960.1(c).

Under section 3 of the United States Housing Act of 1937, the Secretary of HUD (Secretary) establishes income limits to be used in determining whether a family qualifies as a "low-income family" or as a "very low-income family" that is eligible to receive assistance from HUD's housing programs. See 42 U.S.C. 1437a(b)(2). These income limits are calculated as a percentage of the median income of a four-person family living in a particular area. In general, the income limit for qualifying as a "low-income family" is set at 80 percent of the area median income, and the income limit for qualifying as a "very low-income family" is set at 50 percent of the area median income.

The Secretary may adjust the income limits for very low-income families and low-income families upward or downward to take into account unusually high or low family incomes in an area. *See id.* In addition, the income limit for low-income families may be adjusted to take into account prevailing levels of construction costs. See *id.* Then an adjustment in this figure is made to establish the comparable income limits for larger and smaller families living in the area. See *id.*

In 31 higher-income metropolitan statistical areas (MSAs) and 18 counties, the Secretary adjusts the area-based income limit for a four-person, low-income family downward if it would otherwise exceed the United States median income for a four-person family. In these areas, the Secretary caps the income limit for a four-person, low-income family at the United States median income for a four-person family.

In 4 MSAs and 107 counties, the Secretary adjusts the area-based income limit for four-person, very low- and low-income families downward because housing costs are low compared to incomes.

Adjusting the income limit downward decreases the number of households in an area that are eligible to receive assistance from HUD's housing programs.

B. Analysis of the Proposed Rule

The Board believes that affordable housing financed through the AHP should be available to the greatest number of households possible, within the limits established by the Bank Act. Further, households should not be excluded from affordable housing in a particular local market on the basis that housing costs are lower or family incomes are higher in that market than in other regions of the United States.

Applying the income limits that have been adjusted downward for prevailing construction costs, low housing costs, or unusually high family incomes for purposes of administering the AHP reduces the number of households eligible to live in affordable housing financed through the AHP. This limits a member's ability to use AHP assistance to fulfill its obligation under the CRA. It also limits a member's ability to use AHP assistance to meet the "community investment or service" requirement of section 10(g) of the Bank Act and the CSR regulation.

Accordingly, the Board believes that in administering the AHP and in defining the standards governing the "community support or service" requirement of the Bank Act, the income limits used to determine whether a household in a particular area qualifies as a "very low-income household" or as a "low- or moderate-income household" should not be adjusted downward based on prevailing construction costs, low housing costs, or unusually high family incomes.

Therefore, the Board proposes to amend the definition of "low- or moderate-income household" in the AHP regulation and in the CSR regulation to state that "low- or moderate-income household" means a household which has an income of 80 percent or less of the median income for the area, as adjusted and published by HUD, except in areas where the Secretary adjusts this figure downward because of prevailing construction costs, low housing costs, or unusually high family incomes. For areas where the Secretary makes this downward adjustment, "low- or moderate-income household" would be defined to mean a household which has an income of 80 percent or less of the median income for the area, as published by HUD, with adjustment for family size, but without the adjustments made by the Secretary for prevailing construction costs, low housing costs, or unusually high family incomes.

The Board also proposes to amend the definition of "very low-income household" in the AHP regulation and in the CSR regulation to state that "very low-income household" means a household which has an income of 50 percent or less of the median income for

the area, as adjusted and published by HUD, except in areas where the Secretary adjusts this figure downward because of prevailing construction costs, low housing costs, or unusually high family incomes. For areas where the Secretary makes this downward adjustment, "very low-income household" would be defined to mean a household which has an income of 50 percent or less of the median income for the area, as published by HUD, with adjustment for family size, but without the adjustments made by the Secretary for prevailing construction costs, low housing costs, or unusually high family incomes.

HUD publishes tables with adjusted income information that incorporates the adjustments for family size, prevailing construction costs, low housing costs, and unusually high family incomes. It does not publish tables with income information that adjusts for family size but does not adjust for prevailing construction costs, low housing costs, and unusually high family incomes. Therefore, the proposed rule adds a definition of "adjustment for family size" to the AHP regulation and to the CSR regulation in order to provide additional guidance in calculating this adjustment.

An adjustment for family size is made by taking a specified percentage of the income limit of a four-person family for a particular area, according to the following scale:

No. members	1	2	3	4	5	6	7	8
Percent adjustment	70	80	90	Base	108	116	124	132

For each family member in excess of eight, eight percent of the four-person family income limit should be added to the income limit for an eight-person family for the area. These adjustment factors are the same as those used by HUD in administering its housing programs.

The proposed rule removes the definition of "median income" from the AHP regulation and from the CSR regulation, because it is included in the proposed definitions of "very low-income household" and "low- or moderate-income household."

The proposed rule makes a technical change to the section of the AHP regulation on annual contributions by deleting the cross reference in that section in order to eliminate any inconsistency with the removal of the paragraph designations in the definitions section of the AHP regulation.

The proposed rule also makes technical changes to the definition of "community support" to conform to the changes in the other definitions in the CSR regulation made by the proposed rule and to make the cross references consistent with the removal of the paragraph designations in the definitions section of the CSR regulation.

The following is an example of the intended application of the definitions contained in this proposed rule. For fiscal year 1993, the Secretary has determined that the median income of a four-person family in the area designated by HUD as the Oakland, California metropolitan area is $52,400. Therefore, 80 percent of the median income for this area is $41,900. Because this figure exceeds the United States median income for a four-person family, which is $39,700 for fiscal year 1993, the Secretary has adjusted the income limit for a four-person, low-income family in the Oakland, California metropolitan area downward to equal the United States median income for a four-person family, or $39,700.

However, under the proposed rule, a four-person household would qualify as a "low- or moderate-income household" in the Oakland, California area for purposes of the AHP and the CSR if the household's income were equal to 80 percent or less of the median income for the Oakland, California area, without adjustment by the Secretary, or $41,900. The adjusted four-person family income limit established by the Secretary would not be used because it has been adjusted downward.

The comparable income limits for households in the Oakland, California area with more or fewer than four members would be calculated by adjusting the four-person family income limit of $41,900 according to the percentages contained in the proposed definition of "adjustment for family size."

The Board requests public comment on the proposed rule.

II. Regulatory Flexibility Act

The proposed rule applies only to the Banks, which do not come within the meaning of "small entities," as defined in the Regulatory Flexibility Act (RFA). See 5 U.S.C. 601(6). Therefore, in accordance with section 605(b) of the RFA, see *id.* section 605(b), the Board hereby certifies that this proposed rule, as promulgated, will not have a significant economic impact on a substantial number of small entities.

List of Subjects

12 CFR Part 936

Banks, banking, Credit, Federal home loan banks, Reporting and recordkeeping requirements.

12 CFR Part 960

Credit, Federal home loan banks, Housing, Reporting and recordkeeping requirements.

Accordingly, chapter IX, title 12, Code of Federal Regulations, is hereby proposed to be amended as follows:

PART 936—COMMUNITY SUPPORT REQUIREMENTS

1. The authority citation for part 936 is revised to read as follows:

Authority: 12 U.S.C. 1422a, 1422b, 1429, and 1430 (a) and (g).

2. Section 936.1 is amended by removing the paragraph designations (a) through (u) and by placing the existing definitions in alphabetical order. Section 936.1 is further amended by removing the definition of "Median Income," by adding in alphabetical order the following definition of "Adjustment for family size" and by revising paragraphs (1), (5), (6), and (7) in the definition of "Community Support", and by revising the definitions of "Low- or Moderate-income Household," and "Very Low-income Household" to read as follows:

§ 936.1 Definitions.

Adjustment for family size means:

(1) Adjusting the family income limit according to the following adjustment factors for families with more than or fewer than four members:

No. members	1	2	3	4	5	6	7	8
Percent adjustment	70	80	90	Base	108	116	124	132

(2) For each family member in excess of eight, eight percent of the four-person base income limit should be added to the income limit for an eight-person family for the area.

* * * * *

Community Support means:

(1) Extensions of credit for purchase, construction, or rehabilitation of owner-occupied and rental housing for households whose incomes do not exceed 115 percent of the median income for the area, as determined and published by the U.S. Department of Housing and Urban Development, with adjustment for family size, with demonstrable efforts to finance housing for very low-income and low- or moderate-income households;

* * * * *

(5) Active participation in loan consortia, regional lending activities, and similar efforts that benefit very low-income and low- or moderate-income households, or which further the activities described in paragraphs (1) through (4) of this definition, both within and outside a member's usual market area and communities;

(6) Any additional loan products, financial services programs or activities that further the items described in paragraphs (1) through (5) of this definition; and

(7) In the case of institutions not covered by CRA, such as credit unions, loan products, financial services, programs or activities that further the items described in paragraphs (1) through (5) of this definition.

* * * * *

Low- or Moderate-income Household means a household which has an income of 80 percent or less of the median income for the area, as adjusted and published by the U.S. Department of Housing and Urban Development, except that in areas where the Secretary of Housing and Urban Development adjusts this figure downward because of prevailing construction costs, low housing costs, or unusually high family incomes, then "low- or moderate-income household" means a household which has an income of 80 percent or less of the median income for the area, as published by the U.S. Department of Housing and Urban Development, with adjustment for family size, but without the adjustments made by the Secretary of Housing and Urban Development for prevailing construction costs, low housing costs, or unusually high family incomes.

Very Low-income Household means a household which has an income of 50 percent or less of the median income for the area, as adjusted and published by the U.S. Department of Housing and Urban Development, except that in areas where the Secretary of Housing and Urban Development adjusts this figure downward because of prevailing construction costs, low housing costs, or unusually high family incomes, then "very low-income household" means a household which has an income of 50 percent or less of the median income for the area, as published by the U.S. Department of Housing and Urban Development, with adjustment for family size, but without the adjustments made by the Secretary of Housing and Urban Development for prevailing construction costs, low housing costs, or unusually high family incomes.

PART 960—AFFORDABLE HOUSING PROGRAM

3. The authority citation for part 960 is revised to read as follows:

Authority: 12 U.S.C. 1422a, 1422b, 1429, and 1430 (a) and (j).

4. Section 960.1 is amended by removing the paragraph designations (a) through (o). Section 960.1 is further amended by adding in alphabetical order the following definition of "Adjustment for family size," by removing the definition of "Median income," and by revising the definitions of "Low- and moderate-income households" and "Very low-income households" to read as follows:

§ 960.1 Definitions.

Adjustment for family size means:

(1) Adjusting the family income limit according to the following adjustment factors for families with more than or fewer than four members:

No. members	1	2	3	4	5	6	7	8
Percent adjustment	70	80	90	Base	108	116	124	132

(2) For each family member in excess of eight, eight percent of the four-person base income limit should be added to the income limit for an eight-person family for the area.

* * * * *

Low- or moderate-income household means a household which has an income of 80 percent or less of the median income for the area, as adjusted and published by the U.S. Department of Housing and Urban Development, except that in areas where the Secretary of Housing and Urban Development adjusts this figure downward because of prevailing construction costs, low housing costs, or unusually high family incomes, then "low- or moderate-income household" means a household which has an income of 80 percent or less of the median income for the area, as published by the U.S. Department of Housing and Urban Development, with adjustment for family size, but without the adjustments made by the Secretary of Housing and Urban Development for prevailing construction costs, low housing costs, or unusually high family incomes.

* * * * *

Very low-income household means a household which has an income of 50 percent or less of the median income for the area, as adjusted and published by the U.S. Department of Housing and Urban Development, except that in areas where the Secretary of Housing and Urban Development adjusts this figure downward because of prevailing construction costs, low housing costs, or unusually high family incomes, then "very low-income household" means a household which has an income of 50 percent or less of the median income for the area, as published by the U.S. Department of Housing and Urban Development, with adjustment for family size, but without the adjustments made by the Secretary of Housing and Urban Development for prevailing construction costs, low housing costs, or unusually high family incomes.

5. Section 960.10 is amended by revising paragraph (a)(1)(i) to read as follows:

§ 960.10 Annual contributions.

(a) * * *

(1) * * *

(i) 5 percent of the Bank's net income for the previous year; or

* * * * *

By the Federal Housing Finance Board.

Daniel F. Evans, Jr.,

Chairman.

[FR Doc. 93-27069 Filed 11-4-93; 8:45 am]

BILLING CODE 6725-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93-NM-141-AD]

Airworthiness Directives; Short Brothers PLC Model SD3-30, SD3-60, and SD3-SHERPA Series Airplanes

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 certain Short Brothers PLC Model SD3-30, SD3-60, and SD3-SHERPA series airplanes, that currently requires an inspection to detect corrosion on the distance piece associated with the wing strut pick up on the stub wing, and repair of corroded parts. This action would require repetitive inspections to detect corrosion of repaired or reworked distance pieces and adjacent side plates; and would provide a terminating action for the repetitive inspections. This proposal is prompted by reports of corrosion on the distance pieces and adjacent side plates of the wing strut pick up. The actions specified by the proposed AD are intended to prevent failure of the distance piece and adjacent side plates, which could result in reduced strength of the wing strut attachment to the stub wing on the fuselage and, subsequently, reduced structural strength of the main wing.

DATES: Comments must be received by January 4, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 93-NM-141-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Short Brothers PLC, 2011 Crystal Drive, suite 713, Arlington, Virginia 22202-3719. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: William Schroeder, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2148; fax (206) 227-1320.

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 shall 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-NM-141-AD." 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, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 93-NM-141-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

On May 6, 1993, the FAA issued AD 93-09-08, Amendment 39-8574 (58 FR 27928, May 12, 1993), applicable to certain Short Brothers PLC Model SD3-30, SD3-60, and SD3-SHERPA series airplanes, that currently requires a one-time visual inspection to detect corrosion on the distance piece associated with the wing strut pick up on the stub wing, and repair of corroded parts. That action was prompted by reports of corrosion on the distance piece associated with the wing strut pick up on the stub wing. The requirements of that AD are intended to prevent failure of the distance piece, which could result in reduced strength of the wing strut attachment to the stub wing on the fuselage and, subsequently, reduced structural strength of the main wing.

Since the issuance of that AD, the manufacturer and the Civil Aviation Authority (which is the airworthiness authority for the United Kingdom) have advised that corrosion has been detected on the side plates associated with the wing strut pick up distance piece on the left- and right-stub wings. The failure of these side plates presents the same potential unsafe condition described previously.

Also since issuance of that AD, the manufacturer has presented data that substantiates the need for repetitive inspections to detect corrosion of repaired or reworked distance pieces and adjacent side plates. Repetitive inspections are recommended only for airplanes having original equipment type distance pieces (with pockets), which were found to be corroded, and were repaired or reworked and returned to service. These repaired or reworked distance pieces continue to contain pockets that can collect corrosive material. The manufacturer has developed an optional terminating action, which if accomplished, would eliminate the need for repetitive inspections of repaired or reworked distance pieces and adjacent side plates. Such actions will ensure the continued structural strength of the main wing.

Short Brothers PLC has issued Shorts Service Bulletin SD360-53-38, Revision 1, dated May 1993 (for Model SD3-60 series airplanes); Shorts Service Bulletin SD3 SHERPA-53-1, Revision 1, dated May 1993 (for Model SD3-SHERPA series airplanes); and Shorts Service Bulletin SD330-53-65, Revision 1, dated May 1993 (for Model SD3-30 series airplanes). These revised service bulletins describe procedures for performing an initial and repetitive inspections to detect corrosion on the distance piece and side plates associated with the wing strut pick up on the stub wing, and repair or rework of corroded parts. These revised service bulletins are essentially identical to the original issue, but recommend that the inspections be performed repetitively for repaired or reworked original equipment type distance pieces (with pockets) and adjacent side plates. The CAA classified these revised service bulletins as mandatory.

Short Brothers PLC has also issued Shorts Service Bulletin SD330-53-66, dated July 1993 (for Model SD3-30 series airplanes); Shorts Service Bulletin SD360-53-39, dated June 11, 1993 (for Model SD3-60 series airplanes); and Shorts Service Bulletin SD3 SHERPA-53-2, dated July 1993 (for Model SD3-SHERPA series airplanes). These service

bulletins describe procedures for replacement of the existing distance piece and/or adjacent side plates with a new distance piece and/or adjacent side plates.

Such replacement, if accomplished, would eliminate the need for the repetitive inspections recommended by these service bulletins.

These airplane models are manufactured in the United Kingdom and are type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, 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 airplanes of the same type design registered in the United States, the proposed AD would supersede AD 93–09–08 to continue to require a one-time inspection to detect corrosion on the distance piece associated with the wing strut pick up on the stub wing, and repair or rework of corroded parts. The proposed AD would also require repetitive inspections to detect corrosion of repaired or reworked original equipment type distance pieces (with pockets) and adjacent side plates. The actions would be required to be accomplished in accordance with the revised service bulletins described previously.

The proposed AD would also provide an optional terminating action, which consists of replacement of the existing distance piece with a new, improved distance piece (without pockets). If accomplished, this replacement would eliminate the need for the proposed repetitive inspections of repaired or reworked original equipment type distance pieces (with pockets) and adjacent side plates in accordance with this AD.

The FAA estimates that 106 airplanes of U.S. registry would be affected by this proposed AD. The currently required one-time inspection action requires approximately 5 work hours per airplane to accomplish the proposed actions, at an average labor rate of $55 per work hour. Based on these figures, the total cost impact of that action on U.S. operators is estimated to be $29,150, or $275 per airplane.

For operators who replace or repair a distance piece, this proposed AD would require that repetitive inspections of that distance piece be performed. Such inspections would require approximately 5 work hours to accomplish, at an average labor charge of $55 per work hour. Based on these figures, the total cost impact of the repetitive inspections that would be required of these operators would be $275 per airplane per inspection cycle.

Should an operator elect to accomplish the optional terminating action that would be provided by this proposed AD action, the number of hours required to accomplish it would be approximately 80 per airplane, at an average labor charge of $55 per work hour. The cost of required parts would be approximately $2,600 per airplane. Based on these figures, the total cost impact of the optional terminating action on U.S. operators would be $7,000 per airplane.

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 39–8574 (58 FR 27928, May 12, 1993), and by adding a new airworthiness directive (AD), to read as follows:

Short Brothers PLC: Docket 93–NM–141–AD. Supersedes AD 93–09–08, Amendment 39–8574.

Applicability: Model SD3–SHERPA series airplanes, serial numbers SH3201 through SH3216 inclusive; all Model SD3–60 series airplanes; and all Model SD3–30 series airplanes; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the distance piece and adjacent side plates, which could result in reduced strength of the wing strut attachment to the stub wing on the fuselage and, subsequently, reduced structural strength of the main wing, accomplish the following:

(a) Within 30 days after May 27, 1993 (the effective date of AD 93–09–08, Amendment 39–8574), perform a detailed visual inspection to detect corrosion in the pockets on the horizontal leg of the distance piece associated with the wing strut pick up on the left- and right-stub wings, in accordance with Shorts Service Bulletin SD3 SHERPA–53–1, dated March 29, 1993, or Revision 1, dated May 1993 (for Model SD3–SHERPA series airplanes); Shorts Service Bulletin SD360–53–38, dated March 25, 1993, or Revision 1, dated May 1993 (for Model SD3–60 series airplanes); or Shorts Service Bulletin SD330–53–65, dated March 29, 1993, or Revision 1, dated May 1993 (for Model SD3–30 series airplanes); as applicable.

(1) If any corrosion is detected that is within the limits specified in the applicable service bulletin, prior to further flight, repair or rework the corroded components in accordance with the applicable service bulletin.

(2) If any corrosion is detected that is outside the limits specified in the applicable service bulletin, prior to further flight, accomplish either paragraph (a)(2)(i) or (a)(2)(ii) of this AD:

(i) Replace any corroded distance piece with a new, improved distance piece (without pockets), and repair or replace the adjacent side plates, as necessary, in accordance with the applicable service bulletin. Or

(ii) Repair or rework the corroded components in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(3) If no corrosion is detected, accomplish the requirements of paragraph (b) of this AD.

(b) Within 10 days after accomplishing the initial inspection required by paragraph (a)(1)

of this AD, submit a report of all inspection findings, including nil defects, to Short Brothers PLC. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120-0056.

(c) For those airplanes on which the distance piece has been reworked or repaired in accordance with the requirements of paragraph (a) of this AD: Within 90 days after the effective date of this AD or within the next 600 hours time-in-service after the effective date of this AD, whichever occurs earlier, and thereafter at intervals not to exceed 90 days or 600 hours time-in-service, whichever occurs earlier, repeat the inspection of the distance piece and adjacent side plates in accordance with the requirements of paragraph (a) of this AD.

(d) Replacement of the existing distance piece and/or adjacent side plates with new distance pieces (without pockets) and/or adjacent side plates in accordance with Short Brothers Service Bulletins SD3 SHERPA-53-2, dated July 1993 (for Model SD3-SHERPA series airplanes); SD360-53-39, dated June 11, 1993 (for Model SD3-60 series airplanes); or SD330-53-66, dated July 1993 (for Model SD3-30 series airplanes); as applicable; constitutes terminating action for the repetitive inspection requirement of paragraph (c) of this AD.

(e) 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, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM-113.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM-113.

(f) 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 Renton, Washington, on November 1, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-27231 Filed 11-4-93; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 655

RIN 1205-AA89

Wage and Hour Division

29 CFR Part 507

RIN 1215-AA69

Labor Condition Applications and Requirements for Employers Using Aliens on H-1B Visas in Specialty Occupations and as Fashion Models; Extension of Comment Period

AGENCIES: Employment and Training Administration, Labor, and Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Extension of comment period.

SUMMARY: This document extends for 30 additional days the period for filing written comments on proposed regulations issued to clarify provisions of the Immigration and Nationality Act (INA) relating to the temporary employment in the United States of nonimmigrants admitted under H-1B visas. This action is being taken in response to requests from interested parties for additional time to submit comments.

DATES: Comments must be received on or before December 6, 1993.

ADDRESSES: Address written comments to John R. Fraser, Acting Assistant Secretary, Employment Standards Administration, U.S. Department of Labor, room S-3510, 200 Constitution Avenue NW., Washington, DC 20210. As a convenience to commenters, written comments may be transmitted by facsimile ("FAX") machine to (202) 219-5122. This is not a toll-free number.

FOR FURTHER INFORMATION CONTACT: On 20 CFR part 655, subpart H, and 29 CFR part 507, subpart H, contact Patrick Stange, Division of Foreign Labor Certifications, U.S. Employment Service, Employment and Training Administration, Department of Labor, 200 Constitution Avenue, NW., room N-4456, Washington, DC 20210. Telephone: (202) 219-5263 (this is not a toll-free number).

On 20 CFR part 655, subpart I, and 29 CFR part 507, subpart I, contact Solomon Sugarman, Wage and Hour Division, Employment Standards Administration, Department of Labor, 200 Constitution Avenue, NW., room S-3502, Washington, DC 20210. Telephone: (202) 219-7605 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department invited public comments for 30 days on a proposed rule to modify the H-1B regulations to reflect the Department's enforcement policies which have been developed based on operating experiences since the H-1B program's inception. Additionally, this rule proposed to clarify the Department's administration and enforcement of the H-1B program, such as by defining terms not previously defined, clarifying that the Department has authority to perform investigations without a specific complaint, establishing special procedures for "job contractors," modifying the labor condition application (LCA) form and content, and explaining the Department's enforcement of the wages required to be paid to H-1B nonimmigrants. This proposed rule was published in the **Federal Register** on October 6, 1993 (58 FR 52152) and invited interested parties to submit public comments on or before November 5, 1993. Because of the interest that has been expressed in this proposed rulemaking, and the desire of some commenters to have additional time to prepare their comments on the proposed rules, the Department believes it is desirable to extend the comment period for interested parties. Therefore, the period for submitting written comments on the proposed H-1B rules published in the **Federal Register** on October 6, 1993, is extended to December 6, 1993.

Signed in Washington, DC, this 1st day of November 1993.

Robert B. Reich,

Secretary of Labor.

[FR Doc. 93-27332 Filed 11-4-93; 3:31 pm]

BILLING CODE 4510-27-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 65

[INS No. 1449-92; AG Order No. 1802-93]

RIN 1115-AD40

Emergency Federal Law Enforcement Assistance

AGENCY: Department of Justice.

ACTION: Proposed rule.

SUMMARY: This proposed rule would implement provisions in the Immigration and Nationality Act that establish an "Immigration Emergency Fund" and that provide for reimbursement to States and localities for assistance provided, at the request of

the Attorney General, to meet an immigration emergency declared by the President, to aid in the administration of the immigration laws of the United States, or to meet urgent demands arising from the presence of aliens in a State or local jurisdiction. This proposed rule would set forth procedures governing requests for a Presidential declaration of an immigration emergency, requests from the Attorney General for State or local government assistance when the President has declared an immigration emergency and in certain other circumstances, and applications from States and local governments for reimbursement from the Immigration Emergency Fund.

DATES: Written comments must bear a postmark dated on or before December 6, 1993.

ADDRESSES: Please submit written comments, in triplicate, to Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street, NW., room 5304, Washington, DC 20536. To ensure proper handling, the letters should refer to INS No. 1449–92.

FOR FURTHER INFORMATION CONTACT: Michael J. Coster, Associate General Counsel, Immigration and Naturalization Service, 425 I Street, NW., room 6100, Washington, DC 20536, telephone (202) 514–2895.

SUPPLEMENTARY INFORMATION: The Department of Justice ("Department") promulgated a proposed rule on January 14, 1992, 57 FR 1439, which set forth procedures and requirements for reimbursement from the Immigration Emergency Fund to States and localities for assistance provided in the absence of a Presidential determination that an immigration emergency exists. The purpose of the proposed rule was to implement amendments to section 404(b) of the Immigration and Nationality Act ("INA"), 8 U.S.C. 1101 note, enacted by section 705 of the Immigration Act of 1990, Public Law 101–649, 104 Stat. 4978, 5087 ("IMMACT"). Prior to IMMACT, section 404(b) authorized an annual appropriation to maintain a balance of $35,000,000 in an Immigration Emergency Fund to provide for an increase in border patrol or other enforcement activities of the Immigration and Naturalization Service ("INS"), and to reimburse States and localities for providing assistance as requested by the Attorney General in meeting an immigration emergency. Section 404(b) provided that before the Attorney General could authorize any disbursements from the Immigration Emergency Fund, the President had to determine that an immigration emergency existed and certify such fact to the Judiciary Committees of the House of Representatives and the Senate.

While leaving these authorities unchanged, IMMACT added a new section 404(b)(2) which authorizes the Attorney General to expend up to $20,000,000 of the Immigration Emergency Fund "for the reimbursement of States and localities providing assistance as required by the Attorney General" in three additional circumstances: (1) Whenever an INS district director certifies that the number of asylum applications filed in his or her district during a calendar quarter exceeds by at least 1,000 the number of such applications filed in that district during the preceding calendar quarter; (2) whenever the lives, property, safety, or welfare of the residents of a State or locality is endangered; or (3) in other circumstances as determined by the Attorney General. Where any of these three circumstances exists, section 404(b)(2) does not require the President to determine and certify that an immigration emergency exists before any reimbursement from the Immigration Emergency Fund may be made. In such circumstances, section 404(b)(2) authorizes the Attorney General to provide reimbursement (1) where the Attorney General has sought the assistance of a State or local government, or (2) in response to an application for reimbursement filed by a State or local government in cases where the Attorney General requires assistance from the State or locality. This rule provides that, in either case, a reimbursement agreement must be prepared, but may, in exigent circumstances, be prepared after some or all of the assistance has been provided.

This proposed rule would describe, in § 65.85(c), the information that must be submitted by a State or local government in an application for reimbursement. The rule also encourages the chief executive of the applying State or local government to consult informally with the Attorney General and the Commissioner of INS before submitting an application for reimbursement. The purpose of this informal consultation is to facilitate discussion of the nature of the assistance provided by the State or local government, the requirements of the Attorney General, if any, for such assistance, the costs associated with such assistance, and the Department's preliminary views on the appropriateness of the proposed reimbursement.

Section 404(b)(2) of the INA requires, and this proposed rule would provide, that the Attorney General will make a decision with respect to a State's or locality's application for reimbursement within 15 days of the date of receipt of the application.

The January 14, 1992, proposed rule addressed only the IMMACT amendments to section 404(b). After review of the 15 comments received, however, the Department has determined that it is appropriate to expand the proposed rule to include additional regulations required by section 610 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1992, Public Law 102–140, 105 Stat. 782, 832, rather than to issue such regulations in a separate rule. Section 610 directs the Attorney General to promulgate regulations that describe "scenarios" that constitute an immigration emergency, define the statutory phrases "assistance as required by the Attorney General" and "other circumstances" in which the Attorney General may require such assistance, and set forth the processes to be followed by the President in declaring an immigration emergency, by Governors or local officials in seeking such a declaration, and by States and localities in seeking reimbursement from the Immigration Emergency Fund.

A majority of the persons commenting on the initial proposed regulation suggested: (1) Expanding the concept of "assistance" for which States and local governments can obtain reimbursement to include such matters as the funding of schools and various forms of welfare assistance; and (2) providing for public comment before making any declaration of an immigration emergency or taking any action on a request for reimbursement from the Immigration Emergency Fund. It is the Department's view that the purpose of reimbursement to a State or local government from the Immigration Emergency Fund is limited to actions directly related to aiding the Attorney General in the administration of the immigration laws of the United States and in meeting urgent demands arising from the presence of aliens in a State or local jurisdiction. Furthermore, the Department has determined that it would be impractical to seek public comment in situations which, by definition, will be ones of great urgency.

In accordance with 5 U.S.C. 605(b), the Attorney General certifies that this rule does not have a significant adverse economic impact on a substantial number of small entities. This rule is

not considered to be a major rule within the meaning of section 1(b) of E.O. 12291, and it does not have Federalism implications warranting the preparation of a Federalism Assessment in accordance with E.O. 12612.

The information collection requirements contained in this rule have been cleared by the Office of Management and Budget ("OMB") under the provisions of the Paperwork Reduction Act. The OMB clearance number is 1115–0184.

List of Subjects in 28 CFR Part 65

Grant programs-law, Law enforcement, Reporting and recordkeeping requirements.

Accordingly, part 65 of chapter I of title 28 of the Code of Federal Regulations is proposed to be amended as follows:

PART 65—[AMENDED]

1. The authority citation for part 65 is revised to read as follows:

Authority: 8 U.S.C. 1101 note; 42 U.S.C. 10501–10513; sec. 610, Pub. L. 102–140, 105 Stat. 832.

2. Part 65 is amended by adding a new subpart I to read as follows:

Subpart I—Immigration Emergency Fund

65.80 General.
65.81 General definitions.
65.82 Procedure for requesting a Presidential determination of an immigration emergency.
65.83 Assistance required by the Attorney General.
65.84 Procedure for the Attorney General seeking State or Local assistance.
65.85 Procedures for State or local governments applying for reimbursement.

Subpart I—Immigration Emergency Fund

§ 65.80 General.

The regulations of this subpart set forth procedures for implementing section 404(b) of the Immigration and Nationality Act ("INA"), 8 U.S.C. 1101 note, by providing for Presidential determinations of the existence of an immigration emergency, and for reimbursement from the Immigration Emergency Fund to State and local governments for assistance provided in meeting an immigration emergency. The regulations of this subpart also establish procedures by which the Attorney General may draw upon the Immigration Emergency Fund, without a Presidential determination that an immigration emergency exists, to reimburse State and local governments for assistance provided as required by the Attorney General in certain specified circumstances.

§ 65.81 General definitions.

As used in this part:

Assistance means any actions taken by a State or local government directly relating to aiding the Attorney General in the administration of the immigration laws of the United States and in meeting urgent demands arising from the presence of aliens in the State or local government's jurisdiction when such actions are taken (1) to assist in meeting an immigration emergency, or (2) under any of the circumstances specified in section 404 (b)(2)(A) of the INA. Assistance may include, but need not be limited to, the provision of large shelter facilities for the housing and screening of aliens, and, in connection with these activities, the provision of such basic necessities as food, water, clothing, and health care.

Immigration emergency means an actual or imminent influx of aliens which either is of such magnitude or exhibits such other characteristics that effective administration of the immigration laws of the United States is beyond the existing capabilities of the Immigration and Naturalization Service ("INS") in the affected area or areas. Characteristics of an influx of aliens, other than magnitude, which may be considered in determining whether an immigration emergency exists include: The likelihood of continued growth in the magnitude of the influx; an apparent connection between the influx and increases in criminal activity; the actual or imminent imposition of unusual and overwhelming demands on law enforcement agencies; and other similar characteristics.

Other circumstances means a situation which, as determined by the Attorney General, requires the resources of a State or local government to ensure the proper administration of the immigration laws of the United States or to meet urgent demands arising from the presence of aliens in a State or local government's jurisdiction.

§ 65.82 Procedure for requesting a Presidential determination of an immigration emergency.

The President may make a determination concerning the existence of an immigration emergency after review of a request from either the Attorney General of the United States or the chief executive of a State or local government. Such a request shall include a description of the facts believed to constitute an immigration emergency and the types of assistance needed to meet that emergency. Except when a request is made by the Attorney General, the requestor shall file the original application with the Office of the President and shall file copies of the application with the Attorney General and with the Commissioner of INS. If the President determines that an immigration emergency exists, he or she will certify that fact to the Judiciary Committees of the House of Representatives and of the Senate.

§ 65.83 Assistance required by the Attorney General.

The Attorney General may request assistance from a State or local government in the administration of the immigration laws of the United States, or in meeting urgent demands where the need for assistance arises because of the presence of aliens in that State or local jurisdiction, and may reimburse a State or local government for such assistance from the Immigration Emergency Fund, without a Presidential determination of an immigration emergency, in any of the following circumstances:

(a) An INS district director certifies to the Commissioner of INS, who shall, in turn, certify to the Attorney General, that the number of asylum applications filed in that INS district during the relevant calendar quarter exceeds by at least 1,000 the number of such applications filed in that district during the preceding calendar quarter. For purposes of this paragraph, providing parole at a point of entry in a district shall be deemed to constitute an application for asylum in the district.

(b) The Attorney General determines that there exist circumstances involving the administration of the immigration laws of the United States which endanger the lives, property, safety, or welfare of the residents of a State or locality.

(c) The Attorney General determines that there exist any other circumstances, as defined in § 65.81, such that it is appropriate to seek assistance from a State or local government in administering the immigration laws of the United States or in meeting urgent demands arising from the presence of aliens in a State or local jurisdiction.

§ 65.84 Procedures for the Attorney General seeking State or local assistance.

(a) When the Attorney General determines to seek assistance from a State or local government under § 65.83 or when the President has determined that an immigration emergency exists, the Attorney General shall negotiate the terms and conditions of that assistance with the State or local government, and shall set forth these terms and

conditions in a reimbursement agreement.

(b) A reimbursement agreement shall contain the procedures under which the State or local government is to obtain reimbursement for its assistance. A reimbursement agreement shall include the title of the official to whom claims are to be submitted, the intervals at which claims are to be submitted, a description of the supporting documentation to be submitted, and any limitations on the total amount of reimbursement that will be provided.

(c) In exigent circumstances, the Attorney General may agree to reimburse a State or local government without a written reimbursement agreement. A reimbursement agreement conforming to the specifications in this section shall be reduced to writing as soon as practicable.

§ 65.85 Procedures for State or local governments applying for reimbursement.

(a) In the event that the chief executive of a State or local government determines that any of the circumstances set forth in § 65.83 exists, he or she may pursue the procedures in this section to submit to the Attorney General an application for a reimbursement agreement as described in § 65.84.

(b) The Department strongly encourages chief executives of States and local governments, if possible, to consult informally with the Attorney General and the Commissioner of INS prior to submitting a formal application for reimbursement. This informal consultation is intended to facilitate discussion of the nature of the assistance to be provided by the State or local government, the requirements of the Attorney General, if any, for such assistance, the costs associated with such assistance, and the Department's preliminary views on the appropriateness of the proposed reimbursement.

(c) The chief executive of a State or local government shall submit an application for reimbursement in writing to the Attorney General, and shall file a copy with the Commissioner of INS. The application shall set forth in detail the following information:

(1) The name of the jurisdiction requesting reimbursement;

(2) All facts supporting the application;

(3) The nature of the assistance which the State or local government has provided or will provide, as required by the Attorney General, for which reimbursement is requested;

(4) The dollar amount of the reimbursement sought;

(5) A justification for the amount of reimbursement being sought;

(6) The expected duration of the conditions requiring State or local assistance;

(7) Information about whether reimbursement is sought for past costs or for future costs;

(8) The name, address, and telephone number of a contact person from the jurisdiction requesting reimbursement.

(d) If the Attorney General determines that the assistance for which reimbursement is sought under paragraph (c) of this section is appropriate under the standards of this Subpart, the Attorney General may enter into a reimbursement agreement in the same manner as if the assistance had been requested by the Attorney General as described under § 65.84.

(e) The Attorney General will consider all applications for reimbursement from State or local governments until the Attorney General has expended the maximum amount authorized in section 404(b)(2)(B) of the INA. The Attorney General will make a decision with respect to any application for reimbursement submitted under this section, and containing the information described in paragraph (c) of this section, within 15 calendar days of receipt of such application.

(f) In exigent circumstances, the Attorney General may waive the requirements of this section concerning the form, contents, and order of consideration of applications, including the requirement in paragraph (c) of this section that applications be submitted in writing.

Dated: October 26, 1993.

Janet Reno,

Attorney General.

[FR Doc. 93-27177 Filed 11-4-93; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 915

Iowa Permanent Regulatory Program

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

ACTION: Withdrawal of proposed amendment.

SUMMARY: OSM is announcing the withdrawal of a proposed amendment to the Iowa permanent regulatory program (hereinafter, the "Iowa program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of a guidance document for the measurement of revegetation success. Iowa is withdrawing this amendment because it intends to revise it and submit it as another formal amendment at a future date.

DATES: This withdrawal is effective November 5, 1993.

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

SUPPLEMENTARY INFORMATION: By letters dated December 30, 1992, and January 5, 1993 (Administrative Record No. IA-374), Iowa submitted a proposed amendment to its program pursuant to SMCRA. Iowa submitted the proposed amendment in response to an August 1, 1986, letter (Administrative Record No. IA-280) that OSM sent in accordance with 30 CFR 732.17(c) requiring certain provisions of the State program to be updated for consistency with the Federal regulations through July 1, 1986.

On March 30, 1993 (Administrative Record No. IA-379), OSM announced receipt and solicited public comment on the program amendment (58 FR 16632). On September 16, 1993, OSM sent Iowa a letter identifying provisions that appeared to be less effective than the Federal regulations (Administrative Record No. IA-390). On October 21, 1993 (Administrative Record No. IA-393), Iowa notified OSM of its desire to withdraw the proposed amendment and resubmit at a future date. Therefore, the proposed amendment announced in the March 30, 1993, **Federal Register** is withdrawn, and part 915, title 30 of the Code of Federal Regulations is not amended.

List of Subjects in 30 CFR Part 915

Intergovernmental relations, Surface mining, Underground mining.

Dated: October 29, 1993.

Raymond L. Lowrie,

Assistant Director, Western Support Center.

[FR Doc. 93-27321 Filed 11-4-93; 8:45 am]

BILLING CODE 4310-05-M

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30 CFR Part 917

Kentucky Permanent Regulatory Program; Bond Forfeiture, Definitions, and Inspection Frequency

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

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

SUMMARY: OSM is announcing the receipt of revisions to a previously prepared amendment to the Kentucky permanent regulatory program (hereinafter referred to as the Kentucky program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). By letter of October 19, 1993 (Administrative Record No. KY–1242), Kentucky resubmitted a proposed program amendment that completed the Kentucky promulgation process under Kentucky Revised Statutes (KRS) Chapter 13A. The proposed amendment includes changes to Kentucky Administrative Regulation (KAR); bond forfeiture, definitions, and general provisions for inspection and enforcement. The proposal amends the bond forfeiture procedures, adds a definition of "willfully" and "willful" violation to Chapter 12, and changes inspection frequency on temporary cessation mines. This proposed amendment replaces an earlier proposed program amendment submitted on May 21, 1993 (Administrative Record No. KY–1221). This proposed amendment includes the Statement of Consideration relating to the State's promulgation process (Administrative Record No. KY–1233).

This document sets forth the times and locations that the Kentucky program and the proposed amendment are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed regarding a public hearing if one is requested.

DATES: Written comments must be received on or before 4 p.m. on November 22, 1993. If requested, a public hearing on the proposed amendment will be held at 10 a.m. on November 15, 1993. Requests to present oral testimony at the hearing must be received on or before 4 p.m. on November 10, 1993.

ADDRESSES: Written comments and requests to testify at the hearing should be mailed or hand delivered to: William J. Kovacic, Director, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 2675 Regency Road, Lexington, Kentucky 40503.

Copies of the Kentucky program, the proposed amendment, and all written comments received in response to this document will be available for review at the addresses listed below, Monday through Friday, 9 a.m. to 4 p.m., excluding holidays. Each requestor may receive, free of charge, one copy of the proposed amendment by contacting OSM's Lexington Field Office.

Office of Surface Mining Reclamation and Enforcement, Lexington Field Office, 2675 Regency Road, Lexington, Kentucky 40503, Telephone: (606) 233–2896.

Office of Surface Mining Reclamation and Enforcement, Eastern Support Center, Ten Parkway Center, Pittsburgh, Pennsylvania 15220, Telephone: (412) 937–2828.

Department of Surface Mining Reclamation and Enforcement, No. 2 Hudson Hollow Complex, Frankfort, Kentucky 40601, Telephone: (502) 564–6940.

If a public hearing is held, its location will be: The Harley Hotel, 2143 North Broadway, Lexington, Kentucky 40505.

FOR FURTHER INFORMATION CONTACT: William J. Kovacic, Director, Lexington Field Office, Telephone (606) 233–2896.

SUPPLEMENTARY INFORMATION:

I. Background

On May 18, 1982, the Secretary of the Interior conditionally approved the Kentucky program. Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval can be found in the May 18, 1982, **Federal Register** (47 FR 21404–21435). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 917.11, 917.15, 917.16 and 917.17.

II. Discussion of Amendment

By letter of October 19, 1993 (Administrative Record No. KY–1242) Kentucky resubmitted a proposed program amendment that completed the Kentucky promulgation process under KRS Chapter 13A. This proposed amendment replaces an earlier proposed program amendments submitted on May 21, 1993 (Administrative Record No. KY–1221) and opened for public comment on June 11, 1993 **Federal Register** (58 FR 32618). This proposed amendment includes the Statement of Consideration relating to the State's promulgation process submitted to OSM on September 2, 1993 (Administrative Record No. KY–1233).

This resubmission contains further revisions to 405 KAR 10:050 bond forfeiture and 405 KAR 12:001 definitions for 405 KAR Chapter 12. In response to a comment made during the State's regulation promulgation process that the proposed amendment to 405 KAR 10:050 Section 2(5) could result in the return of forfeited bond funds where there is an off-permit disturbance, even if the permit area is completely overlapped, Kentucky agreed with the comment. The proposed regulation was modified in response to the comment.

The resubmission also contains a new definition for the term "unwarranted failure to comply" at 405 KAR 12:001 Section 1(29). The term means the failure of the permittee due to indifference, lack of diligence, or lack of reasonable care: (a) to prevent the occurrence of any violation of any applicable requirements of KAR Chapter 350, 405 KAR Chapters 7 through 12, or permit conditions; or (b) to abate any violation of any applicable requirement of KRS Chapter 350, 405 KAR Chapters 7 through 12, or permit conditions.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is now seeking comment on whether the amendment proposed by Kentucky satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Kentucky program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commentor's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Lexington Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m. on November 10, 1993. If no one requests an opportunity to comment at a public hearing, the hearing will not be held. Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment, and who wish to do so, will be heard following those scheduled. The hearing will end after all persons scheduled to comment

and persons present in the audience who wish to comment have been heard.

Public Meeting

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendments may request a meeting at the OSM, Lexington Field Office listed under **ADDRESSES** by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings will be open to the public and, if possible, notices of meetings will be posted in advance at the locations listed under **ADDRESSES.** A written summary of each meeting will be made a part of the Administrative Record.

Executive Order No. 12866

This proposed rule is not considered a significant regulatory action under the criteria of section 3(f) of Executive Order 12866. Therefore, review by the Office of Management and Budget under section 6 of the Executive Order is not required prior to publication in the **Federal Register.**

Executive Order 12778

The Department of the Interior has conducted the review required by section 2 of Executive Order 12778 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of the Surface Mining Control and Reclamation Act (SMCRA) (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.13 and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731 and 732 have been met.

National Environmental Policy Act

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

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3507 *et seq.*

Regulatory Flexibility Act

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

List of Subjects in 30 CFR Part 917

Intergovernmental relations, Surface mining, Underground mining.

Dated: October 29, 1993.

Carl C. Close,

Assistant Director, Eastern Support Center.

[FR Doc. 93-27088 Filed 11-4-93; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[IA-6-1-6103; FRL-4797-4]

Designation of Areas for Air Quality Planning Purposes; State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of reopening of the public comment period for proposed redesignation.

SUMMARY: EPA is giving notice that the public comment period for a notice of proposed redesignation to nonattainment published August 24, 1993 (58 FR 44639), has been reopened until November 26, 1993. The August 24, 1993, action proposed to designate part of Muscatine County, Iowa, nonattainment for sulfur dioxide (SO_2). Representatives of several major SO_2 sources in Muscatine County requested an extension of the comment period based, in part, on the need for more time to review information relating to certain monitoring information on which the redesignation is based. EPA finds merit in the extension requests, on this basis alone, and thus is reopening the comment period.

DATES: Comments are now due on or before November 26, 1993.

ADDRESSES: Comments may be mailed to Wayne A. Kaiser, Environmental Protection Agency, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Wayne A. Kaiser at (913) 551-7603.

Dated: October 25, 1993.

William W. Rice,

Acting Regional Administrator.

[FR Doc. 93-27305 Filed 11-4-93; 8:45 am]

BILLING CODE 6560-50-P

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

48 CFR Part 9904

Cost Accounting Standards Board; Cost Accounting Standards for Composition, Measurement, Adjustment, and Allocation of Pension Costs

AGENCY: Cost Accounting Standards Board, Office of Federal Procurement Policy, OMB.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: The Office of Federal Procurement Policy, Cost Accounting Standards Board (CASB), proposes to revise the Cost Accounting Standards relating to accounting for pension costs under negotiated government contracts. Section 26(g)(1) of the Office of Federal Procurement Policy Act requires that the Board, prior to the promulgation of any new or revised Cost Accounting Standard, publish an NPRM. This NPRM addresses certain problems that have emerged since the original promulgation (in the 1970's) of the pension Standards; CAS 9904.412—"Cost Accounting Standard for composition and measurement of pension cost," and CAS 9904.413, "Adjustment and allocation of pension cost." Proposed changes address the issue of pension cost recognition under qualified pension plans subject to the

"full-funding limits" of the Federal Tax Code, and problems associated with pension plans that are not qualified plans under the Federal Tax Code.

DATES: Comments should be received by January 4, 1994.

ADDRESSES: Comments should be addressed to Richard C. Loeb, Executive Secretary, Cost Accounting Standards Board, Office of Federal Procurement Policy, 725 17th Street, NW., room 9001, Washington, DC 20503. Attn: CASB Docket Nos. 91–03 and 91–05.

FOR FURTHER INFORMATION CONTACT: Richard C. Loeb, Executive Secretary, Cost Accounting Standards Board (telephone: 202–395–3254).

SUPPLEMENTARY INFORMATION:

A. Regulatory Process

The Cost Accounting Standards Board's rules and regulations are codified at 48 CFR Chapter 99. Section 26(g)(1) of the Office of Federal Procurement Policy Act, 41 U.S.C. 422(g)(1), requires that the Board, prior to the establishment of any new or revised Cost Accounting Standard, complete a prescribed rulemaking process. This process consists of the following four steps:

1. Consult with interested persons concerning the advantages, disadvantages and improvements anticipated in the pricing and administration of government contracts as a result of a proposed Standard.
2. Promulgate an Advance Notice of Proposed Rulemaking.
3. Promulgate a Notice of Proposed Rulemaking.
4. Promulgate a Final Rule.

This proposal is step three in the four step process.

B. Background

Prior Promulgations

The previous CASB published CAS 9904.412—"Cost Accounting Standard for Composition and Measurement of Pension Cost" on September 24, 1975 and CAS 9904.413—"Adjustment and Allocation of Pension Cost" on July 20, 1977. The effective dates of these Standards were January 1, 1976 and March 10, 1978, respectively. These Standards were developed in the early years of the applicability of the Employee Retirement Income Security Act (ERISA). At that time, the problems upon which this proposed revision focuses were rarely experienced. Adequate or minimum, rather than excess funding, concerned pension managers of that era. Over the intervening years government contractor pension plans have become more adequately funded. Limits on the size of benefits eligible to be included in a qualified pension plan have also been considerably constrained in real terms; portfolio values have become far more volatile; and, wage inflation expectations have been significantly dampened. At the time the current coverage was promulgated, there was little or no disparity between an orderly method of accruing pension costs and a contractor's ability to contemporaneously fund those accruals.

An overwhelming majority of respondents to the Board's solicitation of agenda items gave a high rank to the problems associated with fully funded qualified plans and those connected with the growing universe of unqualified or "pay-as-you-go" plans. The Board sought public comments with a set of Staff Discussion Papers. A Paper addressing the "pay-as-you-go" or unfunded plan issue was published by the Board on June 17, 1991. See 56 FR 27780. A Paper seeking views on the "full funding" problem was published on August 19, 1991. See 56 FR 41151. On January 26, 1993, after consideration of the public comments received on these staff discussion papers, the CASB published an Advanced Notice of Proposed Rulemaking (ANPRM) in the **Federal Register**, 58 FR 6103. The ANPRM set forth proposed amendments to deal with both the "pay-as-you-go" or unfunded pension plan issue and the "full-funding" problem.

The public comments in response to the ANPRM raised a number of concerns. The Board found concerns expressed about two areas particularly persuasive. These dealt with the ANPRM lacking any full-funding limitation, and the complexities and problems introduced by complete revision to amortization periods.

The ANPRM was premised on the idea that, by reducing amortization periods, there would be only a relatively short time lag between reimbursement and the "catch-up" funding. This premise, as pointed out by the commenters, was unsound. Because the ANPRM lacked any full-funding limitation, if implemented, it could result in recognition of pension costs in years in which no valid liability existed. This is of particular concern to the Board because today many contractors have overfunded plans. As such, they have net pension assets, not net pension liabilities.

The Board also found convincing commenters' arguments that changing all amortization periods in order to improve cost predictability was unnecessary. The commenters pointed out that the desired degree of predictability could be achieved under the existing Standard's amortization rules.

The NPRM reflects these and other concerns expressed by commentators.

Summary of Proposed Amendments

The Board is now proposing changes to incorporate into the Standards the ERISA full-funding limitation (FFL), while maintaining the current amortization rules. This resolves the regulatory conflict, commenters concerns about application of the FFL, and the problems introduced by complete revision to amortization periods.

In addition, the Board has added definitions and coverage to CAS 9904.413 to define what constitutes a segment closing and to provide greater specificity regarding accounting for pension costs when segments are closed or pension plans terminated.

The NPRM retains the approach for nonqualified pension plans that was included in the ANPRM.

C. Paperwork Reduction Act

The Paperwork Reduction Act, Public Law 96–511, does not apply to this proposal, and any associated rulemaking, because this proposal would impose no paperwork burden on offerors, affected contractors and subcontractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

D. Executive Order 12866 and the Regulatory Flexibility Act

The economic impact of this proposal on contractors and subcontractors is expected to be minor. As a result, the Chairman has determined that this NPRM will not result in the promulgation of a "major rule" under the provisions of Executive Order 12866, and that a regulatory impact analysis will not be required. Furthermore, this proposal will not have a significant effect on a substantial number of small entities because small businesses are exempt from the application of the Cost Accounting Standards. Therefore, this proposed rule does not require a regulatory flexibility analysis under the Regulatory Flexibility Act of 1980.

E. Public Comments

Public Comments: This NPRM is based upon the Board's Advanced Notice of Proposed Rulemaking made available for public comment in the **Federal Register** on January 26, 1993, 58 FR 6103. Thirty sets of public comments were received from contractors, Government agencies, professional

associations, actuarial firms, public accounting firms, and individuals. The comments received and the Board's actions taken in response thereto are summarized below:

Comment: Eleven commenters expressed concern because the proposal contained no full-funding limitation (FFL). It was pointed out that, absent an FFL, contractors could be reimbursed for pension accruals even though pension plan assets exceeded pension liabilities.

Response: The Board was aware that the ANPRM would have temporarily allowed accrual of pension cost when assets exceeded liabilities, but believed that the reduced amortization periods would bring pension assets and liabilities back into balance quickly. After further consideration, the Board now realizes that the ANPRM would not have accomplished this in many different situations.

One of the principle reasons for considering changes to CAS 9904.412 is because of the Omnibus Budget Reconciliation Act of 1987 (OBRA 87). Prior to OBRA 87, the CAS criteria for full funding was consistent with ERISA, i.e., full funding occurred when the assets of the plan equaled the accrued liability plus the normal cost for the period. However, OBRA 87 changed the ERISA FFL to require a comparison of assets with the lessor of the accrued liability (including normal costs) or 150% of the current liability. This change in criteria created an inequity for contractors that computed an assignable pension cost under CAS 9904.412, but were precluded from making contributions due to the new, more stringent ERISA FFL.

The Board notes that a goal of the prior Board was to maintain regulatory harmony with ERISA. Note 1 of the Preamble to CAS 9904.412 states:

> The Board received a variety of comments relative to the relationship between the proposed Standard, the Employee Retirement Income Security Act of 1974 (ERISA) * * * Although there is some commonality between the funding provisions of ERISA and the provisions of the Standard, ERISA does not provide for the measurement of pension costs for assignment among cost accounting periods or for the subsequent allocation of such costs to contracts. Accordingly, the Standard contains requirements, not contained in ERISA, to accomplish these purposes. Nevertheless, on the basis of its research, the Board is confident that the Standard being promulgated *is compatible* with the requirements of ERISA * * * (emphasis added)

The changes to the ERISA FFL definition brought about by OBRA 87 rendered CAS and ERISA incompatible. To remedy this, the NPRM incorporates the current ERISA FFL. This removes the regulatory conflict.

When pension plan assets exceed the FFL, it indicates that prior years' pension accruals were overestimated. This results in a contractor having, in effect, prepaid pension costs. The Board believes that these prepaid costs should be amortized before recognition of any additional pension cost accruals. The easiest and most equitable way to accomplish this is to amortize the prepaid cost at an amount equal to the lesser of the excess funding or the annual normal cost. The NPRM provides for this amortization procedure when a pension plan's assets exceeds the FFL.

Comment: Two commenters observed that if a pension plan is substantially overfunded, it is possible that accrued pension costs may be negative for the year, resulting in a credit. They pointed out that any such credit could not properly be refunded from the pension plan since the assets are held in trust beyond the reach of the contractor. It was suggested that the proposal be modified to provide that pension costs could not be recognized in negative amounts.

Response: In conceptual terms, the Board disagrees with the commenter's observations. Under the ANPRM, a contractor could have priced and/or received payments in excess of the amounts actually required to be funded into the pension plan. Hence, a credit to overhead in future years could be justified. However, for practical reasons relating to the funding of qualified pension plan trusts, the Board has decided that when a pension plan has excess funding, the NPRM will only require amortization of the excess at an amount equal to the lesser of the excess funding or the annual normal costs. Requiring the lesser of the two amounts ensures pension costs will not be recognized in negative amounts.

Comment: Four commenters pointed out that the proper term to describe the relationship "1 minus the tax rate" was complement, not reciprocal.

Response: The NPRM incorporates this change.

Comment: Nine commenters expressed concern about the proposal to defer the start of amortization periods for two years and to reduce the amortization period for gains and losses from 15 to 5 years. Both Government and nongovernment commenters stated that the proposed delay and reduction in amortization periods was not necessary to achieve predictability. Commenters maintained that there had been no unmanageable problems associated with predicting pension costs under the existing rules. In fact, several commenters stated that reducing the amortization periods would reduce the smoothing of costs which would potentially make estimating more difficult. It was also pointed out that the ANPRM provisions that allowed flexibility in the start of amortization periods would result in inconsistent accounting treatment among contractors. In addition, commenters had serious reservations about the additional complexities introduced by the proposal. They opposed making already complex rules even more complex and stated that transition would be difficult and costly.

Response: The Board finds the commenters arguments persuasive. The principle reason for proposing changes to the amortization rules was to increase predictability of pension costs. The Board was under the impression that predictability of pension costs under the existing rules has been a major problem. The Board agrees that it would be inappropriate to require all contractors to change their accounting practices for pension costs if the current practices achieve acceptable results. In response to the expressed concerns, the NPRM does not require any delay in the start of amortization and retains that existing 15 year amortization requirement for actuarial gains and losses.

Comment: Several commenters objected to the ANPRM provisions that required funding as a condition of allocability. They maintained that to do so violated the Board's Statement of Objectives, Policies and Concepts which endorses accrual accounting. In addition, the majority of Government commenters, while supporting the funding requirement for qualified plans, opposed the complement funding requirement for nonqualified plans. These commenters favored 100 percent funding for nonqualified plans and indicated that funding at a lesser amount would increase the risk that the liabilities for which the government has paid will never be liquidated. In addition, those opposing this portion of the proposal stated that it represented a payment of Federal income taxes.

Response: The commenters opposed to a funding requirement have misinterpreted the Board's "Concepts Statement" which under the discussion of "Method of Accounting" contains the following:

> Although the Board believes that the accrual basis of accounting generally provides for a better matching of costs to the production of goods and services which gave rise to them, the assignment of costs to accounting periods of government contract costing purposes must be carefully evaluated

to assure that the assignment shows neither bias nor prejudice to either party to the contract. The Board in individual standards will provide guidance with respect to the use of accrual, cash or any other accounting methods for assigning cost to accounting period.

As clearly evident from this excerpt, the Board's Concept Statement does not endorse only accrual accounting. The Board must be able to carefully choose the accounting method that ensures fair and equitable results. As indicated in one public comment summarized in the Preamble that accompanied, the ANPRM, it could be considered inequitable to provide, in effect, for advance funding of pension costs under a Government contract, which could result in a source of long-term financing of other corporate activities. The Board cannot ignore the risk that pension liabilities will not actually be liquidated, in whole or in part, if payments (to the ultimate beneficiaries) do not occur for a long period of time. The legitimacy of this concern is increased because the Government, in the form of the Pension Benefit Guaranty Corporation, is the ultimate underwriter of many of these risks. As such, the NPRM includes the requirement that a pension liability for qualified plans be liquidated (funded) in the current period (pursuant to ERISA or other contractual requirements) in order for it to be allocated to cost objectives of the period.

With respect to nonqualified pension plans meeting the accrual criteria specified in the ANPRM, the Board continues to believe it is reasonable to expect minimum funding at a level at least equal to the result of applying the complement of the highest Federal corporate tax rate to the current year accrual. As stated in the Preamble to the ANPRM, this approach recognizes the adverse cash flow consequences (inability to deduct for Federal income tax purposes any current funding of the liability) that would fall upon the sponsor of a nonqualified pension plan if 100 percent funding were required. The funding requirement at the level of the complement is sufficient to validate a contractor's intent to ultimately liquidate the entire liability and thus would qualify the entire accrual for contract cost recognition. This approach should produce for the contractor results that approximate cash flow equilibrium relative to pension costs.

The Board also does not believe that its proposal for funding at the complement of the highest Federal corporate income tax rate represents a payment of Federal income taxes. The amount paid is based on properly computed pension costs for the period, not a contractor's Federal tax liability (complement funding requirement is not based on an individual contractor's effective tax rate). Moreover, the partial funding requirement would be applied to withdrawals from, as well as deposits to, the funding vehicle. Pension payments would come partly from the funding vehicle and partly from other resources of the contractor. Therefore, in the long run, the entire amount of pension costs reimbursed by the Government will be paid to the plan participants.

Comment: Two commenters suggested that CAS 9904.412–40(c) which states in part that "the amount of pension cost computed for a cost accounting period is assignable only to that period" has been a point of confusion and misunderstanding. One of the commenters maintained the original Board did not intend for costs that were not allocable in the current period because of a lack of funding to be forever unallocable. The commenter believes the prior Board intended for any such costs to be assignable to future periods as components of the amortization of actuarial losses, i.e., spread over 15 years. The commenter stated that as long as the amount is not assigned to any one period, but is spread over 15 years, gaming cannot occur, i.e., contractors would not have the opportunity to assign pension costs to periods based on the contractual activity in such periods.

Response: The Board finds no evidence that the prior Board meant anything other than what a plain reading of the language would convey. Assignment of properly computed pension costs to other periods ignores the concept of matching costs to the production of the goods and services which gave rise to them. In addition, the Board believes amortization of such unfunded amounts could lead to inequities.

Comment: Five commenters expressed concern about the coverage for pension costs in the event of a segment closing or pension plan termination. They stated that the current coverage lacks the clarity and specificity to ensure consistent accounting treatment. Commenters observed that with the recent increase in acquisitions and divestitures among defense contractors, clearer guidance on the proper accounting for pension costs when such events occur would benefit both the Government and contractors.

Response: The Board agrees with the commenters observations. A definition of what constitutes a "segment closing" has been added to CAS 9904.413–30. The definition was drawn from Accounting Principles Board (APB) Opinion No. 30 "Reporting the Results of Operations—Reporting the Effects of Disposal of a Segment of a Business, and Extraordinary, Unusual and Infrequently Occurring Events and Transactions." The NPRM also clarifies that the actuarial liability specified in CAS 9904.413–50(c)(12) should be computed using the "accrued benefit cost method." When a segment is closed or plan terminated there are no relevant future services rendered or salary increases earned by plan participants. As such, the CAS coverage has been revised to make clear that the adjustment of previously determined pension costs and the resulting final accounting required under 9904.413–50(c)(12) be based on services rendered to date exclusive of projected future service and salary escalation. This is precisely what is measured under the accrued benefit cost method.

In addition, a change was also necessary because the methodology specified at CAS 9904.413–50(c)(12) would not be appropriate for nonqualified plans that were only funded at the complement of the tax rate. The current coverage presupposes that all the funds are in the pension trust. The NPRM includes coverage to recognize the unfunded portion of past pension payments for nonqualified plans.

Comment: Two commenters suggested that the Board consider limiting contractors to the use of the "projected unit credit" actuarial cost method (the method required under SFAS 87). They maintained that this narrowing of actuarial cost methods would provide for greater consistency and comparability among contractors.

Response: At this time the Board is unaware of any particular problems because contractors are permitted to use a variety of immediate-gain actuarial cost methods. As discussed previously, the Board is sensitive to imposing requirements that force contractors to change accounting practices. The transition can be an administrative burden to the Government and contractors. Because the Board is unaware of any particular problems, it cannot justify requiring contractors using other immediate-gain actuarial costs methods to switch to the projected unit credit method.

Comment: Three commenters suggested that the Standards be expanded to address postretirement benefit costs (PRB).

Response: This suggestion is beyond the scope of the two pension cases. However, the Board does intend to

establish a separate case to deal with PRB costs.

List of Subjects in 48 CFR 9904

Cost accounting standards, Government procurement.

Allan V. Burman,

Administrator for Federal Procurement Policy, and Chairman, Cost Accounting Standards Board.

Accordingly, it is proposed to amend 48 CFR part 9904 as follows:

PART 9904—COST ACCOUNTING STANDARDS

1. The authority citation for part 9904 continues to read as follows:

Authority: Public Law 100–679, 102 Stat. 4056, 41 U.S.C. 422.

9904.412 [Amended]

2. Section 9904.412–30: Paragraphs (a)(10) through (a)(14) are redesignated, respectively, as paragraphs (a)(11), (a)(13), (a)(14), (a)(15) and (a)(16); paragraphs (a)(8) and (a)(9) are revised and redesignated as (a)(9) and (a)(10), and new paragraphs (a)(8), (a)(12) and (a)(17) are added to read as follows:

9904.412–30 Definitions.

(a) * * *

(8) *Full-funding limitation* means a limit imposed on the measurement of pension costs because of excess funding. For qualified pension plans, it is the full-funding limitation specified pursuant to the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001 *et seq.* For nonqualified plans, the full-funding limitation is the amount by which the accrued liability (including normal costs) exceeds the value of the pension fund assets.

(9) *Funded pension cost* means the portion of pension costs for a current or prior cost accounting period that has been paid to a funding agency.

(10) *Funding agency* means an organization or individual which provides facilities to receive and accumulate assets to be used either for the payment of benefits under a pension plan, or for the purchase of such benefits provided such accumulated assets form a part of a pension plan established for the exclusive benefit of the contractor's employees and their beneficiaries.

(11) * * *

(12) *Nonforfeitable* means a right to a pension benefit, either immediate or deferred, which arises from an employee's service, which is unconditional, and which is legally enforceable against the pension plan or the contractor. Rights to benefits that do not satisfy this definition are considered forfeitable. A right to a pension benefit is not forfeitable solely because it may be affected by the employee or beneficiary's death, disability, or failure to achieve vesting requirements. Nor is a right considered forfeitable because it can be affected by unilateral actions of the employee.

(13) * * *

(17) *Qualified pension plan* means a pension plan comprising a definite written program communicated to and for the exclusive benefit of employees which meets all criteria deemed essential by the IRS as set forth in the IRC for preferential tax treatment regarding contributions, investments, and distributions. Any other plan is a nonqualified pension plan.

* * * * *

3. Section 9904.412–40: Paragraphs (a)(1), (b)(1), and (c) are revised; new paragraphs (a)(3) and (d) are added to read as follows:

9904.412–40 Fundamental requirement.

(a) *Components of pension cost.* (1) For defined-benefit pension plans, except for plans accounted for under the pay-as-you-go cost method, the components of pension cost for a cost accounting period are (i) the normal cost of the period, (ii) a part of any unfunded actuarial liability, (iii) an interest equivalent on the unamortized portion of any unfunded actuarial liability, and (iv) an adjustment for any actuarial gains and losses, and (v) recognition, where applicable, of the full-funding limitation.

(2) * * *

(3) For nonqualified defined benefit pension plans accounted for under the pay-as-you-go cost method, pension cost for a cost accounting period is the net amount of periodic benefits due for that period.

(b) *Measurement of pension cost.* (1) For defined-benefit pension plans other than those accounted for under the pay-as-you-go cost method, the amount of pension cost of a cost accounting period shall be determined by use of an actuarial cost method which measures separately each of the components of pension cost set forth in paragraph (a)(1) of this section.

(2) * * *

(c) *Assignment of pension cost.* The amount of pension cost computed for a cost accounting period is assignable only to that period.

(1) The costs of qualified defined-benefit pension plans shall be assigned in accordance with the criteria in 9904.412–40(a)(1).

(2) The costs of nonqualified defined-benefit pension plans under which the company makes contributions to a funding agency and which meets the other criteria at 9904.412–50(c)(2) shall also be assigned in accordance with the criteria in 9904.412–40(a)(1).

(3) The costs of nonqualified defined-benefit pension plans under which the company makes no contributions to a funding agency or which does not otherwise meet the criteria at 9904.412–50(c)(2) shall be assigned to the cost accounting period in which the payment of such benefits is made to a retiree or beneficiary.

(d) *Allocation of pension cost.* Pension costs assigned to a cost accounting period are allocable to intermediate and final cost objectives only if they meet the requirements for allocation in 9904.412–50(d). Pension costs not meeting these requirements may not be reassigned to any future cost accounting period.

4. Section 9904.412–50: Paragraphs (b)(2), (b)(4), and (c)(4) are removed; paragraphs (b)(3), (b)(5), (b)(6), (b)(7), and (c)(3) are redesignated, respectively, as (b)(2), (b)(3), (b)(4), (b)(5), and (c)(4); paragraphs (a)(1)(iii), (a)(2), (a)(6), (a)(11), (b)(1), and (c)(2) are revised; and new paragraphs (c)(3) and (d) are added to read as follows:

§ 9904.412–50 Techniques for application.

(a)(1) * * *

(iii) Each increase or decrease in an unfunded actuarial liability resulting from the institution of new pension plans or from adoption of improvements or other changes to pension plans subsequent to the date this Standard first becomes applicable to a contractor shall be amortized over no more than 30 years nor less than 10 years.

(2) Pension costs applicable to prior years that were specifically unallowable in accordance with then existing Government contractual provisions shall be separately identified and eliminated from any unfunded actuarial liability being amortized pursuant to the provision of paragraph (a)(1) of this section. Interest earned on funded unallowable pension costs, based on the valuation rate of return, need not be included by contractors as a reduction of future years' computations of pension costs made pursuant to this Standard.

(3) * * *

(6) An excise tax assessed pursuant to a law or regulation because of excess, inadequate, or delayed funding of a pension plan is not a component of pension cost.

* * * * *

(11) A pension plan applicable to a Federally-Funded Research and Development Center (FFRDC) that is part of a State pension plan shall be considered to be a defined-contribution

pension plan for purposes of this Standard.

(b) *Measurement of pension cost.* (1) The amount of pension cost assignable to cost accounting periods shall be measured by the accrued benefit cost method or by a projected benefit cost method which identifies separately normal costs, any unfunded actuarial liability, and periodic determinations of actuarial gains and losses. When pension cost exceeds the full-funding limitation:

(i) The amount of pension cost assigned to a cost accounting period must be reduced by amortizing the excess at an amount equal to the lesser of the excess funding or annual normal cost and,

(ii) All amounts described in 9904.412–50(a) and 9904.413–50(a) which are required to be amortized shall be considered fully amortized.

* * * * *

(c) *Assignment of pension cost.*

(1) * * *

(2) The cost of nonqualified defined-benefit pension plans shall be assigned to cost accounting periods in the same manner as qualified plans under the following conditions:

(i) The contractor, in disclosing or establishing his cost accounting practices, elects to have a plan so accounted for;

(ii) The plan is funded through the use of a funding agency; and

(iii) The right to a pension benefit is nonforfeitable and is communicated to the participants.

(3) The costs of nonqualified defined-benefit pension plans which do not meet all of the criteria in 9904.412–50(c)(2) (i) through (iii) shall be assigned to cost accounting periods using the pay-as-you-go cost method.

* * * * *

(d) *Allocation of pension costs.* The allocation to intermediate and final cost objectives of pension costs assigned to a cost accounting period shall be limited according to the following funding and liquidation criteria:

(1) The costs of a qualified pension plan assigned to a cost accounting period are allocable to the extent that they are funded pursuant to ERISA or other contractual provisions.

(2) The costs of a nonqualified pension plan, which meets the criteria at 9904.412–50(c)(2) (i) through (iii), assigned to a cost accounting period are fully allocable to the extent that they are funded at a level at least equal to the percentage of the complement (i.e., 100%—tax rate %=percentage of assigned cost to be funded) of the highest Federal corporate income tax rate in effect on the first day of the cost accounting period with the following exceptions:

(i) Funding at less than the foregoing levels shall result in reductions of the amount of assigned cost that can be allocated within the cost accounting period. Funding in future accounting periods must first be applied to any prior funding shortages.

(ii) Payments to retirees or beneficiaries should contain an amount drawn from sources other than the funding vehicle of the plan that are, at least, proportionately equal to the lesser of: (A) The highest Federal corporate income tax rate in effect on the first day of the cost accounting period, or (B) the percentage of the plan liability that is unfunded on the same date. Assigned cost of a cost accounting period shall be reduced for purposes of allocation to the extent that such payments are drawn in a higher ratio from the funding agency.

(3) Funding of pension cost shall be considered to have taken place within a cost accounting period if it is accomplished by the corporate tax filing date including extensions for that accounting period.

5. Section 9904.412–60: Paragraphs (b)(1), (b)(2), and (c) are revised; and new paragraphs (b)(4) and (d) are added to read as follows:

9904.412–60 Illustrations.

(a) * * *

(b) *Measurement of pension cost.* (1) Contractor E has a pension plan whose costs are assigned to cost accounting periods by use of an actuarial cost method which does not separately identify actuarial gains and losses or the effect on pension cost resulting from changed actuarial assumptions. Contractor E's method does not comply with the provisions of 9904.412–50(b)(1).

(2) For a number of years Contractor F has had an unfunded nonqualified pension plan which provides for payments of $200 a month to employees after retirement. The contractor is currently making such payments to several retired employees and charges such payments against current income as its pension cost. For the current cost accounting period, the contractor paid benefits totaling $24,000. If Contractor F does not elect to have his nonqualified plan accounted for the in the manner of a qualified plan or otherwise does not meet the criteria set forth in 9904.412–50(c)(2) (ii) and (iii), the amount of assignable cost allocable to cost objectives of that period is equal to the amount of benefits actually paid in that period ($24,000).

(3) * * *

(4) Contractor H's pension cost for the current year is $1.5 million. The full-funding limitation for the plan is $1 million. In accordance with the provisions of 9904.412–50(b), contractor H must reduce the pension cost by $500,000. In addition, all amounts that were previously being amortized are considered fully amortized.

(c) *Assignment of pension cost.* (1) Contractor I has a qualified pension plan which is funded through a funding agency. It computes $1 million of pension cost for a cost accounting period. However, pursuant to a waiver granted under the provisions of the Employee Retirement Income Security Act of 1974, Contractor I is required to fund only $800,000. Under the provisions of 9904.412–50(c)(4), the remaining $200,000 shall not be assigned to the current cost accounting period but shall instead be assigned to the cost accounting period(s) in which the funding takes place. If, on the other hand, no ERISA waiver was obtained but Contractor I still funded only $800,000, the entire $1 million remains assignable to the current cost accounting period and cannot be reassigned to any subsequent period.

(2) Contractor J has a company-wide defined benefit pension plan, wherein benefits are calculated on one consistently applied formula. That part of the formula defining benefits within ERISA limits is administered and reported as a qualified plan and funded through a funding agency. The remainder of the benefits are considered to be a supplemental or excess plan which, while it meets the criteria at 9904.412–50(c)(2)(iii), as to nonforfeitability and communication, is not funded. The costs of the qualified portion of the plan shall be comprised of those elements of costs delineated at 9904.412–40(a)(1), while the excess portion of the plan shall be accounted for under the pay-as-you-go cost method provided at 9904.412–40(a)(3).

(3) Assuming the same facts as in paragraph (c)(2), of this section, except that Contractor J funds its excess plan using a so-called "Rabbi Trust" vehicle, Contractor J may account for the excess plan in the same manner as its qualified plan, if it elects to do so.

(4) Assume the same facts as in paragraph (c)(3), of this section, except that Contractor J, while maintaining a "Rabbi Trust" funding vehicle elects to have the plan accounted for under the pay-as-you-go cost method so as to have greater latitude in annual funding decisions. It may so elect.

(d) *Allocation of pension cost.* (1) Assume the latter set of facts for Contractor I in the illustration at

9904.412–60(c)(1), i.e., no ERISA waiver was involved but only $800,000 was funded against $1 million of assigned pension cost for the period. Under the provisions of 9904.412–50(d)(1), only $800,000 may be allocated to Contractor I's intermediate and final cost objectives. The remaining $200,000 of assigned pension cost which has not been allocated may not be reassigned to or allocated in any future cost accounting periods.

(2)(i) Contractor K has a nonqualified defined benefit pension plan which covers benefits in excess of the ERISA limit. Contractor K has elected to account for this plan in the same manner as its qualified plan and thereby has established a "Rabbi Trust" as the funding vehicle. For the current cost accounting period, the contractor computes and accrues $100,000 as pension costs. The contractor funds $65,000 which is equivalent to a funding level equal to the complement of the highest Federal corporate income tax rate of 35%. Under the provisions of 9904.412–50(d)(2), the entire $100,000 is allocable to cost objectives of the period.

(ii) Assume the set of facts in 9904.412–60(d)(2)(i) except that, in this illustration, Contractor K's contribution to the Trust is $60,000. In that event, the provisions of 9904.412–50(d)(2)(i) would limit the amount of assigned cost allocable within the cost accounting period to the level or percentage of cost funded (i.e. 60/65=92%). This results in allocable cost of $92,000 for the cost accounting period. Under the provisions of 9904.412–40(c) and 9904.412–50(d)(2)(i) respectively, the $8,000 may not be assigned to any future cost accounting period and funding in future cost accounting periods must first be applied to the $5,000 funding shortage. In addition, in accordance with 9904.412–50(a)(7), no amount for interest on the $40,000 not funded shall be a component of pension cost in any future cost accounting period.

(iii) Again assume the set of facts in 9904.412–60(d)(2)(i) except that, in this illustration, Contractor K's contribution to the Trust is $105,000. Under the provisions of 9904.421–50(d)(2) the entire $100,000 is allocable to cost objectives of the period. In accordance with the provisions of 9904.412–50(c)(1) Contractor K has premature funding of $5,000 which shall be applied to pension costs of future cost accounting period(s). Pursuant to 9904.412–50(a)(7), interest earned on the premature funding may be excluded from future year's pension cost computations.

6. Section 9904.412–63 is revised to read as follows:

9904.412–63 Effective date.

(a) This Standard, as amended, is effective as of date of publication as a final rule in the **Federal Register.** Contractors with prior CAS-covered contracts with full coverage shall continue this Standard's applicability upon receipt of a contract to which this Standard is applicable. For contractors with no previous contracts subject to this Standard, this Standard shall be applied beginning with the contractor's next full fiscal year beginning after the receipt of a contract to which this Standard is applicable.

(b) This revised Standard shall be followed by each contractor on or after the start of its next cost accounting period beginning after the receipt of a contract to which this Cost Accounting Standard is applicable.

7. A new section 9904.412–64 is added to read as follows:

9904.412–64 Transition method.

To be acceptable, any method of transition from compliance with the original version of this Standard to compliance with the revised version must follow the equitable principle that costs which have been previously provided for may not be redundantly provided for under revised methods. Conversely, costs which have not previously been provided for must be provided for under the revised method. This transition paragraph is not intended to qualify for purposes of assignment or allocation, pension costs which have previously been disallowed for reasons other than Tax Code funding limitations.

8. Section 9904.413–30: Paragraph (a)(13) is revised and redesignated as (a)(15); paragraphs (a)(1) through (a)(12) are redesignated as (a)(2) through (a)(13); and new paragraphs (a)(1), (a)(14) and (a)(16) are added to read as follows:

9904.413–30 Definitions.

(a) * * *

(1) *Accrued benefit cost method* means an actuarial cost method under which units of benefit are assigned to each cost accounting period and are valued as they accrue—that is, based on the services performed by each employee in the period involved. The measure of normal cost under this method for each cost accounting period is the present value of the units of benefit deemed to be credited to employees for service in that period. (This method is also known as the "unit credit" cost method.)

* * * * *

(14) *Segment closing* means that a segment has been sold, abandoned, spun off, or otherwise disposed of.

(15) *Termination of employment gain or loss* means an actuarial gain or loss resulting from the difference between the assumed and actual rates at which plan participants separate from employment for reasons other than retirement, disability, or death.

(16) *Terminaton of plan gain or loss* means an actuarial gain or loss resulting from the difference between assumptions based on the expectation that a pension plan would have continued and actual experience to the contrary.

* * * * *

9. Paragraphs 9904.413–50 (a)(3) and (c)(12) are revised to read as follows:

9904.413–50 Techniques for application.

(a) * * *

(3) Termination of plan gains or losses shall be treated in the same manner as a segment closing according to 9904.413–50(c)(12).

* * * * *

(c) * * *

(12) If a segment is closed or if there is a termination of plan gain or loss, the contractor shall determine the difference between the actuarial liability for the segment and the market value of the assets allocated to the segment, irrespective of whether or not the pension plan is terminated. The determination of the actuarial liability shall be made using the accrued benefit cost method and give consideration to any requirements imposed by agencies of the United States Government. In computing the market value of assets for the segment, if the contractor has not already allocated assets to the segment, such an allocation shall be made in accordance with the requirements of paragraphs (c)(5) (i) and (ii) of this section. The market value of the assets allocated to the segment shall be the segment's proportionate share of the total market value of the assets of the pension fund. The calculation of the difference between the market value of the assets and the actuarial liability shall be made as of the date of the event (e.g., contract termination) that caused the closing of the segment. If such a date cannot be readily determined, or if its use can result in an inequitable calculation, the contracting parties shall agree on an appropriate date. For qualified pension plans the difference between the market value of the assets and the actuarial liability for the

segment represents an adjustment of previously-determined pension costs. For nonqualified pension plans accounted for in accordance with 9904.412–50(d)(2), the difference between the market value of the assets and the actuarial liability for the segment, plus the current value of any previous years' pension cost that was not funded, represents an adjustment of previously-determined pension costs. The current value will be determined using the actual annual earnings rates of the pension fund.

* * * * *

10. Paragraphs 9904.413–60 (c)(2) and (c)(8) are revised and new paragraph (c)(9) is added to read as follows:

9904.413–60 Illustrations.

(c) * * *

(2) Contractor D has a defined-benefit pension plan covering employees at ten segments, all of which have some contracts subject to Cost Accounting Standards. The contractor's calculation of normal cost is based on a percentage of payroll for all employees covered by the plan. One of the segments (Segment Y) is entirely devoted to Government work. The contractor's policy is to place junior employees in this segment. The salary scale assumption for employees of the segment is so different from that of the other segments that the pension cost for Segment Y would be materially different if computed separately. Accordingly, the contractor must allocate a portion of the pension fund's assets to Segment Y. Memorandum records may be used in making the allocation. However, because this portion cannot be readily determined, section 9904.413–50(c)(5)(ii) permits the allocation to be made on the basis of the actuarial cost method or methods used to calculate prior years' pension cost for the plan. Once the assets have been allocated, in future cost accounting periods the contractor shall make separate pension cost calculations for Segment Y based on the appropriate salary scale assumption. Because the factors comprising pension cost for the other nine segments are relatively equal, the contractor may compute pension cost for these nine segments by using composite factors. The base to be used for allocating such costs shall be representative of the factors on which the pension benefits are based (section 9904.413–50(c)(1)).

* * * * *

(8) Contractor K has a five-year contract to operate a Government-owned facility. The employees of that facility are covered by the contractor's overall qualified defined-benefit pension plan which covers salaried and hourly employees at other locations. At the conclusion of the five-year period, the Government decides not to renew the contract. Although some employees are hired by the successor contractor, because Contractor K no longer operates the facility, it meets the definition of a segment closing pursuant to 9904.413–50(c)(12). Contractor K must compute an unfunded actuarial liability for the pension plan for that facility using the accrued benefit cost method. The contractor first calculates the actuarial liability as of the date the contract expired. Because many of Contractor K's employees are terminated from the pension plan, the Internal Revenue Service considers it to be a partial plan termination, and thus requires that the terminated employees become fully vested in their accrued benefits to the extent such benefits are funded. Taking this factor into consideration, the actuary calculates the actuarial liability as amounting to $12.5 million. The contractor must then determine the market value of the pension fund assets allocable to the facility, pursuant to 9904.413–50(c)(5), as of the date agreed to by the contracting parties (see 9904.413–50(c)(12)), the date the contract expired. In making this determination, the contractor establishes the ratio of the actuarial value of the assets allocable to the segment to the total actuarial value of the assets of the pension fund. The product of this ratio and the market value of all pension fund assets is the market value of the assets allocated to the segment. In this case, the market value of the segment's assets amounted to $13.8 million. Thus, for this facility the value of pension fund assets exceeded the actuarial liability by $1.3 million. This amount indicates the extent to which the Government over-contributed to the pension plan for the segment and, accordingly, is the amount current year's pension cost must be reduced.

(9) Contractor L operated a segment over the last five years which only performed CAS-covered contracts. The work was equally divided each year between fixed-price and cost-type contracts. The employees of the facility are covered by a nonqualified defined-benefit pension plan accounted for in accordance with 9904.412–50(d)(2). For each of the last five years the highest Federal corporate income tax rate has been 30%. Pension costs of $1 million per year were computed using a projected benefit cost method. Contractor L funded at the complement of the tax rate ($700,000 per year). The pension fund earned 8% each year and at the end of year 5 the market value of the assets was $4.4 million. Contractor L sells the segment on January 1 of year 6. Pursuant to 9904.413–50(c)(12), the contractor uses the accrued benefit cost method to calculate an actuarial liability on the sale date of $5 million. The contractor then determines that the current value of the $300,000 in pension cost that was not funded in each of the last five years is $1.9 million. Thus, for this segment, the difference between the market value of the assets and the actuarial liability for the segment, plus the current value of the amount that previous years' pension cost exceeded amounts funded is $1.3 million ((4.4 – 5) +1.9=1.3). This $1.3 million represents the over-contribution by the Government and would require adjustments to open flexibly-priced contracts totaling this amount.

11. Section 9904.413–63 is revised to read as follows:

9904.413–63 Effective date.

(a) This Standard is effective as of date of publication as a final rule in the **Federal Register.** Contractors with prior CAS-covered contracts with full coverage shall continue this Standard's applicability upon receipt of a contract to which this Standard is applicable. For contractors with no previous contracts subject to this Standard, this Standard shall be applied beginning with the contractor's next full fiscal year beginning after the receipt of a contract to which this Standard is applicable.

(b) This revised Standard shall be followed by each contractor on or after the start of its next cost accounting period beginning after the receipt of a contract to which this Cost Accounting Standard is applicable.

12. A new section 9904.413–64 is added to read as follows:

9904.413–64 Transition method.

To be acceptable, any method of transition from compliance with the original version of this Standard to compliance with the revised version must follow the equitable principle that costs which have been previously provided for may not be redundantly provided for under revised methods. Conversely, costs which have not previously been provided for must be provided for under the revised method. This transition paragraph is not intended to qualify, for purposes of assignment or allocation, pension costs which have previously been disallowed for reasons other than Tax Code funding limitations.

[FR Doc. 93–27113 Filed 11–4–93; 8:45 am]
BILLING CODE 3110–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 931056-3256; ID No. 092093D]

Taking and Importing of Marine Mammals; Definition of "Import"

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule.

SUMMARY: NMFS proposes to define the word "import" as it pertains to the regulations restricting exports to the United States of yellowfin tuna and certain other fish and fish products for purposes of limiting mortality to marine mammals incidentally taken during commercial fishing operations. The definition is intended to clarify that for purposes of the fish importation restrictions of the Marine Mammal Protection Act (MMPA), fish or fish products are considered "imported" only when released from a nation's Customs custody, not immediately upon introduction into a nation's territory.

DATES: Written comments must be received on or before December 20, 1993.

ADDRESSES: Comments should be sent to Gary Matlock, Acting Director, Southwest Region, NMFS, 501 W. Ocean Blvd., suite 4200, Long Beach, CA 90802-4213.

FOR FURTHER INFORMATION CONTACT: LT Steven A. Thompson, NOAA, (310) 980-4000, FAX (310) 980-4047.

SUPPLEMENTARY INFORMATION:

Background

The MMPA, enacted in 1972, required U.S. fishermen operating purse seine vessels in the eastern tropical Pacific Ocean (ETP) to equip their vessels with dolphin safety gear, carry observers, and to follow certain procedures to reduce the incidental mortality of dolphins in the tuna fishery. These requirements were effective in reducing serious injury and death to dolphins caused by the U.S. fishing fleet. However, the requirements did not apply to vessels of other nations. While the dolphin mortality rate of the U.S. fleet was declining, the tuna fishing effort and dolphin mortality of other nations fishing in the ETP increased markedly. This led Congress to focus on a multilateral approach to limit dolphin mortalities in this fishery when the MMPA was amended and reauthorized in 1984 and 1988, respectively. The amended MMPA requires that each nation exporting yellowfin tuna to the United States have in place a marine mammal protection regulatory program that is comparable to the program of the United States, and that the dolphin mortality rate of the nation's purse seine vessels be no more than 1.25 times that of the U.S. fleet during any period used for comparability. Import restrictions in the form of embargoes of yellowfin tuna were mandated as the enforcement mechanism to ensure compliance with the marine mammal protection requirements.

On March 18, 1988 (53 FR 8910), and on March 7, 1989 (54 FR 9438), NOAA published in the **Federal Register** interim final rules governing the importation of yellowfin tuna and products derived from yellowfin tuna caught in association with marine mammals by foreign purse seine fishing vessels operating in the ETP, as required by the amendments to the MMPA. On March 30, 1991 (55 FR 11921), a final rule was issued. The regulations required any nation that harvested yellowfin tuna in the ETP that also wished to export yellowfin tuna to the United States to meet certain comparability requirements, and required intermediary nations to ban the importation of yellowfin tuna and tuna products from any nation that was prohibited from exporting directly to the United States.

The term "import" is used within the regulations for both shipments into the United States, and shipments from a foreign nation to another foreign nation. Although the term "import" was not formally defined by the rules, NMFS made clear that tuna and tuna products transshipped through a nation and not entered into that nation as an import would not be considered as having been imported by that nation.

On September 11, 1992 (57 FR 41701), NMFS published an interim final rule revising the definition of intermediary nation to apply only to those nations that import yellowfin tuna or yellowfin tuna products harvested by purse seine in the ETP, from a nation whose ETP purse seine-harvested yellowfin tuna is subject to import restrictions. As in the previous rules, the definition stated that shipments of yellowfin tuna transshipped through the nation would not be considered as having been imported by the nation, although no definition of "import" was included.

The issues of transshipment and storage of fish in a bonded warehouse prior to entry into a foreign nation have been raised enough times in implementing the intermediary nation and import provisions of the MMPA to warrant a formal definition of the term "import" for purposes of these regulations.

Proposal

Two definitions of the term "import" are proposed under this action. A narrow definition of "import" is proposed specifically for fish and fish products subject to the requirements of 50 CFR 216.24(e); a broader definition is proposed to be added at § 216.3 for all other provisions of 50 CFR part 216. The narrower definition of "import" applicable to fish and fish products requires not only physical entry into a nation's territory but also release from a nation's customs custody. In other words, a fish or fish product is not "imported" until such fish or fish product is released for entry by a nation's customs authorities. This is consistent with past practice. The broader definition, applicable to the importation of marine mammals or marine mammal products, includes "introduction into any place subject to the jurisdiction of the United States" (see also 50 CFR 10.12).

Classification

NMFS has determined that the proposed modification to the regulations at 50 CFR 216.24(e) would not have a significant impact on the human environment. This proposed rule is exempt from the requirement that an environmental assessment or environmental impact statement be prepared under the National Environmental Protection Act because this action would fall within the categorical exclusion described in section 6.02c.3(f) of NOAA Administrative Order 216-6.

The General Counsel of the Department of Commerce has certified to the Small Business Administration that the proposed modifications to the regulations, if adopted, would not have a significant impact on a substantial number of small entities.

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

List of Subjects in 50 CFR Part 216

Administrative practice and procedure, Imports, Indians, Marine mammals, Reporting and recordkeeping requirements, Transportation.

Nancy Foster,

Deputy Assistant Administrator for Fisheries.

For the reasons set forth in the preamble, 50 CFR part 216 is proposed to be amended as follows:

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

1. The authority citation for part 216 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*, unless otherwise noted.

2. In § 216.3, a new definition of "import" is added in alphabetical order to read as follows:

§ 216.3 Definitions.

* * * * *

Import means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the Customs laws of the United States; except that, for the purpose of any ban issued under 16 U.S.C. 1371(a)(2) on the importation of fish or fish products, the definition of "import" in § 216.24(e)(1)(ii) shall apply.

* * * * *

3. In § 216.24, paragraph (e)(1) is redesignated as paragraph (e)(1)(i), and a new paragraph (e)(1)(ii) is added to read as follows:

§ 216.24 Taking and related acts incidental to commercial fishing operations.

* * * * *

(e) *Importation.*

(1)(i) * * *

(ii) For purposes of this paragraph (e), an import occurs when the fish or fish product is released from a nation's Customs' custody and enters into the territory of the nation. For other purposes, "import" is defined in § 216.3.

* * * * *

[FR Doc. 93-27168 Filed 11-4-93; 8:45 am]

BILLING CODE 3510-22-M

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50 CFR Parts 285, 630, and 678

[I.D. 082793A]

Atlantic Shark, Tuna and Swordfish Fisheries; Extension of Comment Period

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Scoping process for Atlantic shark, tuna and swordfish regulations; extension of comment.

SUMMARY: NMFS is extending from November 1 through November 5, 1993, the comment period on the scoping process for Atlantic shark, tuna and swordfish regulations which was published in the **Federal Register** on September 1, 1993 (58 FR 46153). This action is being taken to allow the Mid-Atlantic Fishery Management Council more time to formally comment.

DATES: Comments must be received on or before November 5, 1993.

ADDRESSES: Written comments should be sent to Richard H. Schaefer, Director, Office of Fisheries Conservation and Management (F/CM), National Marine Fisheries Service, 1335 East-West Highway, Silver Spring, MD 20910. Clearly mark the outside of the envelope "Atlantic Shark Comments," "Atlantic Bluefin Tuna Comments," or "Atlantic Swordfish Comments." Please do not combine comments on these three topics in the same letter. For copies of the **Federal Register** document announcing the scoping process, send request to same address listed above, Attn: Aaron King.

FOR FURTHER INFORMATION CONTACT: Aaron E. King, telephone 301-713-2347.

SUPPLEMENTARY INFORMATION: A **Federal Register** notice scheduling public scoping meetings and requesting written public comments over a 60-day comment period, ending November 1, 1993, was published on September 1, 1993 (58 FR 46153). In order to accommodate the Mid-Atlantic Fishery Management Council's desire to review this issue at an upcoming meeting, and thereby give them an opportunity to formally comment, NMFS is extending the comment period to November 5, 1993.

Further information is available from the **Federal Register** notice which scheduled the public scoping meetings, or from the Issues/Options Paper that was drafted for release prior to the scoping meetings. Both of these documents are available by writing Aaron King (see **ADDRESSES**), or by calling the telephone number above.

Dated: November 1, 1993.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management.

[FR Doc. 93-27352 Filed 11-2-93; 5:08 pm]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 58, No. 213
Friday, November 5, 1993

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

DEPARTMENT OF AGRICULTURE

Forest Service

Hot Springs Ranger District, Sequoia National Forest, CA; Exemption From Appeal

AGENCY: Forest Service, USDA.

ACTION: Notice of exemption from appeal, Hot Springs Ranger District, Sequoia National Forest.

SUMMARY: The Forest Service is exempting from appeal any decision related to the harvest and restoration of lands affected by drought-induced timber mortality covered under the Jackpot Hazard Tree Removal Salvage Timber Sale on the Hot Springs Ranger District. This salvage sale will be analyzed in response to the continuing timber mortality on the Hot Springs Ranger District. The unusual mortality is the result of six years of drought and subsequent insect infestation. The Jackpot Analysis area is located within the White River and Poso Creek watersheds, approximately five miles southeast of California Hot Springs, California.

Abnormally high levels of tree mortality are occurring throughout the Sequoia National Forest as a result of six consecutive years of below average precipitation. The Forest is proposing the cable and tractor harvest of approximately 70 thousand board feet (MBF) on approximately 150 acres. The trees to be removed are located within 200 feet of system roads, and have been determined to pose a potential hazard to the public because of their location and their dead and dying condition. All areas are within the General Forest Zone as delineated by the Sequoia National Forest Land and Resource Management Plan.

The drought has caused a high degree of stress within the trees, which reduces their natural defense mechanisms and weakens them to the extent that they are predisposed to attach by bark and engraver beetles. Trees killed by insect attack deteriorate very rapidly, and fir deteriorates particularly quick. Seventy-five percent of the trees proposed for harvest are white fir.

These trees pose a significant hazard to road users and recreationists if they should fall, or their tops and branches break off. Trees of all sizes pose a risk when they are located close to roads and recreational areas. The proposed salvage harvest includes removal of all roadside hazard trees, some of which are greater than 30 inches in diameter. Some of these trees are located within California Spotted Owl Protected Activity Centers (PAC's) and streamside management zones (SMZ's). The limited scale of this project is not expected to have an adverse impact on spotted owls or watershed resources.

Heavy fuel concentrations along system roads result from large numbers of dead trees. This fuel increases the likelihood of fire ignition, and greatly reduces the ability to control fire. Excessive numbers of dead trees were present four summers ago when the Stormy Complex fires burned approximately 24,000 acres on the Hot Springs and Greenhorn Districts.

Salvage harvesting is costly when compared to green timber harvesting, because of the typically low volumes per acre and the large proportion of unmerchantable wood. Timber value must be high enough to compensate for higher logging costs. The decline in volume and value caused by deterioration will prevent economical removal of dead timber if not removed promptly. Dead and dying timber must be removed as soon as possible to provide the financial incentive to remove the potential hazard.

The decision for the proposed project will be issued in early November, 1993. Exempting this project from appeal will enable salvage harvest operations to begin in the fall of 1993.

Pursuant to 36 CFR 217.4(a)(11), I have determined to exempt from appeal the decision relating to the harvest and restoration of lands following drought-induced timber mortality which will be covered by the Jackpot environmental analysis on the Hot Springs Ranger District of the Sequoia National Forest. The environmental document in preparation will address the effects of the proposed actions on the environment, document public involvement, and address issues raised by the public.

EFFECTIVE DATE: This decision will be effective November 5, 1993.

FOR FURTHER INFORMATION CONTACT: Questions about this decision should be addressed to Ed Whitmore, Timber Management Staff Director, Pacific Southwest Region, USDA Forest Service, 630 Sansome Street, San Francisco, CA 94111, (415) 705–2648, or Sandra H. Key, Forest Supervisor, Sequoia National Forest, 900 W. Grand Avenue, Porterville, CA 93257, (209) 784–1500.

SUPPLEMENTARY INFORMATION: The environmental analysis for this proposal will be documented in the Jackpot Hazard Tree Removal Salvage Timber Sale environmental documents. Pursuant to 40 CFR 1501.7, scoping was initiated on October 6, 1993. A letter providing information on the project and soliciting public issues was sent to over 125 local residents, environmental groups, and the timber industry. The Hot Springs District Small Sales Officer and Timber Management Officer will analyze the scoping in order to determine some of the issues to be addressed in the environmental analysis.

The District is expected to complete the environmental documentation for the proposed project by the end of October 1993. The environmental documents and related maps will be available for public review at the Hot Springs Ranger Station, Route 4, Box 548, Hot Springs, CA 93207, and at the Supervisor's Office, Sequoia National Forest, 900 W. Grand Avenue, Porterville, CA 93257.

The catastrophic damage presently occurring in the central portion of the Hot Springs District covers approximately 70,000 acres. Within this area approximately 24,000 acres and 5.0 million board feet (MMBF) is presently under contract for salvage harvesting. The value to the Forest Service of 5.0 MMBF of salvage volume is estimated at $1,250,000. This does not include the many jobs and thousands of dollars in benefits that are realized in related service, supply, and construction industries. Tulare County will share in 25% of the revenue collected from these timber sales. Normal contractual rehabilitation and restoration measures will be required for watershed

protection, erosion prevention and fuels reduction.

Roadside hazard trees over 30 inches in diameter and trees within California spotted owl Protected Activity Centers (PAC's) will be removed. This project is not expected to adversely affect the California spotted owl (*Strix occidentalis occidentalis*), due to its very small scale. The need to provide for public safety in small, heavily utilized areas is consistent with CASPO requirements to retain snags and large trees over the Forest as a whole.

Three "sensitive" species, northern goshawk (*Accipiter gentilis*), fisher (*Martes pennanti*), and pine marten (*Martes americana*) have been found around the project area in the past. Any threatened or endangered wildlife species identified during salvage preparation or operations will be protected using current contract provisions. Reports for sensitive species and cultural resources will be completed prior to approval of the environmental document. All sensitive plants or cultural resources will be protected using current contract provisions. Sequoia National Forest Riparian Standards and Guidelines will be adhered to in the areas to be harvested.

The proposed project is outside of California condor (*Gymnogyps californianus*) habitat and giant sequoia groves. No wild and scenic rivers, wetlands, or wilderness is included in the proposed project area.

No long-term effects will occur to the White River Campground, but the area may be partially closed to protect public safety while tree felling and yarding occurs in the immediate vicinity.

Dated: October 29, 1993.

Dale N. Bosworth,

Deputy Regional Forester.

[FR Doc. 93-27228 Filed 11-4-93; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Gould Portion of Grady-Gould Watershed, Lincoln and Desha Counties, AR

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Regulations (40 CFR part 1500); and the Soil Conservation Service Regulations (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Gould Portion of Grady-Gould Watershed, Lincoln and Desha Counties, Arkansas.

FOR FURTHER INFORMATION CONTACT: Ronnie D. Murphy, State Conservationist, Soil Conservation Service, room 5404, Federal Building, 700 West Capitol Avenue, Little Rock, Arkansas 72201, (501) 324-5445.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Ronnie D. Murphy, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project purpose is for flood control. The planned works of improvement include 10.2 miles of channel work and floodproofing of two houses.

The Notice of a Finding Of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, state, and local agencies and interest parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Ronnie D. Murphy.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904, Watershed Protection and Flood Prevention, and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials)

Dated: October 26, 1993.

Ronnie D. Murphy,

State Conservationist.

[FR Doc. 93-27615 Filed 11-4-93; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-508-604]

Industrial Phosphoric Acid From Israel; Preliminary Results of Antidumping Duty Changed Circumstances Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty changed circumstances review.

SUMMARY: In response to a March 30, 1992 request by Negev Phosphates, Ltd. (Negev), a company which was revoked from the antidumping duty order on industrial phosphoric acid from Israel (56 FR 10008; March 23, 1992) and which has merged with Rotem Fertilizers, Ltd. (Rotem), the Department of Commerce is conducting a changed circumstances review to examine whether Rotem is the successor to Negev. In this review, the Department has examined in detail the merged companies Rotem and Negev. As a result of this review, the Department preliminarily finds that Rotem is the successor to Negev and, as such, should be subject to the revocation which applied to Negev.

EFFECTIVE DATE: November 5, 1993.

FOR FURTHER INFORMATION CONTACT: Gayle Longest or Kelly Parkhill, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482-2786.

SUPPLEMENTARY INFORMATION:

Background

On March 23, 1992, Negev was revoked from the antidumping duty order based on three consecutive administrative reviews in which the Department determined that Negev was not selling the subject merchandise at less than fair value in the United States (56 FR 10008). Negev notified the Department in a March 30, 1992 letter that the company had merged with Rotem and requested that the Department make a determination that Rotem was the successor to Negev and that Negev's revocation was applicable to Rotem. We initiated a changed circumstances review on July 20, 1992 (57 FR 32001) to examine whether Rotem is the successor to Negev and, therefore, subject to the revocation which applied to Negev. The Department is conducting this changed

circumstances review in accordance with 19 CFR 353.22(f).

Scope of Review

Imports covered by the review are shipments of industrial phosphoric acid (IPA). This merchandise is currently classifiable under item number 2809.20.00 of the Harmonized Tariff Schedule (HTS). The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive.

The review covers one manufacturer of this merchandise, Rotem, which merged with Negev, a manufacturer that was revoked from this order. Prior to the merger, Rotem had no shipments of the subject merchandise to the United States. The Department has, therefore, evaluated the facts and the effects of the merger between Rotem and Negev in order to determine whether Rotem should be assigned a cash deposit rate or be subject to Negev's revocation. If Rotem is determined to be the successor to Negev in the production and sale of the subject merchandise, its shipments would not be held subject to suspension of liquidation or antidumping duty deposit requirements under this order on the basis that the revocation applicable to Negev is equally applicable to Rotem.

Successorship

In December 1991, Rotem and Negev, two companies within the Israeli Chemicals, Ltd. (ICL) group, merged to become one corporate entity, Rotem. Subsequent to the merger, Negev was revoked from the antidumping duty order. (See Final Results of Antidumping Duty Administrative Review and Revocation In Part of the Antidumping Duty Order (57 FR 10008; March 23, 1992).) Before the merger, Rotem was not a producer of the subject merchandise and was never reviewed under this order.

Negev notified the Department in a March 30, 1992 letter that the company had merged with Rotem. Negev also claimed that Rotem was its successor and requested that the Department issue a determination applying Negev's revocation to Rotem. Rotem began to ship the subject merchandise to the United States on January 1, 1992. Their shipments have entered under the "all other" rate applicable to companies that had never been reviewed under the order.

In determining whether a merged company is the successor to another for purposes of applying the antidumping duty law, the Department examines a number of factors including, but not limited to, changes in (1) management, (2) production facilities, (3) suppliers, and (4) customer base. (See, *e.g.*, Brass Sheet and Strip from Canada; Final Results of Antidumping Duty Administrative Review, (57 FR 20460; May 13, 1992); Steel Wire Strand for Prestressed Concrete from Japan; Initiation and Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review, (55 FR 7759; March 5, 1990); Large Power Transformers from Italy: Final Results of Antidumping Duty Administrative Review, (52 FR 46806; December 10, 1987)). While no one or several of these factors will necessarily provide a dispositive indication, the Department will generally consider the company that merged with another company to be a successor if its resulting operation is essentially similar to that of its predecessor. (See Brass Sheet and strip from Canada; Final Results of Antidumping Duty Administrative Review, (55 FR 20460; May 13, 1992)). Thus, if the evidence demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity it merged with, the Department will assign the new company the cash deposit rate of its predecessor or, in this case, apply the predecessor's revocation to the merged company.

The record in this review, as demonstrated by the following factors, indicates that, as a result of the merger, Negev was completely absorbed into Rotem, inclusive of personnel, physical plant, and equipment.

(1) Management

The majority of the executive management from Negev retained their positions or received a promotion, and the former Negev's sales and marketing personnel for the subject merchandise retained their positions. The consolidation of the Rotem and Negev plant facilities, which had been managed as separate business and production units prior to the merger, resulted in some changes in production management. However, there have been no major changes in the operation of the plant that produces the subject merchandise.

(2) Production Facilities

Production of the subject merchandise did not change at the time of the merger and industrial phosphoric acid continued to be manufactured by the former company's plant facilities. There have been no physical changes or alterations in the former Negev's or Rotem's plant facilities and none of the merged company's facilities changed the type of product produced by that facility after the merger.

(3) Suppliers

There have been no changes in the source of supplies. Negev's supplier contracts were not renegotiated after the merger; Rotem assumed Negev's supplier contracts.

(4) Customer Base

Rotem continued to supply essentially the same customer base it acquired from Negev, including both domestic and U.S. customers. Negev's contracts with former customers did not change and customers were notified only of a name change for purposes of payment.

These issues are more fully discussed in Memorandum to Joseph A. Spetrini, Successorship Determination—Industrial Phosphoric Acid from Israel Changed Circumstances Review; October 19, 1993.

Based on this evidence, the Department finds that, as concerns the production and sale of the subject merchandise, Rotem is operating essentially as the same business entity as Negev and, therefore, Negev's revocation should apply to Rotem.

Preliminary Results of the Review

We preliminarily conclude that, for antidumping duty cash deposit purposes, Rotem is the successor to Negev. Therefore, we intend to apply Negev's revocation from the antidumping duty order on Israeli industrial phosphoric acid to Rotem. If this revocation is applied to Rotem, it will apply to all unliquidated entries of this merchandise produced by Rotem, exported to the United States and entered, or withdrawn from warehouse, for consumption, on or after January 1, 1991.

Parties to the proceeding may request disclosure and interested parties may request a hearing not later than ten days after publication of this notice. Interested parties may submit written arguments in case briefs on these preliminary results within 30 days of the date of publication. Rebuttal briefs, limited to arguments raised in case briefs, may be submitted seven days after the time limit for filing the case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR 353.38(e). Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs are due. The Department will

publish the final results of the changed circumstances review including the results of its analysis of issues raised in any case or rebuttal brief or at a hearing. This changed circumstances review and notice are in accordance with 19 CFR 353.22(f).

Dated: October 28, 1993.

Barbara R. Stafford,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93-27328 Filed 11-4-93; 8:45 am]

BILLING CODE 3510-DS-P

Applications for Duty-Free Entry of Scientific Instruments; Brandeis University et al.

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with subsections 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC.

Docket Number: 93-129. *Applicant:* Brandeis University, Lab Supplies and Services, 415 South Street, Waltham, MA 02254-9110. *Instrument:* Safe Start Xenon Arc Lamp, Model HB.4060. *Manufacturer:* Applied Photophysics Ltd., United Kingdom. *Intended Use:* The instrument will be used to study the kinetics of elementary reactions in aqueous solution and nonlinear chemical dynamics in aqueous solution especially chemical wave propagation, oscillating chemical reactions, and pattern formation in chemical reaction systems. *Application Received by Commissioner of Customs:* October 13, 1993.

Docket Number: 93-130. *Applicant:* University of Colorado at Boulder, Department of EPO Biology, 122 Ramaley, Boulder, CO 80309-0334. *Instrument:* Leaf Disc Oxygen Electrode Systems. *Manufacturer:* Hansatech Instruments Limited, United Kingdom. *Intended Use:* The instrument will be used for studies of respiratory oxygen exchange from the leaves of higher plants and from lichens to learn more about the functioning of the photosynthetic apparatus under various controlled conditions. In addition, the instrument will be used in several laboratory courses to show students how the determination of the parameters studied can be used to assess the status and response of the photosynthetic apparatus to various environmental factors, including light, temperature, and gaseous composition. *Application Received by Commissioner of Customs:* October 13, 1993.

Docket Number: 93-131. *Applicant:* University of Idaho, Department of Procurement Services, 415 West 6th Street, Moscow, ID 83844. *Instrument:* Electron Microscope, Model JEM-2010. *Manufacturer:* JEOL, Ltd., Japan. *Intended Use:* The instrument will be used for investigation of crystal structure, microstructure and chemical composition in studies of several metallic and ceramic materials such as those based on aluminum, titanium and niobium, in order to understand the nature and mechanisms of phase transformation occurring in materials. In addition, the instrument will be used to train students in the techniques and potential of transmission electron microscopy in understanding the nature and mechanisms of phase transformations in materials. *Application Received by Commissioner of Customs:* October 14, 1993.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 93-27324 Filed 11-4-93; 8:45 am]

BILLING CODE 3510-DS-F

Research & Education Institute, Inc.; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Docket Number: 93-092. *Applicant:* Research & Education Institute, Inc., Harbor-UCLA Medical Center, Torrance, CA 90502. *Instrument:* Isotope Ratio Mass Spectrometer, Model Delta S. *Manufacturer:* Finnigan Corp., Germany. *Intended Use:* See notice at 58 FR 44654, August 24, 1993. *Reasons:* The foreign instrument provides: (1) an internal precision of 0.006 per mil for 20 bar µl samples of CO_2, (2) a six-cup multicollector with a H/D 2-cup collector, (3) a carbonate combustion autosampler and (4) an all metal inlet.

The capabilities of the foreign instrument described above are pertinent to the applicant's intended purpose and we know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 93-27326 Filed 11-4-93; 8:45 am]

BILLING CODE 3510-DS-F

University of Nebraska, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 93-077. *Applicant:* University of Nebraska, Lincoln, NE 68588. *Instrument:* Helium Cryostat Attachment for Single Crystal X-Ray Diffractometer. *Manufacturer:* Oxford Cryosystems, United Kingdom. *Intended Use:* See notice at 58 FR 42940, August 12, 1993. *Reasons:* The foreign instrument provides operating temperature range of 200° to 20°K and is interfaced to a Marresearch imaging plate detector for x-ray diffraction measurements. *Advice Received From:* National Institute of Standards and Technology, October 6, 1993.

Docket Number: 93-084. *Applicant:* University of California, Santa Barbara, Santa Barbara, CA 93106. *Instrument:* Thermistor Chain, Mooring Assembly, and Meteorology Tower. *Manufacturer:* Coastal & Hydraulic Engineering Laboratory, Australia. *Intended Use:* See notice at 58 FR 42941, August 12, 1993. *Reasons:* The foreign instrument provides: (1) 20 thermistors (8 movable) for 1.0 m depth resolution, (2) chain

accuracy of 0.01°C, and (3) a tower for meteorological recording. *Advice Received From:* National Oceanic and Atmospheric Administration, October 7, 1993.

The National Institute of Standards and Technology and National Oceanic and Atmospheric Administration advise that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to either of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 93-27327 Filed 11-4-93; 8:45 am]

BILLING CODE 3510-DS-F

National Oceanic and Atmospheric Administration

Coastal Zone Management: Federal Consistency Appeal by Carlos A. Cruz Colón From an Objection by the Puerto Rico Planning Board

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of decision.

On September 27, 1993, the Secretary of Commerce (Secretary) issued a decision in the consistency appeal of Carlos A. Cruz Colón (Appellant). The Appellant had applied to the U.S. Army Corps of Engineers (Corps) for a permit to construct a wood pier, intended for private use, within a mangrove stand located in public domain lands in the Torrecillas Lagoon in Carolina, Puerto Rico. In conjunction with the Federal permit application, the Appellant submitted to the Corps a certification that the proposed activity is consistent with Puerto Rico's federally approved Coastal Management Program (CMP). The Puerto Rico Planning Board (PRPB), Puerto Rico's coastal management agency, reviewed the certification pursuant to section 307(c)(3)(A) of the Coastal Zone Management Act of 1972, as amended (CZMA), 16 U.S.C. 1456(c)(3)(A).

On July 29, 1991, the PRPB objected to the Appellant's proposed project on the ground that it is not in accordance with Puerto Rico's CMP policies which provide for the protection of natural and environmental resources from destruction or irreparable damage, the reduction of adverse impacts of pollution on natural resources, and avoidance of activities which could cause the deterioration of natural systems, including mangroves. Under CZMA section 307(c)(3)(A) and 15 CFR 930.131, Puerto Rico's consistency objection precludes the Corps from issuing a permit for the activity unless the Secretary finds that the activity is either consistent with the objectives or purposes of the CZMA (Ground I) or necessary in the interest of national security (Ground II). The Appellant based his appeal on Ground I and did not plead Ground II.

To find that a proposed activity satisfies Ground I, the Secretary must find that the activity satisfies all four of the elements specified in 15 CFR 930.121. Based upon information submitted by the Appellant, the PRPB and Federal agencies, the Secretary found that the PRPB has identified a reasonable, available alternative of constructing a public facility, instead of a private pier, which would establish a negative precedent for private use within public domain lands. The decision concludes that, on balance, the proposed project would not further the objectives and purposes of the CZMA relating to the environmental benefits of preserving dwindling natural resources where there is a reasonable alternative available that would be significantly less detrimental to the relatively intact mangrove stand located at the project site. Accordingly, the proposed project is not consistent with the objectives or purposes of the CZMA. The Appellant's proposed project failed to satisfy all of the requirements of Ground I. Accordingly, the Secretary did not override the PRPB's objection to the Appellant's consistency certification and the proposed project may not be permitted by Federal agencies. Copies of the decision may be obtained from the contact person listed below.

FOR ADDITIONAL INFORMATION CONTACT: Margo E. Jackson, Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1305 East-West Highway, Sixth Floor, Silver Spring, Maryland, 20910; (301) 713-1967.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance)

Dated: October 30, 1993.

Meredith J. Jones,

General Counsel.

[FR Doc. 93-27192 Filed 11-4-93; 8:45 am]

BILLING CODE 3510-08-M

Sea Grant Review Panel Meeting

AGENCY: National Oceanic and Atmospheric Administration, DOC.

ACTION: Notice of open meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Sea Grant Review Panel. The meeting will have several purposes. Panel members will provide and discuss follow-up reports of business transacted at the last Sea Grant Review Panel meeting in the areas of management and organization, budget status, strategic and tactical issues, law and policy, new technology and research, economic development, outreach for enhancement of Department of Commerce goals, and new business.

DATES: The announced meeting is scheduled during 2 days: Wednesday, November 17, 1993, 8 a.m. to 5:30 p.m. and Thursday, November 18, 1993, 8:30 a.m. to 3:30 p.m.

ADDRESSES: Quality Inn—Silver Spring, 8727 Colesville Road, Silver Spring, Maryland 20910.

FOR FURTHER INFORMATION CONTACT: Dr. David B. Duane, Director, National Sea Grant College Program, National Oceanic & Atmospheric Administration, 1315 East-West Highway, room 11618, Silver Spring, Maryland 20910 (301) 713-2448.

SUPPLEMENTARY INFORMATION: The Panel, which consists of balanced representation from academia, industry, state government, and citizens groups, was established in 1976 by section 209 of the Sea Grant Improvement Act (Pub. L. 94-461, 33 U.S.C. 1128) and advises the Secretary of Commerce, the Under Secretary for Oceans and Atmosphere and Administrator of NOAA, and the Director of the National Sea Grant College Program with respect to operations under the act, and such other matters as the Secretary refers to the Panel for review and advice. The agenda for the meeting is:

Wednesday, November 17, 1993, 8 a.m.-5:30 p.m.

8 a.m.—Welcome
—Introduction of New Members
—Appreciation of Retiring Members
8:15 a.m.—Logistics, Etc.
8:25 a.m.—Approval of Minutes
8:30 a.m.—Meeting Objectives and Priority Issues
9:15 a.m.—Summary Reports on Activities
—Executive Committee
—Spring Sea Grant Directors Meeting
—Sea Grant Week
—Procedures Committee

10 a.m.—Break
10:15 a.m.—Reports of 1992 Committees
—Site Review Agenda
—Business Opportunity Brief
—Any Other Activity
10:30 a.m.—National Sea Grant Director's Report
12 p.m.—Council of Sea Grant Director's Update
12:30 p.m.—Working Lunch
1 p.m.—Observations on Sea Grant and NOAA
1:30 p.m.—Panel Organization and Modus Operandi for '93–94
2 p.m.—Areas of Concentration Reports
2:30 p.m.—Consideration of Report of Joint Modified Procedures Committee
3:30 p.m.—Consideration of Position Paper on Sea Grant Management Issues
5 p.m.—Consideration of Position on Recertification
5:30 p.m.—Adjourn

Thursday, November 18, 1993, 8:30 a.m.-3:30 p.m.

8:30 a.m.—Consideration of Position Paper on Sea Grant Strategy for the Future
10 a.m.—Break
10:15 a.m.—Consideration of Position Paper on Marine Biotechnology Legislation and Initiative
10:45 a.m.—Consideration of Position Paper on Sea Grant/Industry Cooperation
12:15 p.m.—Lunch
12:45 p.m.—Consideration of Position Paper on Budgets and Administrative Costs
1:15 p.m.—Specific Actions and Motions Including Recommendations to Sea Grant Management
2:30 p.m.—Changing of the Guard
2:40 p.m.—Election of Chair-Elect
2:45 p.m.—Remarks by Incoming Chair and Concluding Business
3:30 p.m.—Adjourn

The meeting will be open to the public.

Dated: October 29, 1993.

David B. Duane,

Deputy Assistant Administrator for Extramural Research.

[FR Doc. 93–27190 Filed 11–4–93; 8:45 am]

BILLING CODE 3510–22–P

Endangered Species; Permits

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

ACTION: Notice of a modification to research and enhancement permit No. 795.

Notice is hereby given that the Idaho Department of Fish and Game (IDFG) has been issued a modification to Permit No. 795 issued on July 29, 1992, under the authority of the Endangered Species Act (ESA) of 1973 (16 U.S.C. 1531–1543) and the NMFS regulations governing listed fish and wildlife (50 CFR Parts 217–227).

Permit No. 795 authorized IDFG to trap up to 20 adult and 4,500 juvenile Snake River sockeye salmon in order to obtain individuals for the purposes of propagating this species in captivity and to tag juveniles. After tagging, up to 450 juveniles would be maintained for use as captive broodstock, while the rest would be released back into the river. The captive broodstock would help to perpetuate this species and provide supplies of Snake River sockeye salmon for future recovery actions. Releasing tagged juveniles would provide information that would improve their survival through the hydroelectric system and aid in the development of a recovery plan for this species. No releases of progeny of captively reared fish were authorized in the original permit.

IDFG's request for modification was published in the **Federal Register** on June 2, 1993 (58 FR 31368). As part of the modification request, IDFG requested authorization to plant progeny of 1991 outmigrants determined to be kokanee or residual sockeye salmon that are from culture groups with active bacterial kidney disease in Stanley Lake. NMFS did not see a benefit from introducing Redfish Lake kokanee stock into Stanley Lake, and NMFS believed that no decision about the recovery status of Stanley Lake should be made until genetic data are available for *Oncorhynchus nerka* already present in the lake. Therefore, NMFS did not authorize this portion of IDFG's request.

NMFS realizes that there are a number of ecological and genetic concerns regarding the effects of hatchery-reared fish on listed wild fish. However, because only healthy fish will be released into the lake, and because fish will either be contained in netpens or released in the fall for overwintering, the likelihood of negative ecological effects on listed fish in Redfish Lake is fairly small. Provided that sockeye/residual sockeye salmon can be reliably identified among the outmigrants, the opportunities for adverse genetic effects should also be fairly small. Some genetic change associated with fish culture may be expected, but this must be balanced against the extreme risk of extinction faced by the natural population if artificial propagation was not attempted. Integration of genes from 1991 outmigrants determined to be of sockeye/residual sockeye salmon origin can be vitally important in expanding the genetic base of the population for recovery. NMFS authorized IDFG to release between 1,000 and 57,000 of these progeny into Redfish Lake.

Notice is hereby given that on August 3, and October 8, 1993, as authorized by the provisions of the Endangered Species Act (ESA), NMFS issued two modifications authorizing IDFG to conduct the proposed research and enhancement, subject to certain conditions set forth therein.

Documents submitted in connection with the above application are available for review by interested persons in the following offices (by appointment):

Office of Protected Resources, National Marine Fisheries Service, NOAA, 1315 East-West Hwy., room 13229, Silver Spring, MD 20910 (301–713–2322); and

Environmental and Technical Services Division, National Marine Fisheries Service, 911 North East 11th Ave., room 620, Portland, OR 97232 (503–230–5400).

Dated: October 27, 1993.

William W. Fox, Jr.,

Director, Office of Protected Resources.

[FR Doc. 93–27159 Filed 11–4–93; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals

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

ACTION: Withdrawal of application for public display permit, Frank Czeisler (P413A).

SUMMARY: On Monday, October 16, 1989, notice was published in the **Federal Register** (54 FR 42321) that an application had been filed by Mr. Frank Czeisler, dba Circus Tihany, Tihany Productions, 6526–B S. Tamiami Trail, Sarasota, Florida 34231, to import five (5) California sea lions (*Zalophus californianus*) from Mexico for public display in a traveling show.

Notice is hereby given that the application has been withdrawn and the withdrawal has been accepted without prejudice by the NMFS.

Documents submitted in connection with the above application are available for review, by appointment, in the following offices:

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, SSMC#3, room 13130, Silver Spring, MD 20910 (301/713–2289); and

Director, Southeast Region, NMFS, NOAA, 9450 Koger Blvd., St. Petersburg, FL 33702 (813/893–3141); and

Director, Southwest Region, NMFS, NOAA, 501 West Ocean Blvd., suite 4200, Long Beach, CA 90802 (310/980–4016).

Dated: October 29, 1993.

William W. Fox, Jr.,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 93–27229 Filed 11–4–93; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Co-Exclusive Patent Licenses; Notice of Prospective Grant

This notice in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Technical Information Service (NTIS), U.S. Department of Commerce, is contemplating the grant of co-exclusive licenses in the United States to practice the invention embodied in U.S. Patent No. 5,160,711 (Ser. No. 6–698,031), titled "Cyanide Leaching Method for Recovering Platinum Group Metals," to Landon Resources Group, Inc., having a place of business in Gilbertville, MA, Strategic Metals Corporation of Newburgh, NY, and Advance Resources, Inc. of Milwaukee, WI. The patent rights in this invention have been assigned to the United States of America.

The prospective co-exclusive licenses will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. While the primary purpose of this notice is to announce NTIS' intent to grant co-exclusive licenses to practice Patent No. 5,160,711, it also serves to publish said patent's availability for licensing in accordance with law. The prospective co-exclusive licenses may be granted unless, within ninety days from the date of this published notice, NTIS receives written evidence and argument which establishes that the grant of the licenses would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The present invention describes a method for recovering platinum group metals from a catalyst material comprises leaching the material with a cyanide solution at a temperature greater than about 100 °C to form soluble platinum group metal-cyanide complexes in solution. Solids are removed from the resulting pregnant leach solution, and the pregnant leach solution is then heated to a temperature sufficient to decompose the platinum group metal-cyanide complexes and precipitate the platinum group metals.

A copy of the above-identified patent may be purchased from the Commissioner of Patents and Trademarks, Box 9, Washington, DC 20231 for $3.00 (payable by check or money order).

Inquiries, comments and other materials relating to the contemplated licenses must be submitted to Neil L. Mark, Office of Federal Patent Licensing, NTIS Box 1423, Springfield, VA 22151. Properly filed competing applications received by the NTIS in response to this notice will be considered as objections to the grant of the contemplated licenses.

Douglas J. Campion,

Acting Director, Office of Federal Patent Licensing.

[FR Doc. 93–27170 Filed 11–4–93; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to the Procurement List a commodity and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: December 6, 1993.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodity and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity and services to the Government.

2. The action does not appear to have a severe economic impact on the current contractors for the commodity and services.

3. The action will result in authorizing small entities to furnish the commodity and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity and services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information. It is proposed to add the following commodity and services to the Procurement List for production by the nonprofit agencies listed:

Commodity

Line, Multi-Loop
1670–01–063–7761
Nonprofit Agency: Industrial Opportunities, Inc., Marble, North Carolina.

Services

Grounds Maintenance
Naval and Marine Corps Reserve Center, Dayton, Ohio
Nonprofit Agency: Monco Industries, Inc., Dayton, Ohio.

Janitorial/Custodial
U.S. Air Force Academy Cadet Dormitories
Vandenberg Hall, Building 2360
Sijan Hall, Building 2348
U.S. Air Force Academy, Colorado
Nonprofit Agency: Goodwill Industries of Colorado Springs, Colorado Springs, Colorado.

Janitorial/Custodial
Building 1028
Kirtland Air Force Base, New Mexico
Nonprofit Agency: Adelante Development Center, Inc., Albuquerque, New Mexico.

Beverly L. Milkman,

Executive Director.

[FR Doc. 93–27322 Filed 11–4–93; 8:45 am]

BILLING CODE 6820-33-P

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 94–C0006]

York International Corporation, a Corporation; Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission.

ACTION: Provisional Acceptance of a Settlement Agreement under the Consumer Product Safety Act.

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the **Federal Register** in accordance with the terms of 16 CFR 1118.20(e)–(h). Published below is a provisionally-accepted Settlement Agreement with York International Corporation, a corporation.

DATES: Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by November 22, 1993.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 94–C0006, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

FOR FURTHER INFORMATION CONTACT: Earl A. Gershenow, Trial Attorney, Office of Compliance and Enforcement, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0626.

Dated: November 2, 1993.

Sheldon D. Butts,

Deputy Secretary.

Settlement Agreement

1. This Settlement Agreement entered into between York International Corporation ("York"), a corporation, and the staff of the Consumer Product Safety Commission ("Commission") or "CPSC"), is a compromise resolution of the matter described herein, without a hearing or determination of any issues of law or fact.

Jurisdiction

2. York distributed HeatPipe furnaces and, in some instances, vent components (a) for sale to consumers for use in or around a permanent or temporary household or residence, or (b) for the personal use, consumption or enjoyment of a consumer in or around a permanent or temporary household or residence. The HeatPipe furnaces and vent components are consumer products within the meaning of section 3(a)(1) of the CPSA, 15 U.S.C. 2052(a)(1).

3. York manufactured the HeatPipe furnaces for sale to consumers throughout the United States. York, therefore, is a "manufacturer" of a "consumer product" which is "distributed in commerce," as those terms are defined in §§ 2052(a)(1), (4) and (11).

The Parties

4. The "staff" is the staff of the Consumer Product Safety Commission, an independent regulatory agency of the United States of America, established by Congress pursuant to section 4 of the Consumer Product Safety Act ("CPSA"), 15 U.S.C. 2053, as amended.

5. York is a corporation organized and existing under the laws of Delaware with its principal place of business located at 631 South Richland, York, Pennsylvania 17403. York manufactures and distributes residential heating systems among other heating, air conditioning, and refrigeration products.

The Product

6. York manufactured and distributed in interstate commerce HeatPipe furnaces and vent components under the Borg-Warner, Luxaire, Fraser-Johnston, and Moncrief brand names, from 1984 to 1988 ("HeatPipe furnaces").

Staff Allegations

7. The fasteners (screws and rivets) used to connect components in the file and vent systems of HeatPipe furnaces are susceptible to corrosion. Also, the components in the flue and vent systems may corrode. Corrosion of the fasteners and the flue and vent system components could create gaps or holes which could allow the escape of exhaust products, including carbon monoxide, into the home. Exposure to carbon monoxide, an odorless, colorless gas, can cause death or serious injury to occupants within the home. Therefore, the HeatPipe furnaces and vent components present a substantial product hazard within the meaning of section 15(a)(2) of the CPSA, 15 U.S.C. 2064(a)(2).

Response of York

8. York denies each and all of the staff allegations contained in paragraph 7 above. York specifically denies that its products may contain a defect which creates or which could create a substantial product hazard within the meaning of section 15(a) of the CPSA, 15 U.S.C. 2064(a). York also specifically denies that it had any obligation to report under section 15(b) of the CPSA, 15 U.S.C. 2064(b).

Agreement of the Parties

9. The staff and York agree that the Commission has jurisdiction over York and the HeatPipe furnaces and vent components for purposes of entry and enforcement of this Settlement Agreement.

10. York agrees to enhance its warranty program ("enhanced warranty program") for the HeatPipe furnaces by the following:

a. York shall offer to replace each and every HeatPipe furnace in homes and other residences (i.e., single structures, apartments, etc.), which it can identify, with a new mid-efficiency natural gas furnace comparable to the installed HeatPipe furnace. York shall employ and authorize service agents to install the replacement furnace. York shall provide an allowance of $200.00 toward the cost of installing the new furnace. Within its discretion, York shall pay additional installation fees in cases of hardship or other extenuating circumstances.

b. York shall obtain from various sources, including consumer complaints, warranty exchanges, registration cards, and dealer and distributor lists, the name of the owners of HeatPipe furnaces.

c. During the week of October 18, 1993, and periodically thereafter as more information is gathered by York, York shall mail notice to the HeatPipe furnace owners informing them of York's offer to replace the HeatPipe furnaces with a new mid-efficiency furnace. A copy of the notice York shall mail to consumers is attached as "Exhibit A."

d. York shall notify its current and past distributors of the enhanced warranty program by means of a notice, a copy of which is attached as "Exhibit B." York shall mail the distributor notice during the week of October 18, 1993.

e. York shall mail a notice to utility companies throughout the United States informing them of the enhanced warranty program. A copy of the notice to the utility companies is attached as "Exhibit C."

f. York shall place a notice of the existence of the enhanced warranty program, in a text and format that is acceptable to the staff, in the Air Conditioning and Refrigeration News, and the AGA Bulletin. During the week of October 25, 1993, York shall issue a press release notifying the public of the enhanced warranty program. A copy of the press release is attached as "Exhibit D." After issuance of the York press

release, the Commission may issue its own press release in the form of "Exhibit E."

g. York shall make periodic reports to the CPSC to inform the agency of the progress of the warranty program. Those reports shall be made biweekly for the first two months of the operation of the warranty program, and monthly thereafter for a period of three (3) years, or such time as the staff agrees with York that further reports are unnecessary.

h. York and the staff agree to evaluate the effectiveness of the replacement of HeatPipe furnaces under York's enhanced warranty program on an on-going basis. York agrees to undertake such additional notice or corrective actions as York and the staff determine are necessary to make the replacement program as effective as possible. In the event the staff and York are not able to reach agreement on additional notice or corrective actions, the staff reserves the right to seek additional remedial action under the Consumer Product Safety Act.

11. York makes no admission of any fault, liability or statutory violation. The Commission does not make any determination that the HeatPipe furnaces described in the preceding paragraphs contain a defect which creates or could create a substantial product hazard or that a violation of the CPSA has occurred.

12. Upon final acceptance of this Settlement Agreement by the Commission, York knowingly, voluntarily and completely waives any rights it may have (1) to an administrative or judicial hearing with respect to the staff allegations cited herein, (2) to judicial review or to challenge or contest the validity of the Commission's action with regard to the staff allegations cited herein, and (3) to a statement of findings of fact and conclusions of law with regard to staff claims cited herein.

13. This Settlement Agreement is binding upon the Commission staff and York, its successors or assigns.

14. This Settlement Agreement contains the entire agreement, understanding, representation, or interpretation of the parties herein, and nothing else may be used to vary or contradict its terms.

Dated: October 18, 1993.

York International Corporation.

Frank J. Ullmann,

Counsel, York International Corporation.

Dated: October 19, 1993.

Richard P. Kidwell,

Attorney, Miles & Stockbridge.

Commission Staff

David Schmeltzer,

Assistant Executive Director for Compliance and Enforcement, Office of Compliance and Enforcement.

Alan H. Schoem,

Director, Division of Administrative Litigation, Office of Compliance and Enforcement.

Dated: October 19, 1993.

Earl A. Gershenow,

Trial Attorney, Division of Administrative Litigation, Office of Compliance and Enforcement.

Dated: October 19, 1993.

Eric L. Stone,

Trial Attorney, Division of Administrative Litigation, Office of Compliance and Enforcement.

By direction of the Commission, this Settlement Agreement is provisionally accepted pursuant to 16 CFR 1118, and shall be placed on the public record, and the Commission shall announce provisional acceptance of the Settlement Agreement in the Commission's Public Calendar and in the **Federal Register**.

So Ordered by the Commission, this 2nd day of November 1993.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

EXHIBIT A

Important Safety Notice

Consumer Letter

RE: Replacement Offer for HeatPipe Furnace

Dear _____:

We have reviewed our records and found that you purchased or own a [Borg-Warner, Luxaire, Fraser-Johnston or Moncrief] HeatPipe furnace. These furnaces, which we designed and built during the mid-1980s, fell short of our expectations. Unfortunately, we have experienced numerous problems with these units, including premature failures of the heat exchangers and deterioration of the vent systems. This deterioration could allow leakage of potentially hazardous carbon monoxide into the home. Since we are committed to providing high quality, trouble-free products to our customers, we are offering to replace these furnaces as part of our enhanced warranty program.

We will provide a brand new, mid efficiency furnace comparable in heating capacity and efficiency to your HeatPipe. The new furnace will come with a factory warranty commencing on the date of installation. Replacement of these furnaces will require inspection and replacement of some or all of the furnace venting system. We will also provide to you a $200 allowance toward the installation costs for the furnace and vent system. All installation must be handled through a registered dealer and distributor.

In general, it is important that all gas heating systems receive an annual inspection by a competent, trained service technician to prevent potentially unsafe operating conditions. This inspection should include a thorough review of all components and also a careful analysis of the venting system to uncover any possible deterioration. Carbon monoxide, which can leak from deteriorated venting systems, is an odorless gas which can cause illness or death.

To obtain additional information or request the name of your nearest dealer, call 1–800–_____–_____between the hours of 7 A.M. and 6 P.M. EST. If for some reason, you have received this information in error, please advise us by telephone call or by completing the self-addressed, stamped postcard.

We urge you to take advantage of this warranty replacement offer. We are concerned about your safety and well being and want you to be satisfied with our products.

Thank you for your support.

EXHIBIT B

Draft Distributor Letter

To:

All York Distributors
All York Branches
All Field Service Supervisors

Subject: HeatPipe Furnace Warranty Program Enhancement

Attached please note a direct mailing to be made to all consumer addresses of record which have HeatPipe furnaces (model family P1NUD) currently installed.

This mailing announces a program which allows for changeout of the involved HeatPipe furnace upon the request of the consumer with minimal financial contribution on their part.

This program is being provided to address possible premature failure of the unit heat exchanger and possible premature deterioration of the vent system, while at the same time alerting consumers to the importance of annual heating system inspections.

This program supersedes all previous warranty extensions as identified by various YS Service Bulletins.

Future consumer inquiry actions generated by the mailing will be forwarded to each distributor by region for their referral to a servicing dealer.

We request your advance selection of a multiple number of dealers who are interested in participating in the program.

The furnace changeout allowance will include a comparably sized P2MP furnace and a $200 labor allowance toward the installation. All installations must comply with the latest venting requirements set forth in Fuel and Gas Codes.

Involved dealers are required to pass through the furnace and labor allowance. Charges in excess of the allowances must be advance quoted to the consumer and agreed to prior to commencement of the installation.

All requests for reimbursement under this program should be submitted via a standard warranty claim procedure referencing YS-552-93 in the extended program block.

Any questions or problems which may arise should be immediately directed to your Regional Service Supervisor for resolution.

Draft Distributor Letter

To:
All Luxaire Distributors
All Fraser-Johnston Distributors
All Moncrief Distributors
All Field Service Supervisors

Subject: HeatPipe Furnace Warranty Program Enhancement

Attached please note a direct mailing to be made to all consumer addresses of record which have HeatPipe furnaces (model family PAUT) currently installed.

This mailing announces a program which allows for changeout of the involved HeatPipe furnace upon the request of the consumer with minimal financial contribution on their part.

This program is being provided to address possible premature failure of the unit heat exchanger and possible premature deterioration of the vent system, while at the same time alerting consumers to the importance of annual heating system inspections.

This program supersedes all previous warranty extensions as identified by various YS Service Bulletins.

Future consumer inquiry actions generated by the mailing will be forwarded to each distributor by region for their referral to a servicing dealer.

We request your advance selection of a multiple number of dealers who are interested in participating in the program.

The furnace changeout allowance will include a comparably sized P2MP furnace and a $200 labor allowance toward the installation. All installations must comply with the latest venting requirements set forth in Fuel and Gas Codes.

Involved dealers are required to pass through the furnace and labor allowance. Charges in excess of the allowances must be advance quoted to the consumer and agreed to prior to commencement of the installation.

All requests for reimbursement under this program should be submitted via a standard warranty claim procedure referencing YS-551-93 in the extended program block.

Any questions or problems which may arise should be immediately directed to your Regional Service Supervisor for resolution.

EXHIBIT C

Utilities Letter

To: Utilities

Subject: HeatPipe Furnace Warranty Program Enhancement

Attached please note a direct mailing to be made to all consumer addresses of record which have HeatPipe furnaces currently installed.

This mailing announces a program which allows for changeout of the involved HeatPipe furnace upon the request of the consumer with minimal financial contribution on their part.

This program is being provided to address possible premature failure of the unit heat exchanger and possible premature deterioration of the vent system, while at the same time alerting consumers to the importance of annual heating system inspections.

Please inform your service people and other appropriate personnel of this program. To the extent that you obtain information about owners of HeatPipe furnaces or your records contain such information, please notify David L. Negrey, York International Corporation, P.O. Box 1592-362M, York, Pennsylvania 17405-1592.

Thanks for your support.

EXHIBIT D

York Draft Press Release

York International Corporation announces an enhanced warranty program to replace its HeatPipe furnaces. Some of the HeatPipe furnaces have experienced problems, including premature failures of the heat exchangers and deterioration of the vent systems. This deterioration could allow leakage of potentially hazardous carbon monoxide into the home. York, a leading worldwide manufacturer in the heating/air conditioning/refrigeration industry, manufactured the HeatPipe furnaces between 1984 and 1988 under the brand names Luxaire/Fraser-Johnston/Moncrief (models PAUT-08N073, PAUT-12N073, PAUT-12N105 and PAUT-16N105); and Borg Warner (models P1NUD08N06301, P1NUD12N06301, P1NUD12N08901 and P1NUD16N08901). York estimates approximately 4,000 HeatPipe furnaces are still in use.

Under the enhanced warranty program, owners may exchange their HeatPipe furnaces for free new furnaces of similar capacity and efficiency ratings. The new furnace will come with a factory warranty commencing on the date of installation. Replacement of the HeatPipe furnaces will require inspection and replacement of some or all of the furnaces' venting systems. York will provide a $200 allowance toward installation costs.

York urges all customers to participate in the HeatPipe replacement program. York is sending a letter to all identifiable owners of the HeatPipe furnaces explaining the warranty program and emphasizing the need to inspect the furnaces and vent systems. Consumers can call York at 1-800-_____-_____to take advantage of the exchange program or to contact an authorized York dealer to inspect the furnace and perform any necessary repair work.

York reminds owners of all types of furnaces to inspect their furnaces before the heating season begins for proper functioning. Owners should check the vent system for corrosion or openings through which carbon monoxide could leak. Carbon monoxide is a colorless, odorless gas that can cause serious illness or death. A qualified dealer should make any necessary adjustments or repairs.

EXHIBIT E

York Offering to Replace all HeatPipe Furnaces

Product: Approximately 4,000 Borg-Warner, Luxaire, Fraser-Johnston, and Moncrief HeatPipe furnaces manufactured and sold by York International Corporation between 1984 and 1988.

Problem: Parts of the furnaces and vent system may fail prematurely. Failure of the vent components could allow potentially hazardous carbon monoxide (CO) gas to leak into the home.

What To Do: Owners of affected furnaces should call York at 1-800-_____-_____to obtain a free replacement furnace. York is providing a $200 allowance toward the cost of installing the replacement furnace.

Washington, D.C.

The U.S. Consumer Product Safety Commission (CPSC) today announced that York International Corporation, York, Pennsylvania, has voluntarily offered to replace all Borg-Warner, Luxaire, Fraser-Johnston, and Moncrief HeatPipe furnaces. York initiated this warranty enhancement program because certain parts of the furnace and vent system may fail prematurely. Failure of certain furnace and vent components could allow potentially hazardous carbon monoxide (CO) to leak into the home.

York manufactured approximately 10,000 HeatPipe furnaces between 1984 and 1988 under the brand names Borg-Warner, Luxaire, Fraser-Johnston, and Moncrief. These mid-efficiency furnaces can be identified by the following model numbers: Luxaire/Fraser-Johnston/Moncrief (models PAUT-08N073, PAUT-12N073, PAUT-12N105 and PAUT-16N105); Borg-Warner/York (models P1NUD08N06301, P1NUD12N06301, P1NUD12N08901 and P1NUD16N08901). York estimates approximately 4,000 HeatPipe furnaces remain in use.

Under York's warranty program, HeatPipe furnace owners may obtain a free replacement furnace of similar capacity and efficiency to their HeatPipe. Replacement of the HeatPipe furnaces will require professional installation and replacement of some or all of the furnaces' venting components. York will provide a $200 allowance toward the cost of installing the replacement furnace.

CPSC urges anyone with a HeatPipe furnace to participate in the HeatPipe replacement program. Consumers can call York at 1-800-_____-_____or contact an authorized York, Fraser-Johnston, or Luxaire dealer to obtain a new replacement furnace. York is sending a letter to all known HeatPipe owners explaining the warranty program.

Additionally, CPSC advises all owners of furnaces and fuel-burning appliances to have a competent serviceman inspect their appliances and furnaces before the heating season begins. This inspection should include checking the furnace's vent system for corrosion or openings through which carbon monoxide could leak, as well as checking to make sure the furnace is operating properly. Only a qualified service technician should perform inspections, repairs or maintenance. CPSC recommends that consumers also purchase and install a carbon monoxide detector that meets the

requirements of Underwriters Laboratories (UL) 2034. These detectors warn consumers before hazardous levels of carbon monoxide are present. Carbon monoxide is a colorless, odorless gas that can cause serious illness or death.

The CPSC mission is to protect the public from unreasonable risks of injury and death associated with consumer products. The Commission's objective is to reduce the estimated 28.6 million injuries and 21,700 deaths associated each year with the 15,000 different types of consumer products under CPSC's jurisdiction.

Note: To report an unsafe consumer product or a product-related injury, consumers should call the U.S. Consumer Product Safety Commission's toll-free hotline at 1-800-638-2772. A teletypewriter for the hearing impaired is available at 1-800-638-8270.

[FR Doc. 93-27350 Filed 11-2-93; 5:09 pm]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

DoD-DOE System Safety Red Team Advisory Committee; Meeting

ACTION: Notice of advisory committee meeting.

SUMMARY: The DoD-DOE System Safety Red Team Advisory Committee (Red Team) will meet in closed session on November 30, 1993, at Alexandria, Virginia.

The mission of the Red Team is to perform technical evaluations of the safety of nuclear weapons in development and in the stockpile. At this meeting, the Red Team will review its report assessing the safety of the W-80 warhead and associated weapon systems (Air Launched Cruise Missile, Advanced Cruise Missile and Tomahawk). The Red Team will also formulate recommendations for submission to the Nuclear Weapons Council concerning future safety assessments of nuclear weapons.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law 92-463, as amended, (5 U.S.C. App. II, (1988)), it has been determined that this Red Team meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly this meeting will be closed to the public.

Dated: November 2, 1993.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93-27241 Filed 11-4-93; 8:45 am]

BILLING CODE 5000-04-M

Department of the Army

Annual Meeting—National Board for the Promotion of Rifle Practice; Correction

AGENCY: Department of the Army, DOD.

ACTION: Notice correction.

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given for the Annual Meeting of the National Board for the Promotion of Rifle Practice (NBPRP). The previous submission (58 FR 54123, 20 October 1993) did not contain a meeting time. Also the first entry under Agenda is removed.

Date: 8 December 1993.

Time: 0930-1600.

Place: Embassy Suites Hotel, 1900 Diagonal Road, Alexandria, VA 22314.

Agenda

—**Federal Register** Notice of the Meeting
—Roll Call
—Approval of previous Board minutes
—Report on the 1991 National Matches
—Report on the Budget review/presentation
—Old Business
—New Business

This meeting is open to the general public but space is limited. Point of Contact is Mr. Dennis Galoci, Office of the Director of Civilian Marksmanship, Washington, DC 20314-0100, telephone: (202) 272-0810.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 93-27174 Filed 11-4-93; 8:45 am]

BILLING CODE 5000-03-M

Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) in Conjunction With Proposed Chicagoland Underflow Plan McCook Reservoir at McCook, in Cook County, IL

AGENCY: U.S. Army Corps of Engineers, Chicago District, DOD.

ACTION: Notice of intent.

SUMMARY: The proposed project involves construction and operation of a reservoir for temporary storage of combined stormwater runoff and sanitary flows. Construction would involve converting an existing limestone quarry into a flood control reservoir. Major features include the mined quarry, tunnels, gates, valves, pumps, groundwater protection, and aeration and washdown systems.

FOR FURTHER INFORMATION CONTACT: Mr. Keith Ryder, U.S. Army Corps of Engineers, Chicago District, 111 N. Canal St., Chicago, IL 60606-7206, telephone: (312) 353-7795.

SUPPLEMENTARY INFORMATION:

1. The project would be constructed in two stages. The reservoir would initially be located in the existing main lobe of the McCook Quarry. About 15 years later, the reservoir would be relocated to the McCook Quarry flux lobe and a new lobe to be excavated north of 55th Street. Benefits to the city of Chicago and 36 suburban communities would include a reduction in sewer back-up flooding in over 135,000 structures on an average annual basis and improved water quality in Lake Michigan and Chicago metropolitan area watercourses. The Metropolitan Water Reclamation District of Greater Chicago is a cooperating agency.

2. Coordination regarding the assessment of impacts of the project is being undertaken with the concerned agencies, including the U.S. Environmental Protection Agency, the Illinois Environmental Protection Agency, the Metropolitan Water Reclamation District of Greater Chicago, and local communities.

3. Issues to be addressed in the DEIS will include impacts of construction and operation of the reservoir, protection of groundwater, control of odors, and impacts on local communities and industry.

4. A scoping meeting will be held in December 1993. Interested parties, agencies, and municipalities will be invited to participate. Notice of exact time and location will be given at a later date. The scoping process will be undertaken as part of a long-term public and interagency coordination program which began in the early 1980's.

5. The DEIS is expected to be available to the public in January 1994.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 93-27175 Filed 11-4-93; 8:45 am]

BILLING CODE 3710-HN-M

DEPARTMENT OF EDUCATION

Office of Elementary and Secretary Education

AGENCY: Department of Education.

ACTION: Notice of public meeting.

SUMMARY: The Department of Education will conduct its Seventh Annual Conference on Drug-Free Schools and Communities on December 1-3, 1993. The purpose of the conference is to provide an opportunity for those involved in alcohol, tobacco, and other

drug (ATOD) prevention—including school personnel, community representatives, and Federal, State, and local policymakers—to share information and strategies, explore new and emerging issues, and establish and strengthen collaborative efforts. Additionally, a preconference session will provide technical assistance to current Drug-Free Schools and Communities Act (DFSCA) grantees. The previously announced postconference session to provide information to prospective grantees on how to apply for upcoming DFSCA grants has been canceled.

CONFERENCE INFORMATION: The conference is scheduled for December 1–3, 1993 at the Washington, DC Renaissance Hotel, 999 9th Street, NW., Washington, DC 20001–9000.

FOR FURTHER INFORMATION CONTACT: Rii Conference Department, 1010 Wayne Avenue, Suite 300, Silver Spring, Maryland 20910. Telephone: (301) 565–4048 or (301) 565–4049. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Dated: October 29, 1993.

Thomas W. Payzant,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 93–27315 Filed 11–4–93; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Certification of the Radiological and Chemical Condition

AGENCY: Office of Environmental Restoration and Waste Management, Department of Energy (DOE).

ACTION: Notice of certification.

SUMMARY: DOE has completed remedial action to decontaminate the Elza Gate property in Oak Ridge, Tennessee. The property was found to contain quantities of radioactive materials from the wartime Manhattan Engineer District/Atomic Energy Commission (MED/AEC) activities. Radiological and chemical surveys show that the site now meets applicable requirements for unrestricted use.

ADDRESSES:

Public Reading Room, Room 1E–190, Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585;

Public Document Room, Oak Ridge Operations Office, U.S. Department of Energy, Oak Ridge, Tennessee 37831.

FOR FURTHER INFORMATION CONTACT: Mr. James J. Fiore, Director, Office of Eastern Area Programs, Office of Environmental Restoration, and Waste Management (EM–42), U.S. Department of Energy, Washington, DC 20585, (301) 903–8141 Fax: (301) 903–8136.

SUPPLEMENTARY INFORMATION: DOE, Office of Environmental Restoration and Waste Management, Office of Eastern Area Programs, Off-Site Program Division has conducted a remedial action project at the Elza Gate site in Oak Ridge, Tennessee (Book of Deeds, Z, Volume 12, page 204, Anderson County, Tennessee, corrected in Book of Deeds G, Volume 15, page 295, Anderson County, Tennessee), as part of the Formerly Utilized Sites Remedial Action Program (FUSRAP). The objective of the program is to identify and remediate or otherwise control sites where residual radioactive contamination remains from activities carried out under contract to the MED/AEC during the early years of the nation's atomic energy program. In 1988, the Elza Gate site was designated for remediation as part of the FUSRAP program.

During the early 1940's, the Elza Gate site was developed by MED as a storage area for pitchblende (a high-grade uranium ore from Africa) and ore processing residues. In 1946, ownership of the site was transferred to AEC. It is not know when MED or AEC stopped using the warehouses for storage of the pitchblende ores and residues; AEC later operated the property as an equipment storage area for Oak Ridge National Laboratory (ORNL) and the Oak Ridge Y–12 Plant. AEC used the site until it was vacated in the early 1970s. After radiological survey and decontamination activities were conducted by DOE in 1972, the site was deemed acceptable under the standards in place at that time for use with no radiological restrictions. At that time, title to the property was transferred first to the General Services Administration and then to the City of Oak Ridge. The property was subsequently sold to Jet Air, Inc., which operated a fabricating and metal plating facility on the site. In 1988, ownership of the property was transferred to MECO, a development company. At DOE's request, ORNL conducted a preliminary radiological survey to determine whether the site met newer, stricter remediation guidelines. The survey indicated that soil at the site contained residues from MED activities. As a result, on November 30, 1988, DOE designated the Elza Gate site for inclusion in FUSRAP. In 1989 and 1990, Bechtel National, Inc. conducted a comprehensive radiological and chemical characterization of the site. Based on these characterization data, DOE conducted remedial action at the Elza Gate site in 1991 and 1992.

Post-remedial action surveys have demonstrated and DOE has certified that the subject property is in compliance with DOE radiological decontamination criteria and standards. The standards are established to protect members of the general public and occupants of the site and to ensure that future use of the property will result in no radiological exposure above applicable guidelines. Chemical contaminants in soil at the site were remediated to Environmental Protection Agency (EPA) soil guidelines of 25 ppm for PCBs and 1,000 ppm for lead. These findings are supported by the DOE Certification Docket for the Remedial Action Performed at the Elza Gate Site in Oak Ridge, Tennessee, 1991–1992. Accordingly, this property is released from the FUSRAP program administered by the DOE as of November 5, 1993.

The certification docket will be available for review between 9 a.m. and 4 p.m., Monday through Friday (except Federal holidays) in the DOE Public Reading Room located in room 1E–190 of the Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. Copies of the certification docket will also be available in the DOE Public Document Room, U.S. Department of Energy, Oak Ridge Operations Office, Oak Ridge, Tennessee 37831.

DOE, through the Oak Ridge Operations Office, Former Sites Restoration Division, has issued the following statement:

Statement of Certification: Elza Gate Site Former MED/AEC Operations

DOE Oak Ridge Operations Office, Former Sites Restoration Division, has reviewed and analyzed the radiological data obtained following remedial action at the Elza Gate site (Book of Deeds Z, Volume 12, page 204, Anderson County, Tennessee, corrected in Book of Deeds G, Volume 15, page 295, Anderson County, Tennessee). Based on analysis of all data collected, DOE certifies that the following property is in compliance with DOE radiological decontamination criteria and standards. For radiological exposure resulting from past MED/AEC activities at the site, this certification of compliance provides assurance that future use of the property will result in no radiological exposure above

applicable guidelines established to protect members of the general public or site occupants. For chemical contaminants, this certification statement provides assurance that polychloride biphenyl (PCB) and lead concentrations in soil do not exceed 25 ppm of PCBs and 1,000 ppm of lead, which were the EPA guidelines established for the site.

Property owned by MECO, Tennessee Partnership: Melton Lake Industrial Park, Antwerp Lane, Oak Ridge, Tennessee 37830.

R.P. Whitfield,

Deputy Assistant Secretary for Environmental Restoration.

[FR Doc. 93-27291 Filed 11-4-93; 8:45 am]

BILLING CODE 6450-01-M

Notification of Wetland Involvement for the Tonawanda Site, Tonawanda, NY

AGENCY: Department of Energy (DOE).

ACTION: Notice of Wetlands Involvement.

SUMMARY: DOE proposes to conduct a remedial action in compliance with the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) to remediate radioactively contaminated sediment from soils in areas determined to include freshwater wetlands. This proposed CERCLA remedial action, which is necessary to remove contaminated sediments that exceed current DOE criteria for residual radioactivity in soil, would be conducted at the Ashland 2 property and at two vicinity properties located adjacent to the northwest corner of the Linde property. Linde and Ashland 2 are two of four properties located in the town of Tonawanda, New York, that comprise the Tonawanda site. The Tonawanda site has been designated for remedial action under DOE's Formerly Utilized Sites Remedial Action Program.

In accordance with 10 CFR Part 1022, DOE will prepare a wetlands assessment and will perform this proposed remedial action in a manner so as to avoid or minimize potential harm to or within the affected wetlands.

DATES: Comments are due to the address below no later than November 22, 1993.

ADDRESSES: Comments should be addressed to: Mr. Lester K. Price, Oak Ridge Operations Office, U.S. Department of Energy, P.O. Box 2001, Oak Ridge, Tennessee 37831-8723.

FOR FURTHER INFORMATION CONTACT: Information on this proposed action is available from: Mr. Ronald E. Kirk, Site Manager, Former Sites Restoration Division, Oak Ridge Operations Office, U.S. Department of Energy, P.O. Box 2001, Oak Ridge, Tennessee 37831-8723, (615) 576-7477, Fax: (615) 576-0956.

For further information on general DOE Wetlands Environmental Review Requirements, Contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Oversight, EH-25, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-4600 or (800) 472-2756.

SUPPLEMENTARY INFORMATION: In accordance with DOE regulations for compliance with wetlands environmental review requirements (10 CFR Part 1022), DOE will prepare a wetlands assessment for this proposed DOE action. The wetlands assessment for this proposed remedial action will be included in the feasibility study/proposed plan-environmental impact statement being prepared for the Tonawanda site.

Issued in Washington, DC on October 28, 1993.

Clyde W. Frank,

Acting Principal Deputy Assistant Secretary for Environmental Restoration and Waste Management.

[FR Doc. 93-27292 Filed 11-4-93; 8:45 am]

BILLING CODE 6450-01-M

Pittsburgh Energy Technology Center; Sources Sought Announcement for Upcoming Class III Mid-Term Solicitation

AGENCY: Bartlesville Project Office an Pittsburgh Energy Technology Center, Department of Energy.

ACTION: Mid-Term Program Opportunity Notice.

SUMMARY: The U.S. Department of Energy, Bartlesville Project Office through the Pittsburgh Energy Technology Center, announces that it intends to issue a competitive Program Opportunity Notice (PON) in support of maximizing the economic producibility of oil from Slope and Basin clastic (Class III) reservoirs. A public meeting is being scheduled.

DATES: The scheduled release date for the solicitation is January 28, 1994. No details pertaining to the public meeting are available at this time.

ADDRESSES: A copy of all pertinent information, including the solicitation, may be obtained by writing to the Department of Energy, Pittsburgh Energy Technology Center, Attention Keith R. Miles, Contract Specialist, P.O. Box 10940, Mail Stop 921-118, Pittsburgh, PA 15234. Requests may be faxed to 412/892-6216.

SUPPLEMENTARY INFORMATION: Program Opportunity Notice No. DE-PS22-94BC14973.

Title of Solicitation

Class III Oil Program: Mid-Term Activities.

Objective

The specific objective of this Program Opportunity Notice is to solicit applications to conduct cost-shared projects in domestic Slope and Basin clastic reservoirs that lead to maximizing the economic producibility of the domestic oil resource. These projects should demonstrate and transfer advanced reservoir characterization techniques or tools, advanced reservoir management techniques, or advanced recovery technologies aimed at resolving specific producibility problems which will result in a significant increase of domestic reserves in Slope and Basin clastic reservoirs.

Sources Sought

Organizations interested in being placed on the Department's source list for information, are encouraged to submit a written request to the address listed in this announcement. The request must include: The company name, address, and point of contact, including telephone number. Any organization who has previously responded to the DOE Bartlesville Project Office's "Open Letter" dated August 16, 1993 need not respond to this announcement.

Dated: October 27, 1993.

Dale A. Siciliano,

Contracting Officer.

[FR Doc. 93-27288 Filed 11-4-93; 8:45 am]

BILLING CODE 6450-01-M

Notice of Noncompetitive Financial Assistance Award for the Society of Petroleum Engineers' Ninth Symposium on Improved Oil Recovery

AGENCY: U.S. Department of Energy, Bartlesville Project Office.

ACTION: Notice of Noncompetitive Financial Assistance Award.

SUMMARY: The Department of Energy (DOE), Bartlesville Project Office (BPO), announces that pursuant to 10 CFR 600.7(b)(2)(i) (B) and (D), it intends to make a Noncompetitive Financial Assistance (Grant) Award through the Pittsburgh Energy Technology Center to the Society of Petroleum Engineers for a symposium on Improved Oil

Recovery. The Society of Petroleum Engineers' Ninth Symposium on Improved Oil Recovery is to be co-sponsored by DOE and will provide a source of enhanced technical information and an opportunity to transfer technical information that will aid in the production of oil and gas resources.

FOR FURTHER INFORMATION CONTACT: Nancy Toppetta, U.S. Department of Energy, Pittsburgh Energy Technology Center, P.O. Box 10940 (MS 921-118), Pittsburgh, PA 15236-0940, AC (413) 892-5715.

SUPPLEMENTARY INFORMATION: The estimated cost of the symposium is $26,000. DOE's funding share will be $15,000. Based on the authority 10 CFR 600.7(b)(2)(i) (B) and (D), the objective of this grant (DE-FG22-94BC14873) is to permit DOE and the Society of Petroleum Engineers to conduct a symposium that will help meet the DOE's National Energy Strategy goal of arresting U.S. vulnerability to oil supply disruptions by increasing the domestic crude oil resource base, will provide new reservoir information to oil and gas producers, and will provide for useful exchange of ideas and information between members of the scientific community. The symposium will enhance science and technology transfer through paper presentations and forums regarding all aspects of improved oil recovery including water flooding, gravity drainage, miscible/immiscible gas, mobility control/sweep improvement, thermal, reservoir characterization, horizontal wells in improved recovery projects, chemical/polymer injection and process modeling/simulation. 85 papers are expected to be presented in 15 different sessions.

Richard D. Rogus,

Contracting Officer, Acquisition and Assistance Division.

[FR Doc. 93-27289 Filed 11-4-93; 8:45 am]

BILLING CODE 6450-01-M

Alaska Power Administration

Eklutna Project Power Marketing Plan

AGENCY: Alaska Power Administration, Department of Energy.

ACTION: Final marketing plan.

SUMMARY: The final marketing plan for the sale of power and energy from the Eklutna Project is published herein together with a discussion of the issues raised during the public comment process. Alaska Power Administration (APA) published the Draft Marketing Plan—Eklutna Project in the **Federal Register** on September 10, 1993 (58 FR 47726) to start the process to establish new allocations of power and long-term power sales contracts for the Eklutna Project. The new contracts will replace contracts which have been in place since 1979 and which expire at the end of December 1993. APA is in the process of temporarily extending the current contracts one year, until the end of December 1994. During this one year period, APA will establish new long-term Power Sales Contracts. The Marketing Plan and the new contracts are fully compatible with the Department of Energy legislative proposal on APA divestiture.

FOR FURTHER INFORMATION:

I. Background and Remaining Process

APA published the Draft Marketing Plan—Eklutna Project in the **Federal Register** on September 10, 1993 (58 FR 47726). A public information and comment forum was held September 30, 1993. Two representatives from the existing customers attended the meeting. One comment was received. Written comments were accepted until October 12, 1993. No written comments were received. A discussion of the comments is presented in Section III.

APA has considered the comments received and is publishing herein the Final Marketing Plan—Eklutna Project. This **Federal Register** notice also formally established allocations for Eklutna power and energy in accordance with the plan. Activities remaining are:

1. Sign long-term power sales contracts with customers receiving allocations.

II. Discussion of Public Comments and Summary of Revisions

APA received no written comments on the Draft Marketing Plan.

1. *Comment:* Matanuska Electric Association has reviewed the draft, and they support the content of the draft.

Discussion: APA appreciates the support of its customers.

III. Final Marketing Plan—Eklutna Project

A. General

APA is establishing new allocations of power and long-term power sales contracts for the Eklutna Project. The new contracts will replace contracts which have been in place since 1979 and which expire at the end of December 1993. APA is in the process of temporarily extending the current contracts one year, until the end of December 1994. During this one year period, APA will complete finalizing of the marketing plan, grant new power allocations and establish new long-term power sales contracts.

The Eklutna Project authorization (64 Stat. 382) establishes the general criteria for marketing project power and energy. This marketing plan describes APA's implementation policies for these legislated marketing criteria.

Department of Energy (DOE) regulations for the National Environmental Policy Act (NEPA) (10 CFR part 1021) require that an Environmental Assessment (EA) be prepared for long-term power sales contracts. APA has prepared an EA. DOE has approved the EA, and a Finding of No Significant Impact has been issued. APA has an agreement with Anchorage Water and Wastewater Utility (AWWU) for diversion of water from Eklutna Lake for municipal drinking water. These diversions are under a separate long-term agreement between APA and AWWU. This plan will not alter the agreement with AWWU.

B. Background

APA markets power and energy from the Eklutna Project. The project was authorized by Congress in 1950. Construction of the project was completed by the U.S. Bureau of Reclamation in 1955. Since construction, Eklutna has served three customer utilities in the Anchorage/Mat-Su area: Anchorage Municipal Light and Power (ML&P), Chugach Electric Association (CEA), and Matanuska Electric Association (MEA). At the time it was completed, the Eklutna Project provided about 30% of the Anchorage area electrical supply. Since that time, the area has grown to the point that the project now provides approximately 5% of the area's electrical energy. In 1986 the Federal government formally proposed the sale of the Eklutna Project. A purchase agreement for the Eklutna Project was negotiated and signed with the three customer utilities in 1989. The divestiture of the Federal project will be submitted for Congressional consideration and approval this year. The Marketing Plan and the subsequent power sales contracts will be compatible with the divestiture proposal. Under terms of the Eklutna Purchase Agreement, the new owners will take over APA's rights and allocation obligations under the new power sales contracts when they acquire ownership of the project.

C. Objectives

The objectives of this plan are to establish the criteria and process for

allocating power from APA's Eklutna Project in accordance with provisions set forth in the Eklutna Project authorizing legislation. Such provisions include instructions to market power so as to (1) encourage the most widespread use; (2) do so at lowest possible rates to consumers consistent with sound business principles; and (3) give preference to Federal agencies, public bodies, and cooperatives. An additional objective of the plan is to facilitate implementation of the divestiture if and when Congress approves the measure.

D. Marketable Resources

This plan shall become effective on approval by Alaska Power Administration's (APA) Administrator and will apply to all power marketed by APA from the Eklutna Project.

The energy production and generation capacity from the Eklutna Project is:

Firm energy—153 Gwh
Capacity—30 MW

The marketable resource was derived from the capacity of the Eklutna Project based on average hydrologic conditions. Project requirements such as project use and transmission losses have been subtracted from this.

E. Market Area

The market area for power from the Eklutna Project is the Anchorage/Matanuska Valley area, i.e. the area served by ML&P, CEA, and MEA.

F. Classes of Service

APA offers long-term firm energy with capacity. APA will market average energy as firm energy. Any portion of a contractor's allocation which cannot be delivered by APA due to hydrologic conditions may be carried over to the following year. APA offers no commitment which would require APA to purchase energy or capacity.

G. Proposed Allocations

Since construction of the Project, APA has served the three customer utilities with the same allocations of energy and capacity. Due to the relatively small size of the Eklutna Project and the limited nature of the resource, APA proposes to retain the existing allocations:

1. Anchorage Municipal Light & Power.	81.6 gWh	16 MW.
2. Chugach Electric Association.	45.9 gWh	9 MW.
3. Matanuska Electric Association.	25.5 gWh	5 MW.
Total	153 gWh	30 MW.

All are preference customers within the market area. There is no new resource available from the Eklutna Project for increased allocations to existing customers or allocations to new customers. This allocation is consistent with the divestiture purchase agreement which provides for sale and ownership of the project to these three utilities in this ratio.

H. Integrated Resource Planning

The electric service contracts will contain provisions that will incorporate the Eklutna Project resources in the overall resource planning of the area. This will allow for better utilization of the Eklutna Project's resources, and at the same time minimize the additional resources that may be needed in the area.

I. Contract Arrangements

Entitles receiving an allocation of Eklutna resources will be offered an electric service contract for the allocated resource based on this plan. Consideration will be given to contract terms of up to twenty years and that include "take or pay" provisions, a flat fee provision, or other arrangements subject to the integrity of the project and availability of the resource.

Delivery points will be on the Eklutna transmission system. Normal delivery will be made at Eklutna transmission voltages. Deliveries may continue to be made at subtransmission voltages at powerplant, substation, and tap locations where contractors already have systems operating at such lower voltage levels. All costs for delivery of energy beyond the Eklutna transmission system will be the responsibility of the contractor.

J. Reallocations

Resources made available for marketing because an allocation(s) has been reduced or withdrawn may be administratively reallocated by APA's Administrator without further public process.

Issued at Juneau, Alaska; August 12, 1993.

Michael A. Deihl,

Administrator.

[FR Doc. 93-27287 Filed 11-4-93; 8:45 am]

BILLING CODE 6450-01-P

Federal Energy Regulatory Commission

[Docket Nos. ER93-456-001, et al.]

Electric Rate, Small Power Production, and Interlocking Directorate Filings; Union Light Heat and Power Co., et al.

October 29, 1993.

Take notice that the following filings have been made with the Commission:

[Docket No. ER93-456-001]

1. Union Light Heat and Power Company

Take notice that on October 25, 1993, Union Light Heat and Power Company (Union) tendered for filing its refund report in the above-referenced docket.

Comment date: November 12, 1993, in accordance with Standard Paragraph E at the end of this notice.

[Docket No. ER94-46-000]

2. Public Service Company of Colorado

Take notice that on October 21, 1993, Public Service Company of Colorado (Public Service) tendered for filing a letter to cancel existing Rate Schedule FERC No. 10 between Public Service and Chenyenne Light, Fuel and Power Company.

Comment date: November 12, 1993, in accordance with Standard Paragraph E at the end of this notice.

[Docket No. ER94-45-000]

3. Public Service Company of Colorado

Take notice that on October 21, 1993, Public Service Company of Colorado (Public Service) tendered for filing a letter to cancel existing Rate Schedule FERC No. 39 between Public Service and the City of Colorado-Ute Electric Association, Incorporated.

Comment date: November 12, 1993, in accordance with Standard Paragraph E at the end of this notice.

[Docket No. ER93-596-000]

4. The Montana Power Company

Take notice that on October 25, 1993, The Montana Power Company (Montana) tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.13 an amendment to its original filing of a "Firm Capacity and Energy Sales Agreement Between The Montana Power Company and Sierra Pacific Power Company"; and a "Firm Capacity and Energy Sales Agreement Between The Montana Power Company and PacifiCorp." This amended filing provides a change in the energy rate ceiling specified within the Agreements. Both Agreements have terminated under their own terms and conditions.

Copies of the filing were served upon Sierra Pacific Power Company and PacifiCorp.

Comment date: November 12, 1993, in accordance with Standard Paragraph E at the end of this notice.

[Docket No. ER94-44-000]

5. Public Service Company of Colorado

Take notice that on October 21, 1993, Public Service Company of Colorado

(Public Service) tendered for filing a letter to cancel existing Rate Schedule FERC No. 43 between Public Service and the City of Colorado Springs, Colorado.

Comment date: November 12, 1993, in accordance with Standard Paragraph E at the end of this notice.

[Docket No. ER92-429-001]

6. Torco Energy Marketing, Inc.

Take notice that on October 12, 1993, Torco Energy Marketing, Inc. filed certain information as required by the Federal Energy Regulatory Commission's September 7, 1989, order in this proceeding, 48 FERC ¶ 61,294 (1989). Copies of the Torco Energy Marketing, Inc. filing are on file with the Commission and are available for public inspection.

[Docket No. ER93-355-000]

7. Tucson Electric Power Company

Take notice that on October 25, 1993, Tucson Electric Power Company (Tucson) tendered for filing certain cost support and data, in connection with an Agreement for the Sale/Purchase of Energy (the Agreement) between Tucson and Louis Dreyfus Electric Power Inc. (LDEP). The Agreement provides for the sale of capacity and energy by Tucson to LDEP under flexible arrangements commencing February 1993.

The filing is made to (i) include Tucson's response to additional cost support and data requests received from the Commission's Staff. The parties request an effective date of February 3, 1993, and therefore request waiver of the Commission's regulations with respect to notice of filing.

Copies of this filing have been served upon all parties affected by this proceeding.

Comment date: November 12, 1993, in accordance with Standard Paragraph E at the end of this notice.

[Docket No. ER94-49-000]

8. Iowa Southern Utilities Company

Take notice that Iowa Southern Utilities Company (ISU) on October 25, 1993, tendered for filing an Electric Service Agreement, dated October 13, 1993, between ISU and the City of New London, Iowa. Electrical service under this Agreement will be provided pursuant to ISU's FERC Electric Tariff and Rate No. 52 for Interruptible Wholesale Power.

Comment date: November 12, 1993, in accordance with Standard Paragraph E at the end of this notice.

[Docket No. ER93-497-000]

9. Tucson Electric Power Company

Take notice that on October 25, 1993, Tucson Electric Power Company (Tucson) tendered for filing certain cost support and data, in connection with a Wholesale Power Sales Agreement (the Agreement) between Tucson and the Navajo Tribal Utility Authority (NTUA). The Agreement provides for the sale of capacity and energy by Tucson to NTUA commencing June 1993.

The filing is made to (i) include Tucson's response to additional cost support and data requests received from the Commission's Staff. The parties request an effective date of June 1, 1993, and therefore request waiver of the Commission's regulations with respect to notice of filing.

Copies of this filing have been served upon all parties affected by this proceeding.

Comment date: November 12, 1993, in accordance with Standard Paragraph E at the end of this notice.

[Docket No. FA93-11-001]

10. Midwest Power Systems, Inc.

Take notice that on October 25, 1993, Midwest Power Systems, Inc. tendered for filing its refund report in the above-referenced docket.

Comment date: November 12, 1993, in accordance with Standard Paragraph E at the end of this notice.

[Docket No. ER94-50-000]

11. PacifiCorp

Take notice that PacifiCorp, on October 25, 1993, tendered for filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, the calculation of the annual facilities charge pursuant to Section 2.9 of the Agreement for Mitigation of Major Loop Flow among PacifiCorp, Pacific Gas and Electric Company (PG&E) and Southern California Edison Company (SCE), PacifiCorp Rate Schedule FERC No. 298.

Copies of this filing were supplied to PG&E, SCE, the Public Utility Commission of Oregon, the Utah Public Service Commission and the Public Utilities Commission of the State of California.

Comment date: November 12, 1993, in accordance with Standard Paragraph E at the end of this notice.

[Docket No. ER94-53-000]

12. Northeast Utilities Service Company

Take notice that on October 25, 1993, Northeast Utilities Service Company (NUSCO) on behalf of the Connecticut Light and Power Company (CL&P), Western Massachusetts Electric Company (WMECO), and Public Service Company of New Hampshire (PSNH) tendered for filing a letter agreement that amended their sales agreement with Niagara Mohawk Power Corporation (Niagara).

NUSCO states that a copy of this information has been mailed to Niagara.

NUSCO requests that the Commission waive its regulations to the extent necessary.

Comment date: November 12, 1993, in accordance with Standard Paragraph E end of this notice.

[Docket No. ER94-52-000]

13. The Upper Peninsula Power Company

Take notice that on October 25, 1993, the Upper Peninsula Power Company (UPPO) tendered for filing proposed changes in the rate schedules for service to the Alger-Delta Cooperative Electric Association, The Ontonagon County Rural Electrification Association, Village of Baraga, City of Escanaba, City of Gladstone, Village of L'Anse, City of Negaunee, Edison Sault Electric Company, and Wisconsin Electric Power Company.

The Upper Peninsula Power Company asserts that the filing is in accordance with part 35 of the Commission's Regulations. UPPO states that the schedule in the rate filed will supersede the schedule presently on file with this Commission.

The proposed changes would decrease revenues for these jurisdictional sales based on 12 months ended December 31, 1993 by $848,343. UPPCO proposes that the rate decrease become effective January 1, 1994.

Copies of the filing were served upon UPPCO's affected jurisdictional customers, and the Michigan Public Service Commission.

Comment date: November 12, 1993, in accordance with Standard Paragraph E at the end of this notice.

[Docket No. ER94-48-000]

14. Northeast Utilities Service Company and Public Service Company of New Hampshire

Take notice that on October 22, 1993, Northeast Utilities Service Company (NUSCO) on behalf of The Connecticut Light and Power Company (CL&P) and Public Service Company of New Hampshire (PSNH), submitted an Addendum and Letter Agreement both dated October 22, 1993, which provide for changes to a Short Term Supply Agreement with New York Power Authority (NYPA).

NUSCO states that copies of its submission have been mailed or delivered to New York Power Authority.

Comment date: November 12, 1993, in accordance with Standard Paragraph E at the end of this notice.

[Docket No. ER93-161-000]

15. Puget Sound Power & Light Company

Take notice that on October 20, 1993, Puget Sound Power & Light Company (Puget) tendered for filing, in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, an amendment to its filing in the docket referenced above. Puget has provided additional information concerning the allocation of costs among the Owners of the Centrallia Project.

Puget requests a waiver of the Commission's requirements of prior notice pursuant to 18 CFR 35.11.

Copies of this filing have been supplied to the Centrallia Owners, the Public Utility Commission of Oregon, the Utah Public Service Commission and the Washington Utilities and Transportation Commission.

Comment date: November 12, 1993, in accordance with Standard Paragraph E end of this notice.

16. East Syracuse Generating Company, Inc.

[Docket No. QF91-147-001]

On October 26, 1993, East Syracuse Generating Company, Inc. tendered for filing a supplement to its filing in this docket.

The supplement pertains to the ownership structure of its cogeneration facility. No determination has been made that the submittal constitutes a complete filing.

Comment date: November 19, 1993, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93-27193 Filed 11-4-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. JD94-00812T California-5]

California; NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formations

November 1, 1993.

Take notice that on October 25, 1993, the California Division of Oil, Gas and Geothermal Resources of the Department of Conservation (California) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Brown Shale, Antelope Shale and McDonald Shale of the Lost Hills Field, Kern County, California, qualify as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The proposed area underlie approximately 390 acres of the Brown Shale, Antelope Shale and McDonald Shale in the Lost Hills Field described as follows:

Township 27 South, Range 21 East

Section 5: S/2 of S/2 of SW/4.
Section 8: N/2 of N/2 of S/2.
Section 9: S/2 of NW/4 of NW/4 and NW/4 of NW/4 of NW/4.
Section 14: W/4 of N/2 of N/2.
Section 15: N/2 of N/2 of NW/4 and S/2 of NE/4 of NW/4 and SW/4 of NW/4 of NW/4.
Section 17: E/4 of N/2 of N/2.
Section 23: NW/4 of NW/4 of NW/4 and S/2 of N/2 of N/2.

The notice of determination also contains California's findings that the referenced portions of the Brown Shale, Antelope Shale and McDonald Shale meet 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. 93-27212 Filed 11-4-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP93-14-000, et al., RP93-126-000, et al., RP87-14-000, et al., RP86-41-000, et al.]

Algonquin Gas Transmission Co.; Informal Settlement Conference

November 1, 1993.

Take notice that an informal settlement conference will be convened in these proceedings on November 10, 1993 at 10 a.m. at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC, 20426, for the purpose of exploring the possible settlement of the issues in this proceeding.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined by 18 CFR 385.102(b), is invited to attend. persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact Marc G. Denkinger (202) 208-2215 or David R. Cain (202) 208-0917.

Lois D. Cashell,

Secretary.

[FR Doc. 93-27214 Filed 11-4-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP94-41-000]

ANR Pipeline Co., Midwestern Gas Transmission Co.; Application

October 29, 1993.

Take notice that on October 25, 1993, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, and Midwestern Gas Transmission Company (Midwestern), The Tenneco Building, 1010 Milam, Houston, Texas 77002, filed an application with the Commission in Docket No. CP94-41-000 pursuant to section 7(b) of the Natural Gas Act (NGA) for permission and approval to abandon an exchange service authorized in Docket No. G-20353,[1] all as more fully set forth in the application which is open to public inspection.

ANR and Midwestern propose to abandon an exchange service performed under their respective FERC Rate Schedules X-2 and EX-1. ANR and Midwestern are authorized to exchange natural gas on an as-needed basis at an interconnection of their pipeline facilities in Spencer County, Indiana. No facilities are proposed to be abandoned.

Any person desiring to be heard or to make any protest with reference to said application should on or before

[1] See order at 23 FPC 548 (1960).

November 19, 1993, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceedings. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the NGA and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for ANR or Midwestern to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93-27208 Filed 11-4-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP94-45-000]

ANR Pipeline Co.; Request Under Blanket Authorization

November 1, 1993.

Take notice that on October 27, 1993, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP94-45-000 a request pursuant to §§ 157.205 and 157.208 and 157.211 of the Commission's Regulations under the Natural Gas Act (NGA) (18 CFR 157.205, 157.208, and 157.211) for authorization to operate under the provisions of section 7 of the NGA certain facilities which have been constructed pursuant to section 311 of the Natural Gas Policy Act of 1978, all as more fully set forth in the request on file with the Commission and open to public inspection.

The subject facilities, called the Litchfield Lateral, are located in Branch, Hillsdale and Jackson Counties, Michigan. It is stated that these facilities consist of approximately 30.8 miles of 12-inch and 0.1 miles of 8-inch diameter pipeline commencing at a point of interconnection with existing pipeline facilities operated by ANR proximate to the town of Coldwater, located in Branch County, Michigan. The Litchfield Lateral traverses in a northeasterly direction terminating at a point of interconnection with the Jackson Pipeline proximate to the town of Hanover, located in Jackson County, Michigan. It is further stated the Litchfield Lateral includes gas regulation facilities at a point on the existing pipeline facilities proximate to the Litchfield Lateral as well as related measurement and appurtenant facilities. It is further stated that the Litchfield Lateral has a design flow of 22 MMcf per day during the summer months and 51 MMcf day during the winter months. The maximum capacity of the Litchfield Lateral is approximately 64 MMcf per day, it is stated.

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 Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 93-27211 Filed 11-4-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP94-12-000]

Columbia Gas Transmission Corp.; Request Under Blanket Authorization

November 1, 1993.

Take notice that on October 7, 1993, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP94-12-000, as supplemented on October 26, 1993, a request pursuant to § 157.205 of the Commission's Regulations to construct and operate an additional point of delivery for interruptible transportation service for Corhart Refractories (Corhart), an end user, in Upshur County, West Virginia under Columbia's blanket certificate issued in Docket No. CP83-76-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Columbia proposes to construct and operate a 2-inch tap, a 4-inch meter, a filter separator and less than 20 feet of 3-inch pipeline for the delivery of up to 900 dth per day of natural gas and 328,500 dth per year of natural gas, on an interruptible basis, to serve Corhart, an industrial customer, in Upshur County, West Virginia at an estimated cost of $24,000 which would be reimbursed by Corhart. Columbia states that the additional delivery point has been requested by Corhart for interruptible transportation service for industrial use to be provided under Columbia's Rate Schedule ITS for Energy Production Company, the proposed shipper.

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 Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 93-27206 Filed 11-4-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP94-30-000]

Missouri Public Service Division of UtiliCorp United Inc. and Kansas Public Service Division of UtiliCorp United Inc. v. Williams Natural Gas Co.; Complaint

November 1, 1993.

Take notice that on October 26, 1993, pursuant to rules 206 and 212 of the

Commission's rules of practice and procedure, sections 1(b) and 16 of the Natural Gas Act, and section 311 of the Natural Gas Policy Act, Missouri Public Service Division of UtiliCorp United Inc. (MPS) and Kansas Public Service Division of UtiliCorp United Inc. (KPS) filed a complaint against Williams Natural Gas Company (WNG) and request the Commission to: (1) Consolidate this complaint proceeding with Docket Nos. RS92-12-000, *et al.*; and (2) issue an order requiring WNG, *inter alia*, to sell certain quantities of natural gas to MPS and KPS at the embedded cost of WNG's storage gas as of September 30, 1993.

WNG's answer is due on or before November 8, 1993. Any person desiring to comment on said complaint should file a motion to intervene and their comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 206 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214, 385.206. All such motions must be filed on or before November 8, 1993.

Lois D. Cashell,

Secretary.

[FR Doc. 93-27215 Filed 11-4-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP94-40-000]

Northwest Pipeline Corp.; Request Under Blanket Authorization

November 1, 1993.

Take notice that on October 25, 1993, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84158, filed in Docket No. CP94-40-000 a request pursuant to § 157.205 of the Commission's Regulations to abandon by sale its existing Prineville Lateral in Jefferson and Crook Counties, Oregon to Cascade Natural Gas Corporation (Cascade), a local distribution company, under Northwest's blanket certificate issued in Docket No. CP82-433-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Northwest proposes to abandon the Prineville Lateral consisting of approximately 23,263 feet of 6⅝-inch pipeline and approximately 185 feet of 10¾-inch casing extending from Pacific Gas Transmission Company's Prineville Meter Station in Jefferson County, Oregon to Cascade's 6-inch distribution line in Crook County, Oregon. Northwest states that Northwest has agreed to sell, at Cascade's request, the Prineville Lateral to Cascade for $17,162 pursuant to a Facilities Sales Agreement dated August 14, 1992. Northwest states that the sale of the Prineville Lateral to Cascade would enable Cascade to avoid a system wide transportation charge for service on a short lateral that is not directly connected to Northwest's mainline system.

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 Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 93-27207 Filed 11-4-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP94-42-000]

Richfield Gas Storage System; Request Under Blanket Authorization

October 29, 1993.

Take notice that on October 26, 1993, Richfield Gas Storage System (Richfield), 4200 E. Skelly Drive, Suite 560, Tulsa, Oklahoma 74135, filed in Docket No. CP94-42-000 a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to construct a delivery tap and side valve for the delivery of gas for GPM Gas Trading Company in Stevens County, Kansas, under Richfield's blanket certificate issued in Docket No. CP93-679-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Richfield states that the quantity of gas is estimated to be 1,000,000 Mcf on an annual basis and 51,000 Mcf on a peak day. It is stated that there would be no significant impact on its peak day or annual deliveries. The rate charged would be pursuant to its Firm Rate Schedule FSS-1.

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 Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93-27209 Filed 11-4-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP94-43-000]

Texas Gas Transmission Corp., Texas Eastern Transmission Corp.; Application

November 1, 1993.

Take notice that on October 27, 1993, Texas Gas Transmission Corporation (Texas Gas), P.O. Box 1160, Owensboro, Kentucky 42302, and Texas Eastern Transmission Corporation (Texas Eastern), P.O. Box 1642, Houston, Texas 77251-1642, jointly referred to as Applicants, filed in Docket No. CP94-43-000 an application pursuant to section 7(b) of the Natural Gas Act, for permission and approval to abandon certain services that they were authorized to perform for Chevron, U.S.A., Inc., all as more fully set forth in the application on file with the Commission and open to public inspection.

Texas Gas was authorized in Docket No. CP81-450-000, to transport firm volumes of natural gas through its capacity in the High Island Offshore System (HIOS) from a point of receipt at the interconnection of Chevron's line and a sub-sea valve of HIOS' system in Block A-408 High Island Area, offshore Texas, to a point of delivery at the terminus of HIOS' system in Block 167, West Cameron Area, offshore Louisiana. The certificate also authorized an exchange service between Texas Gas and Texas Eastern. It is stated that the exchange authorized Texas Gas to retain the gas it delivered at the terminus of HIOS in Block 167 and redeliver equivalent volumes of gas to Texas Eastern at an existing interconnection

between the Applicants, located near Eunice, Evangeline Parish, Louisiana. The Applicants state that the purpose of the transactions proposed to be abandoned herein, was to allow Chevron to exercise its right of recall under a gas purchase contract with Texas Gas, dated May 13, 1980. It is further stated, that Chevron retained the right of recall in order to honor a warranty contract between Chevron and Texas Eastern, dated January 6, 1964.

The Applicants state they are proposing to abandon the transportation and exchange services herein described, because the agreements to provide those services have expired.

No facilities are proposed to be abandoned herein.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 22, 1993, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the National Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the Applicants to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 93-27210 Filed 11-4-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. PR93-4-000]

Transok, Inc.; Informal Settlement Conference

November 1, 1993.

Take notice that an informal settlement conference in the above-captioned proceeding will be held on Monday, December 6, 1993, at 1 p.m., with the possibility of extending to Tuesday, December 7, 1993, in a room to be designated at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

Attendance will be limited to the parties and staff. For additional information, please contact Mark Hegerle at (202) 208-0927.

Lois D. Cashell,

Secretary.

[FR Doc. 93-27213 Filed 11-4-93; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

[FE Docket No. 93-111-NG]

Altresco Pittsfield, L.P.; Order Granting Blanket Authorization to Import and Export Natural Gas From and To Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Altresco Pittsfield, L.P. (Altresco Pittsfield) authorization to import up to 25.5 Bcf and to export up to 25.5 Bcf of natural gas from and to Canada over a two-year term beginning on the date of the first import or export, after October 31, 1993, whichever is earlier. The imported volumes would be consumed in an electric cogeneration facility operated by Altresco Pittsfield in Pittsfield, Massachusetts.

This order is available for inspection and copying in the Office of Fuels Programs docket room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 28, 1993.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 93-27300 Filed 11-4-93; 8:45 am]

BILLING CODE 6450-01-P

[FE Docket No. 93-105-NG]

ANR Gas Supply Co.; Blanket Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting ANR Gas Supply Company blanket authorization to import up to 250 Bcf of natural gas from Canada over a two-year term beginning on the date of the first delivery.

This order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC on October 28, 1993.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 93-27299 Filed 11-4-93; 8:45 am]

BILLING CODE 6450-01-P

[FE Docket No 93-112-NG]

Grand Valley Gas Co.; Order Granting Blanket Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of an order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Grand Valley Gas Company authorization to import up to 75 billion cubic feet of natural gas from Canada over a two-year term beginning on the date of first delivery after October 31, 1993.

This order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 28, 1993.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 93-27303 Filed 11-4-93; 8:45 am]

BILLING CODE 6450-01-P

[FE Docket No. 93-106-NG]

Granite State Gas Transmission, Inc.; Order Granting Blanket Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of an order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Granite State Gas Transmission, Inc. authorization to import up to 25 billion cubic feet of natural gas from Canada over a two-year term beginning on the date of first import delivery after November 1, 1993.

This order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 28, 1993.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 93-27295 Filed 11-4-93; 8:45 am]

BILLING CODE 6450-01-P

[FE Docket No. 93-96-NG]

Montana Power Co.; Order Granting Long-Term Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Montana Power Company long-term authorization to import from Canada up to 1,060 Mcf per day of natural gas over a period of ten years beginning January 1, 1994 through December 31, 2004.

This order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC on October 21, 1993.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 93-27297 Filed 11-4-93; 8:45 am]

BILLING CODE 6450-01-P

[FE Docket No. 93-114-NG]

Northern Natural Gas Co.; et al.; Authorizations To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order reassigning to eight companies the natural gas import authority previously granted to Northern Natural Gas Company by DOE/FE Opinion and Order No. 514, issued June 24, 1991 (1 FE ¶ 70,460). The reassignment will facilitate Northern's compliance with the unbundling requirements of Order 636, the pipeline services restructuring rule issued by the Federal Energy Regulatory Commission.

The order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 29, 1993.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 93-27302 Filed 11-4-93; 8:45 am]

BILLING CODE 6450-01-P

[FE Docket No. 93-113-NG]

Northern Natural Gas Co. et al.; Authorizations To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order reassigning to thirteen companies the natural gas import authority previously granted to Northern Natural Gas Company by DOE/FE Opinion and Order No. 465, issued December 20, 1990 (1 FE ¶ 70,393). The reassignment will facilitate Northern's compliance with the unbundling requirements of Order 636, the pipeline services restructuring rule issued by the Federal Energy Regulatory Commission.

The order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 29, 1993.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 93-27304 Filed 11-4-93; 8:45 am]

BILLING CODE 6450-01-P

[FE Docket No. 93-97-NG]

Panhandle Eastern Pipe Line Co.; Order Granting Blanket Authorization to Export and Reimport Natural Gas To and From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of an order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Panhandle Eastern Pipe Line Company blanket authorization to export and reimport up to 5 billion cubic feet of natural gas annually to and from Canada over a two-year term beginning on the date of the first delivery of either exports.

This order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 28, 1993.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 93-27294 Filed 11-4-93; 8:45 am]

BILLING CODE 6450-01-P

[FE Docket No. 93-87-NG]

Progas U.S.A., Inc.; Order Granting Long-Term Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting ProGas U.S.A., Inc. authorization to import, at Emerson, Manitoba, up to

75,000 Mcf per day of Canadian natural gas, beginning on the date of the order, and extending until October 31, 2003. This gas will be resold to Comsumers Power Company, a local distribution company which serves residential and commercial customers in Michigan.

This order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 28, 1993.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 93-27293 Filed 11-4-93; 8:45 am]

BILLING CODE 6450-01-P

[FE Docket No. 93-102-NG]

Sierra Pacific Power Co.; Order Granting Blanket Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of an order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Sierra Pacific Power Company authorization to import up to 60 billion cubic feet of natural gas from Canada over a two-year term beginning on the date of first import after January 11, 1994.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 28, 1993.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 93-27298 Filed 11-4-93; 8:45 am]

BILLING CODE 6450-01-P

Office of Hearings and Appeals

Proposed Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of proposed implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces the proposed procedures for the disbursement of $200,000, plus accrued interest, obtained by the DOE under the terms of a settlement agreement entered into with the consolidated bankruptcy estate of Ted True, Inc. and Ted W. True (Case No. LEF-0115). The OHA has tentatively determined that the funds will be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges, 51 FR 27899 (August 4, 1986).

DATES AND ADDRESSES: Comments must be filed in duplicate within 30 days of publication of this notice in the **Federal Register** and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. All comments should display a reference to case number LEF-0115.

FOR FURTHER INFORMATION CONTACT: Thomas L. Wieker, Deputy Director, Office of Hearings and Appeals, 1000 Independence Ave., SW., Washington, DC 20585, (202) 586-2390.

SUPPLEMENTARY INFORMATION: In accordance with section 205.282(b) of the procedural regulations of the Department of Energy (DOE), 10 CFR § 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision and Order sets forth the procedures that the DOE has tentatively formulated to distribute $200,000, plus accrued interest, that has been remitted by the consolidated bankruptcy estate of Ted True, Inc. and Ted W. True to the DOE. The DOE is currently holding the funds in an interest bearing account pending distribution.

The DOE has tentatively determined to distribute these funds in accordance with the DOE's Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges, 51 FR 27899 (August 4, 1986). Under the Modified Policy, crude oil overcharge monies are divided among the states, federal government, and injured purchasers of refined products. Under the plan we are proposing, refunds to the states will be in proportion to each state's consumption of petroleum products during the period of price controls. Refunds to eligible purchasers will be based on the number of gallons of petroleum products that they purchased and the extent to which they can demonstrate injury.

Applications for Refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of the publication in the **Federal Register**, and should be sent to the address set forth at the beginning of this notice. All comments received will be available for public inspection between the hours of 1 p.m. through 5 p.m., Monday through Friday, except federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in room 1E-234, 1000 Independence Avenue, SW., Washington, DC 20585.

Dated: October 29, 1993.

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

Names of Firms: Ted True, Inc. and Ted W. True.

Date of Filing: October 7, 1993.

Case Number: LEF-0115.

October 29, 1993.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special refund procedures. 10 C.F.R. § 205.281. These procedures are used to refund monies to those injured by actual or alleged violations of the DOE price regulations.

In this Decision and Order, we consider a Petition for Implementation of Special Refund Procedures filed by the ERA on October 7, 1993 for crude oil overcharge funds. The funds at issue in this Petition were obtained from the consolidated bankruptcy estate of Ted True, Inc. and Ted W. True (hereafter collectively referred to as "True"). This Office issued a Remedial Order against True for violations of the crude oil price regulations during the period from June 1979 through November 1980. *Ted True, Inc., et al.*, 15 DOE ¶ 83,032 (1987). On October 25, 1990, the United States Bankruptcy Court for the Northern District of Texas issued an order approving a compromise and settlement agreement between the Trustee for True and the DOE. In this agreement, the

Trustee for True agreed to pay $200,000 to the DOE in order to resolve the DOE's claim without the expense and inconvenience of further judicial proceedings. The total amount was received by the DOE on November 14, 1990. This Decision and Order establishes the OHA's procedures to distribute those funds.

The general guidelines which the OHA may use to formulate and implement a plan to distribute refunds are set forth in 10 C.F.R. Part 205, Subpart V. The Subpart V process may be used in situations where the DOE cannot readily identify the persons who may have been injured as a result of actual or alleged violations of the regulations or ascertain the amount of the refund each person should receive. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds, see *Office of Enforcement*, 9 DOE ¶ 82,508 (1981), and *Office of Enforcement*, 8 DOE ¶ 82,597 (1981). We have considered the ERA's request to implement Subpart V procedures with respect to the monies received from True and have determined that such procedures are appropriate.

I. Background

On July 28, 1986, the DOE issued a Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges, 51 Fed. Reg. 27899 (August 4, 1986) (the MSRP). The MSRP, issued as a result of a court-approved Settlement Agreement *In re: The Department of Energy Stripper Well Exemption Litigation*, M.D.L. No. 378 (D. Kan. 1986) (the Stripper Well Agreement), provides that crude oil overcharge funds will be divided among the states, the federal government, and injured purchasers of refined petroleum products. Under the MSRP, up to twenty percent of these crude oil overcharge funds will be reserved to satisfy valid claims by injured purchasers of petroleum products. Eighty percent of the funds, and any monies remaining after all valid claims are paid, are to be disbursed equally to the states and federal government for indirect restitution.

Shortly after the issuance of the MSRP, the OHA issued an Order that announced its intention to apply the Modified Policy in all Subpart V proceedings involving alleged crude oil violations. Order Implementing the MSRP, 51 Fed. Reg. 29689 (August 20, 1986). In that Order, the OHA solicited comments concerning the appropriate procedures to follow in processing refund applications in crude oil refund proceedings. On April 6, 1987, the OHA issued a Notice analyzing the numerous comments and setting forth generalized procedures to assist claimants that file refund applications for crude oil monies under the Subpart V regulations. 52 Fed. Reg. 11737 (April 10, 1987) (the April Notice).

The OHA has applied these procedures in numerous cases since the April Notice, i.e., *New York Petroleum, Inc.*, 18 DOE ¶ 85,435 (1988) (*NYP*); *Shell Oil Co.*, 17 DOE ¶ 85,204 (1988); *Ernest A. Allerkamp*, 17 DOE ¶ 85,079 (1988) (*Allerkamp*), and the procedures have been approved by the United States District Court for the District of Kansas as well as the Temporary Emergency Court of Appeals (TECA). In the case *In re: The Department of Energy Stripper Well Exemption Litigation*, various states filed a Motion with the Kansas District Court, claiming that the OHA violated the Stripper Well Agreement by employing presumptions of injury for end-users and by improperly calculating the refund amount to be used in those proceedings. *In re: The Department of Energy Stripper Well Exemption Litigation*, 671 F. Supp. 1318 (D. Kan. 1987), *aff'd*, 857 F. 2d 1481 (Temp. Emer. Ct. App. 1988). On August 17, 1987, Judge Theis issued an Opinion and Order denying the states' Motion in its entirety. The court concluded that the Stripper Well Agreement "does not bar [the] OHA from permitting claimants to employ reasonable presumptions in affirmatively demonstrating injury entitling them to a refund." *Id.* at 1323. The court also ruled that, as specified in the April Notice, the OHA could calculate refunds based on a portion of the M.D.L. 378 overcharges. *Id.* at 1323–24.

II. The Proposed Refund Procedures

A. Refund Claims

We now propose to apply the procedures discussed in the April Notice to the crude oil Subpart V proceeding that is the subject of the present determination. As noted above, an alleged crude oil violation amount of $200,000 plus interest, is covered by this proposed Decision. We have decided to reserve the full twenty percent of the alleged crude oil violation amount, or $40,000, plus interest, for direct refunds to claimants, in order to insure that sufficient funds will be available for refunds to injured parties.

The process which the OHA will use to evaluate claims based on alleged crude oil violations will be modeled after the process the OHA has used in Subpart V proceedings to evaluate claims based upon alleged overcharges involving refined products. *E.g., Mountain Fuel Supply Co.*, 14 DOE ¶ 85,475 (1986) (*Mountain Fuel*). As in non-crude oil cases, applicants will be required to document their purchase volumes of covered products and prove that they were injured as a result of the alleged violations. Generally, a covered product is any product that was covered by the Emergency Petroleum Allocation Act of 1973, 15 U.S.C. §§ 751–760, and was primarily produced at a crude oil refinery. *E.g., Anchor Continental, Inc.*, 22 DOE ¶ 85,003 (1992). Applicants who were end-users or ultimate consumers of petroleum products, whose businesses are unrelated to the petroleum industry, and who were not subject to the DOE price regulations are presumed to have been injured by any alleged crude oil overcharges. In order to receive a refund, end-users need not submit any further evidence of injury beyond the volume of petroleum products purchased during the period of price controls. *E.g., A. Tarricone, Inc.*, 15 DOE ¶ 85,495 at 88,893–96 (1987). However, the end-user presumption of injury can be rebutted by evidence which establishes that the specific end-user in question was not injured by the crude oil overcharges. *E.g., Berry Holding Co.*, 16 DOE ¶ 85,405 at 88,797 (1987). If an interested party submits evidence that is sufficient to cast serious doubt on the end-user presumption, the applicant will be required to produce further evidence of injury. *E.g., NYP*, 18 DOE at 88,701–03.

Reseller and retailer claimants must submit detailed evidence of injury, and may not rely on the presumptions of injury utilized in refund cases involving refined petroleum products. They can, however, use econometric evidence of the type employed in the *OHA Report to the District Court in the Stripper Well Litigation, reprinted in* 6 Fed. Energy Guidelines ¶ 90,507. Applicants who executed and submitted a valid waiver pursuant to one of the escrows established in the Stripper Well Agreement have waived their rights to apply for crude oil refunds under Subpart V. *Mid-America Dairyman, Inc.* v. *Herrington*, 878 F. 2d 1448 (Temp. Emer. Ct. App. 1989); *accord, Boise Cascade Corp.*, 18 DOE ¶ 85,970 (1989).

Refunds to eligible claimants who purchased refined petroleum products will be calculated on the basis of a volumetric refund amount derived by dividing the alleged crude oil violation amounts involved in this determination ($200,000) by the total consumption of petroleum products in the United States during the period of price controls (2,020,997,335,000 gallons). *Mountain Fuel*, 14 DOE at 88,868 n.4. This yields

a volumetric refund amount of $0.0000000989 per gallon.

As we stated in previous Decisions, a crude oil refund applicant will be required to submit only one Application for crude oil overcharge funds. *E.g., Allerkamp*, 17 DOE at 88,176. Any party that has previously submitted a refund Application in the crude oil refund proceedings need not file another Application. That previously filed Application will be deemed to be filed in all crude oil proceedings as the procedures are finalized. The DOE has established June 30, 1994 as the final deadline for filing an Application for Refund from the crude oil funds. *See* 58 Fed. Reg. 26,318 (May 3, 1993). It is the policy of the DOE to pay all crude oil refund claims filed within this deadline at the rate of $.0008 per gallon. However, while we anticipate that applicants that filed their claims within the original June 30, 1988 deadline will receive a supplemental refund payment, we will decide in the future whether claimants that filed later Applications should receive additional refunds. *E.g., Seneca Oil Co.*, 21 DOE ¶ 85,327 (1991). Notice of any additional amounts available in the future will be published in the **Federal Register**.

B. Payments to the States and Federal Government

Under the terms of the MSRP, we propose that the remaining eighty percent of the alleged crude oil violation amounts subject to this Decision, or $160,000, plus interest, should be disbursed in equal shares to the states and federal government for indirect restitution. The share or ratio of the funds which each state will receive is contained in Exhibit H of the Stripper Well Agreement. When disbursed, these funds will be subject to the same limitations and reporting requirements as all other crude oil monies received by the states under the Stripper Well Agreement.

It Is Therefore Ordered That: The refund amount remitted to the Department of Energy by the consolidated bankruptcy estate of Ted True, Inc. and Ted W. True pursuant to the order issued by the United States Bankruptcy Court for the Northern District of Texas on October 25, 1990 will be distributed in accordance with the foregoing Decision.

[FR Doc. 93-27290 Filed 11-4-93; 8:45 am]

BILLING CODE 6450-01-P

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-4705-3]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared October 18, 1993 through October 22, 1993 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 260-5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 10, 1993 (58 FR 18392).

Draft EISs

ERP No. D-AFS-K60024-00 Rating LO, Interagency Motor Vehicle Use Plan (IMVUP) Revision, Implementation, Acquisition for Land within the Inyo National Forest and Bishop Resource Area, Inyo, Madera, Tulare and Mono Counties CA and Esmeralda and Mineral Counties, NV.

Summary: EPA had no objections to the proposed plan.

ERP No. D-FHW-D40263-WV Rating EC2, US 52 (Tolsia Highway) Transportation Improvement, Kenova to Nolan (I-64 to US 119), Funding, Wayne and Mingo Counties, WV.

Summary: EPA expressed environmental concerns regarding the insufficient evaluation of secondary and cumulative impacts and the lack of documentation for direct impacts to wetlands.

ERP No. D-GSA-K81020-CA Rating EC2, Ronald Reagan Federal Building—United States Courthouse, Site Selection and Construction in the Central Business Area and Approval of Permits, City of Santa Ana, Orange County, CA.

Summary: EPA expressed environmental concerns on the project's potential impacts to air quality and the potential existence of hazardous substance contamination. EPA requested that the final EIS clarify these issues and provide additional pollution prevention information.

ERP No. D-NPS-K61126-AZ Rating LO, Tumacacori National Historical Park, General Management Plan (GMP), Implementation, Santa Cruz County, AZ.

Summary: EPA had no objections to the DEIS and commended the National Park Service for incorporating such design features as alternative energy sources, low flow toilets and native plant landscaping.

Final EISs

ERP No. FS-BLM-K00001-00, Ward Valley Low-Level Radioactive Waste Disposal Facility, Site Selection, Construction and Operation, Funding and Right-of-Way Grants, San Bernardino County, CA.

Summary: EPA requested that the Record of Decision clarify environmental health and safety issues, air quality impacts and measures to avoid or minimize impacts to the desert tortoise.

ERP No. FS-IBR-G32021-NM, Rio Grande-Velarde to Caballo Dam Operation and Maintenance, Updated Information on River Maintenance Program, Rio Grande and Middle Rio Grande Projects, Elephant Butte Reservoir, NM.

SUMMARY: EPA had no objections to the activities suggested in this final EIS document.

Dated: November 1, 1993.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 93-27312 Filed 11-4-93; 8:45 am]

BILLING CODE 6560-50-U

[ER-FRL-4705-2]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 260-5076 or (202) 260-5075.

Weekly receipt of Environmental Impact Statements Filed October 25, 1993 through October 29, 1993 pursuant to 40 CFR 1506.9.

EIS No. 930381, DRAFT EIS, DOE, CO, Flatiron-Erie 115-kV Electrical Transmission Line Replacement of Wood-Pole Structures, Construction, Operation and Right-of-Way Grant, City of Longmont, Larimer, Boulder and Weld Counties, CO, Due: December 20, 1993, Contact: Carol M. Borgstrom (202) 586-4600.

EIS No. 930382, DRAFT EIS, USA, WA, Fort Lewis and Yakima Training Center, Stationing of Mechanized or Armored Combat Forces, COE Section 10 and 404 Permits, Pierce, Thurston, Yakima and Kittitas Counties, WA, Due: December 20, 1993, Contact: Randall W. Hanna (206) 967-5646.

EIS No. 930383, DRAFT SUPPLEMENT, NPS, AZ, NV, Lake Mead National Recreation Area, General Management Plan, Updated Information on Willow Beach Development Concept Plan Amendment, Implementation, AZ and

CA, Due: January 4, 1994, Contact: Alan O'Neill (702) 293–8986.

EIS No. 930384, DRAFT EIS, NPS, OR, Fort Clatsop National Memorial General Management and Development Concept Plans, Implementation, Astoria, Clatsop County, OR, Due: January 7, 1994, Contact: Cynthia Orlando (503) 861–2471.

EIS No. 930385, FINAL EIS, BLM, OK, Oklahoma Comprehensive Land and Resource Management Plan for Oil and Gas Leasing and Development, Coal Tract Leasing, Townsite Disposal and Red River Management, Tulsa District, several Counties, OK, Due: December 6, 1993, Contact: Paul W. Tanner (405) 794–9624.

EIS No. 930386, DRAFT EIS, CGD, VA, Chesapeake Bay Parallel Crossing Project, Construction and Operation, US 13 between the Delmarva Peninsula and southeastern Virginia, Funding, COE Section 10 and 404 Permits and CGD Bridge Permit, Virginia Beach, Northampton County, VA, Due: December 20, 1993, Contact: Ann B. Deaton (804) 398–6222.

Amended Notices

EIS No. 930289, DRAFT EIS, AFS, AK, Shamrock Timber Sales, Timber Harvesting and Road Construction, Stikine Area, Kupreanof Island, Tongass National Forest, Implementation, AK, Due: November 22, 1993, Contact: Jim Thompson (907) 772–3871. Published FR–8–27–93—Review period extended.

Dated: November 1, 1993.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 93–27311 Filed 11–4–93; 8:45 am]

BILLING CODE 6560–50–U

[OPP–00369; FRL–4742–4]

Joint Science Advisory Board/FIFRA Scientific Advisory Panel; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of open meeting.

SUMMARY: Notice is hereby given that the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel (SAP) and members of the Science Advisory Board (SAB) will hold a 2–day meeting to review pertinent, available information and scientific issues being considered by the Agency in connection with a proposed methodology for measuring cholinesterases; proposed amendment to subdivision guidelines for an immunotoxicology screen; proposed revised guidelines for reproductive toxicity and the Standard Evaluation Procedure (SEP) for reproductive toxicity studies; proposed revised guidelines for developmental toxicity and the SEP for developmental toxicity studies; proposed guidelines for Dermal Absorption studies; and proposed revisions to guidelines for Inhalation Toxicity studies.

DATES: The meeting will be held on Tuesday, December 14 and Wednesday, December 15, 1993 starting at 8:30 a.m. each day, and adjourning not later than 5 p.m. each day.

ADDRESSES: The meeting will be open to the public and held at the Crystal Gateway Marriott, 1700 Jefferson Davis Highway, Arlington, VA. The telephone number is (703) 920–3230.

FOR FURTHER INFORMATION CONTACT: By mail: Robert B. Jaeger, Designated Federal Official, FIFRA Scientific Advisory Panel (7509C), Office of Pesticide Programs, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 819B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5369/5244.

Copies of documents relating to this review process, may be obtained by contacting: By mail: Public Docket and Freedom of Information Section, Field Operations Division (7506C), Office of Pesticide Programs, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 305–5805.

SUPPLEMENTARY INFORMATION: The agenda for the meeting will include the following topics, in the order given:

1. Information will be presented to the Panel regarding the results of the 5th Round-Robin laboratory testing of a proposed Standard Operating Procedure (SOP) and methodology for measuring cholinesterase activity. Nine laboratories participated in this effort, including labs from government, universities/institutions, chemical manufacturers, and contract commercial testing facilities. Results will be presented comparing data from organophosphate and carbamate inhibited samples of blood and brain tissues which were developed using the proposed SOP. Recommendations for adoption of this methodology as a guideline for measuring cholinesterases will be proposed.

2. A proposal to amend Subdivision F guidelines by providing an immunotoxicity screen for chemical pesticides will be presented. It is proposed that existing guidelines be modified by the inclusion of histopathology and weights of spleen and thymus, and either an anti-sheep red blood cell (SRBC) Plaque-forming assay or the enumeration of splenic lymphocyte populations.

3. Proposed revisions to guidelines for reproductive toxicity testing will discuss improving the existing guidelines by providing triggers for tiered testing of reproductive endpoints, as well as incorporating substantial changes recommended by an Agency workgroup.

4. A SEP for reproductive toxicity studies will address current operating procedures used to evaluate reproductive toxicology data submsitted to the Agency.

5. Proposed revisions to the guidelines for Developmental Toxicity testing, recommended by an Agency workgroup, include changes suggested to increase the sensitivity of the test protocol, and to correct some minor inadequacies in the present method.

6. A SEP for developmental toxicity studies will incorporate current risk assessment guidelines for developmental toxicity studies. It describes the review process, contains a glossary of terms, and provides illustrations of developmental effects to assist reviewers in forming consistent evaluations of developmental toxicity studies by Agency scientists.

7. Proposed revisions to a guideline for dermal absorption studies will be presented for consideration. The original draft of the guideline was published in Janurary 1991. Most recently, this guideline was made available to the public for review by announcement in the **Federal Register**, October 21, 1993 (58 FR 54350).

8. Proposed revisions to guidelines for inhalation toxicity studies includes the consideration of aerosol particle size limitations and a reduced limit concentration of 2 mg/l in a 4–hour acute study.

Any member of the public wishing to submit written comments should contact Robert B. Jaeger at the address or the telephone number given under **FOR FURTHER INFORMATION CONTACT** to be sure that the meeting is still scheduled and to confirm the Panel's agenda. Interested persons are permitted to file written statements before the meeting. To the extent that time permits and upon advance notice to the Designated Federal Official, interested persons may be permitted by the chairman of the FIFRA Scientific Advisory Panel to present oral statements at the meeting. There is no limit on written comments for consideration, but oral statements

before the Panel are limited to approximately 5 to 10 minutes. Since oral statements will be permitted only as time permits, the Agency urges the public to submit written comments in lieu of oral presentations. The public docket will be available for inspection in Rm. 1132 Bay at the address listed under **FOR FURTHER INFORMATION CONTACT** from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. All statements will be made part of the record and will be taken into consideration by the Panel.

Persons wishing to make oral and/or written statements should notify the Designated Federal Official and submit twenty copies of each no later than November 26, 1993, in order to ensure appropriate consideration by the Panel.

List of Subjects

Environmental protection.

Dated: October 29, 1993.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 93-27272 Filed 11-4-93; 8:45 am]

BILLING CODE 6560-50-F

[FRL-4798-2]

Science Advisory Board, Clean Air Scientific Advisory Committee; Emergency Notification of Public Meeting

This meeting is scheduled in place of the Clean Air Scientific Advisory Committee Meeting which was to take place October 25, 1993. The meeting was canceled due to last-minute scheduling conflicts with the participants. This emergency notice is being published in order to notify the public of the following meeting. Pursuant to the Federal Advisory Committee Act, Public Law 92-463, notice is hereby given that the Clean Air Scientific Advisory Committee will hold a planning meeting from 1 p.m. until 4 p.m. on November 18, 1993 at the Omni Hotel, 201 Foster Street, Durham, NC 27701, telephone 919/683-6664. At this meeting, the Committee will receive briefings from Agency personnel on the process and requirements for review of the air quality criteria document and staff position paper on ozone.

This meeting is open to the public but seating is limited and available on a first-come basis. Any member of the public wishing further information or who wishes to submit oral or written comments should contact the Designated Federal Official, Mr. Randall Bond, Science Advisory Board (1400), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; Telephone 202/260-8414; Fax 202/260-1889.

Dated: November 2, 1993.

Donald G. Barnes,

Staff Director, Science Advisory Board.

[FR Doc. 93-27414 Filed 11-4-93; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

October 28, 1993.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street, NW., suite 140, Washington, DC 20037 (202) 857-3800. For further information on this submission contact Judy Boley, Federal Communications Commission, (202) 632-0276. Persons wishing to comment on this information collection should contact Timothy Fain, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503, (202) 395-3561.

OMB Number: 3060-0395.

Title: Sections 43.21 and 43.22, Automated Reporting and Management Information Systems (ARMIS).

Report Numbers: FCC Reports 43-02, 43-05 and 43-07.

Action: Revision of a currently approved collection.

Respondents: Businesses or other for-profit.

Frequency of Response: Recordkeeping requirement, on occasion, quarterly and annual reporting requirements.

Estimated Annual Burden: 161 responses, 941 hours average burden per response, 151,714 hours total annual burden per response; 77 recordkeepers, 2 hours average burden per recordkeeper, 154 hours total annual burden per recordkeeper; = 151,868 hours total annual burden.

Needs and Uses: This submission is made to solicit OMB review and approval of the attached FCC Report 43-05, ARMIS Service Quality Report and FCC Report 43-07, ARMIS Infrastructure Report, as modified. FCC Reports 43-05 and 43-07 are two of several reporting requirements comprising the Automated Reporting and Management Information System (ARMIS). ARMIS was implemented to facilitate the timely and efficient analysis of revenue requirements and rates of return, to provide an improved basis for audits and other oversight functions, and to enhance the Commission's ability to quantify the effects of alternative policy. In addition, on 6/11/93, in CC Docket No. 92-135, the Commission released a Report and Order, FCC 93-253, requiring those small and mid-sized local exchange carriers which adopt incentive regulation to file the ARMIS Service Quality Report on annual basis, thus, increasing the number of respondents to this information collection to twenty-five. The R&O also requires that the carriers adopting incentive regulation file the ARMIS Infrastructure Report. The FCC Reports 43-05 and 43-07 are two of three reports which implement the FCC's LEC Price Cap Order, which required that the Common Carrier Bureau (CCB) monitor LEC performance under price caps, specifically service quality trends and infrastructure development. The CCB, under delegated authority, has modified the reports to improve the monitoring system and to correct problems that we have discovered in reviewing the filings. The public was invited to participate in the proceeding to modify the information collection requirements via a Public Notice soliciting comments. We believe that the modifications to FCC Reports 43-05 and 43-07 will improve the utility of the data collections without placing undue burden on the respondents. LECs are required to retain wire center level data to support the Service Quality Reports (see paragraph 12 in the attached MO&O). These data must be kept ready for on-demand perusal by Commission staff and for possible future filing. In the interest of avoiding undue burden on the respondents, we have included this requirement as an alternative to filing service quality data at an increased level of detail.

Federal Communications Commission.

LaVera F. Marshall,

Acting Secretary.

[FR Doc. 93-27514 Filed 11-4-93; 8:45 am]

BILLING CODE 6712-01-M

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and

clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street, NW., suite 140, Washington, DC 20037, (202) 857-3800. For further information on this submission contact Judy Boley, Federal Communications Commission, (202) 632-0276. Persons wishing to comment on this information collection should contact Timothy Fain, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503, (202) 395-3561.

Please note: The Commission has requested expedited OMB review of this item by November 22, 1993, under the provisions of 5 CFR 1320.18.

OMB Number: 3060-0479.

Title: Evaluation of the Syndication and Financial Interest Rules, Memorandum of Opinion and Order, MM Docket No. 90-162 (Sections 73.661 and 73.3526(a)(11)).

Action: Revision of a currently approved collection.

Respondents: Businesses or other for-profit.

Frequency of Response: Recordkeeping and semi-annual reporting requirements.

Estimated Annual Burden: 6 responses, 182 hours average burden per response, 1,092 hours total annual burden per response; 25 recordkeepers, 12 hours average burden per recordkeeper, 300 hours total annual burden per recordkeeper = 1,392 hours total annual combined burden.

Needs and Uses: On 9/23/93, the Commission adopted a Memorandum of Opinion and Order, MM Docket No. 90-162, Evaluation of the Syndication and Financial Interest Rules (Reconsideration). In the earlier Second Report and Order, the Commission amended its financial interest and syndication rules in accordance with the Court remand, the record in this proceeding, and ongoing changes in the video marketplace. On reconsideration, the Commission has modified the rules to clarify that networks need not provide proprietary or confidential customer lists of foreign stations. In addition, we have modified Section 73.661(a) to eliminate the requirement that the network identify the party who initiated negotiations that led to network acquisition of financial interest and syndication rights in currently held programs acquired by a network on or before August 1, 1972. See the MO&O for specific modifications of Sections 73.661 and 73.3526(a)(11). The data will be used by the public and by FCC staff in confirming network compliance with our financial interest and syndication rules. In addition, the information contained in the network's semi-annual reports will enable the FCC to monitor and evaluate network behavior in the program acquisition and syndication markets, under the relaxed regulatory regime. This information will be used to form a basis for our scheduled review of the rules. If this information were not maintained, the Commission would not be able to monitor network activities.

Federal Communications Commission.

LaVera F. Marshall,

Acting Secretary.

[FR Doc. 93-27155 Filed 11-4-93; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Public Information Collection Requirements Submitted to OMB for Review.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following public information collection requirements for review and clearance in accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. chapter 35.

DATES: Comments on this information collection must be submitted on or before January 4, 1994.

ADDRESSES: Direct comments regarding the burden estimate or any aspect of this information collection, including suggestions for reducing this burden, to: the FEMA Information Collections Clearance Officer at the address below; and to Gary Waxman, Office of Management and Budget, 3235 New Executive Office Building, Washington, DC 20503, (202) 395-7340, within 60 days of this notice.

FOR FURTHER INFORMATION CONTACT: Copies of the above information collection request and supporting documentation can be obtained by calling or writing Linda Borror, FEMA Information Collections Clearance Officer, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646-2624.

Type: Revision of 3067-0221.

Title: Disaster Assistance After-Action and Critique Report.

Abstract: This collection summarizes major coordination, management problems and issues of a disaster operation, with lessons learned and recommendations to improve coordination and management in future disasters.

Type of Respondents: State and local governments, Federal agencies or employees, and non-profit institutions.

Estimate of Total Annual Reporting and Recordkeeping.

Burden: 380 hours.

Number of Respondents: 40.

Estimated Average Burden Time per Response: After-Action Report—8 hours; Disaster Critique—12 hours.

Frequency of Response: After-Action Report—45 days after closing of Disaster Field Office; Disaster Critique—during or after unusual or large disasters.

Dated: October 28, 1993.

Wesley C. Moore,

Director, Office of Administrative Support.

[FR Doc. 93-27262 Filed 11-4-93; 8:45 am]

BILLING CODE 6718-01-M

[FEMA-1005-DR]

California; 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 California, (FEMA-1005-DR), dated October 28, 1993, and related determinations.

EFFECTIVE DATE: October 28, 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 California dated October 28, 1993, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of October 28, 1993:

San Bernardino County for Individual Assistance and Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Richard W. Krimm,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 93-27263 Filed 11-4-93; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-1000-DR]

Kansas; 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 Kansas, (FEMA-1000-DR), dated July 22, 1993, and related determinations.

EFFECTIVE DATE: October 29, 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 Kansas dated July 22, 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 22, 1993:

Sheridan and Trego Counties for Public Assistance and Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Richard W. Krimm,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 93-27264 Filed 11-4-93; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice.

BACKGROUND:

Notice is hereby given of the submission of proposed information collection to the Office of Management and Budget (OMB) for its review and approval under the Paperwork Reduction Act (title 44 U.S.C. chapter 35) and under OMB regulations on Controlling Paperwork Burdens on the Public (5 CFR part 1320). A copy of the proposed information collection(s) and supporting documents is available from the agency clearance officer listed in the notice. Any comments on the proposal should be sent to the agency clearance officer and to the OMB desk officer listed in the notice.

DATES: Comments must be submitted on or before November 29, 1993.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer: Mary M. McLaughlin (202-452-3829), Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551. For the hearing impaired only, Telecommunications Device for the Deaf (TDD), Dorothea Thompson (202-452-3544), Board of Governors of the Federal Reserve System, Washington, DC 20551.

OMB Desk Officer: Gary Waxman (202/395-3740), Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, room 3208, Washington, DC 20503.

Request for OMB Approval To Extend, Without Revision, The Following Report:

1. *Report title:* Foreign Branch Report of Condition

Agency form number: FFIEC 030

OMB Docket number: 7100-0071

Frequency: Annually, and quarterly for large branches and agencies

Reporters: State member banks that have foreign branches and agencies

Annual reporting hours: 558

Estimated average hours per response: 3

Number of respondents: 70 annual respondents; 29 quarterly respondents

Small businesses are not affected.

General description of report: This information collection is mandatory (12 U.S.C. 321, 324, and 602) and is given confidential treatment (5 U.S.C. 552(b)(8)).

SUMMARY: This annual report contains detailed asset and liability information for foreign branches and agencies of insured U.S. commercial banks and is required for regulatory and supervisory purposes. The information is used to analyze the foreign operations of U.S. commercial banks.

Board of Governors of the Federal Reserve System, October 29, 1993.

William W. Wiles,

Secretary of the Board.

[FR Doc. 93-27220 Filed 11-4-93; 8:45 am]

BILLING CODE 6210-01-F

Associated Banc-Corp, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 26, 1993.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Associated Banc-Corp, Green Bay, Wisconsin; to acquire 39.9 percent of the voting shares of M.S. Investment Company, Milwaukee, Wisconsin, and thereby indirectly acquire Mitchell Bank Holding Corporation, Milwaukee, Wisconsin, and Mitchell Bank, Milwaukee, Wisconsin.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. B & P Bancorp, Incorporated, Shepherdsville, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of Pioneer Bancshares, Inc., Canmer, Kentucky, and thereby indirectly acquire Pioneer Bank, Canmer, Kentucky.

C. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. American National Bancshares of Wichita, Inc., Wichita, Kansas; to acquire 100 percent of the voting shares of Harper Bancshares, Inc., Harper, Kansas, and thereby indirectly acquire First National Bank of Harper, Harper, Kansas.

Board of Governors of the Federal Reserve System, October 29, 1993.

William W. Wiles,

Secretary of the Board.

[FR Doc. 93-27217 Filed 11-4-93; 8:45 am]

BILLING CODE 6210-01-F

First Lucedale Bancorp, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications

are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 29, 1993.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. First Lucedale Bancorp, Inc., Lucedale, Mississippi; to become a bank holding company by acquiring at least 80 percent of the voting shares of First National Bank of Lucedale, Lucedale, Mississippi.

B. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Comerica Incorporated, Detroit, Michigan, and Comerica California Incorporated, San Jose, California; to merge with Pacific Western Bancshares, Inc., San Jose, California, and thereby indirectly acquire Pacific Western Bank, San Jose, California.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Market Street Bancshares, Inc., McLeansboro, Illinois; to acquire at least 61.39 percent of the voting shares of Wayne County Bank and Trust Company, Fairfield, Illinois.

2. Union Planters Corporation, Memphis, Tennessee; to acquire 100 percent of the voting shares of Clin-Ark Bankshares, Inc., Clinton, Arkansas, and thereby indirectly acquire First National Bank, Clinton, Arkansas.

D. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. Heritage Financial Corporation, M.H.C., Olympia, Washington; to become a bank holding company by acquiring 51 percent of the voting shares of Heritage Savings Bank, Olympia, Washington.

Board of Governors of the Federal Reserve System, November 1, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-27235 Filed 11-4-93; 8:45 am]

BILLING CODE 6210-01-F

First Union Corp., Charlotte, NC; Request for an Exemption From Tying Provisions

First Union Corporation, Charlotte, North Carolina ("First Union"), has requested, pursuant to section 106(b) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972(1)) ("section 106(b)"), that the Board grant exemptions:

(1) To permit First Union Brokerage Services, Inc. ("Brokerage Company"), an operating subsidiary of First Union National Bank of North Carolina, Charlotte, North Carolina ("FUNB-NC"), to offer discounts on commissions for brokerage services to customers who maintain a minimum balance in accounts at any First Union subsidiary bank; and

(2) To allow any First Union subsidiary bank to vary the consideration on traditional banking products and services to customers who maintain a minimum balance in accounts at any other First Union subsidiary bank.

Section 106(b) permits a bank to fix or vary the consideration for extending credit or furnishing services on condition that a customer also obtain a traditional banking service (loan, discount, deposit or trust service) from that bank. However, section 106(b) prohibits a bank from engaging in these same activities on condition that the customer obtain any additional credit or services from any other subsidiary of the bank's parent holding company. The Board may grant an exception that is not contrary to the purposes of this provision.[1]

First Union proposes that Brokerage Company be allowed to vary the consideration charged for brokerage services if a customer also obtains a deposit service at any First Union subsidiary bank. First Union's proposal would involve offering discounts on brokerage services to customers who maintain minimum balances in accounts at FUNB-NC or any other First Union subsidiary bank.

First Union contends that its proposal is not anticompetitive because the market for retail brokerage services is national in scope and very competitive. In this regard, First Union maintains that Brokerage Company does not have enough market power in this market to cause a lessening of competition. In addition, First Union argues that the proposal will not limit the availability of products to consumers because the brokerage services offered by Brokerage Company and the deposit services offered by First Union's subsidiary banks will be separately available to customers.

First Union also requests an exemption to permit a First Union subsidiary bank to vary the consideration on a traditional banking product or service on the condition or requirement that a customer maintain a minimum balance in accounts at any other First Union subsidiary bank. As noted above, section 106(b) expressly permits such an arrangement if both traditional banking products or services are extended from the same bank.

In support of this request, First Union maintains that the legislative history of section 106(b) reveals an intent to enable a customer to continue to negotiate with a bank on the basis of his entire relationship with the bank. In this regard, First Union contends that the principal purpose of this proposed exemption is to allow customers who live near jurisdictional lines to take advantage of the benefits of relationship banking at multiple bank affiliates.

First Union also contends that the legislative history of section 106(b) reveals that Congress was concerned with tying arrangements involving nonbanking subsidiaries of bank holding companies, not arrangements involving only affiliate banks and traditional banking products and services. The proposed exemption, in First Union's view, is consistent with Congressional intent and would enhance competition and promote the convenience and needs of its customers. Moreover, First Union maintains that all the products and services would be separately available to customers.

Notice of First Union's request is published solely in order to seek the views of interested persons on the issues presented by the request and does not represent a determination by the Board that the request meets or is likely to meet the standards of section 106(b). The request may be inspected at the offices of the Board of Governors.

Any comments or requests for hearing should be submitted in writing and

[1] By order dated June 20, 1990 and by subsequent rulemaking (55 FR 47741 (1990)), the Board granted an exception to this prohibition to allow banks owned by bank holding companies to offer a price reduction on credit cards issued to their customers if the customer also obtains a traditional banking product from any of the credit card bank's affiliates.

received by William W. Wiles, Secretary of the Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than December 6, 1993.

Board of Governors of the Federal Reserve System, November 2, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-27329 Filed 11-4-93; 8:45 am]

BILLING CODE 6210-01-F

Earl Delbert Horton, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 24, 1993.

A. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. *Earl Delbert Horton*, Dallas, Texas; to acquire an additional 8.75 percent for a total of 32.29 percent; and Michael Bruce Witcher, Windom, Texas, to acquire an additional 8.17 percent for a total of 30.15 percent of the voting shares of Cooper Lake Financial Corporation, Cooper, Texas, and thereby indirectly acquire First National Bank in Cooper, Cooper, Texas.

2. *E. Bradley Schultz*, Booker, Texas; to acquire an additional 64.88 percent for a total of 83.20 percent; and Margie Schultz, Booker, Texas, to acquire an additional 4.25 percent for a total of 5.44 percent, to be owned jointly, of the voting shares of Follett Bancshares, Inc., Follett, Texas, and thereby indirectly acquire Follett National Bank, Follett, Texas.

Board of Governors of the Federal Reserve System, November 1, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-27236 Filed 11-4-93; 8:45 am]

BILLING CODE 6210-01-F

Omega Financial Corporation; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 26, 1993.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Omega Financial Corporation*, State College, Pennsylvania; to merge with Penn Central Bancorp, Inc., Huntington, Pennsylvania, and thereby indirectly acquire Penn Central National Bank, Huntington, Pennsylvania; Hollidaysburg Trust Company, Hollidaysburg, Pennsylvania; and The First National Bank of Saxton, Saxton, Pennsylvania.

In connection with this application, Applicant also proposes to acquire Penn Central Bancorp Life Insurance Company, Phoenix, Arizona, and thereby engage in underwriting as a reinsurer of credit life, accident, and health insurance issued in connection with extensions of credit made by Applicant's subsidiary banks pursuant to § 225.25(b)(8)(i)(A) of the Board's Regulation Y. These activities will be conducted in the Commonwealth of Pennsylvania.

Board of Governors of the Federal Reserve System, October 29, 1993.

William W. Wiles,

Secretary of the Board.

[FR Doc. 93-27218 Filed 11-4-93; 8:45 am]

BILLING CODE 6210-01-F

Pikeville National Corporation, et al.; Notice of Applications to Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be

accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 23, 1993.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Pikeville National Corporation*, Pikeville, Kentucky; to engage *de novo* through its subsidiary, Trust Company of Kentucky, Ashland, Kentucky, in trust company activities pursuant to § 225.25(b)(3) of the Board's Regulation Y.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *National Commerce Bancorporation*, Memphis, Tennessee; to engage *de novo* through its subsidiary, National Commerce Finance Company, Germantown, Tennessee, in consumer finance activities pursuant to § 225.25(b)(1) of the Board's Regulation Y. **Comments on this application must be received by November 18, 1993.**

Board of Governors of the Federal Reserve System, October 29, 1993.

William W. Wiles,

Secretary of the Board.

[FR Doc. 93-27219 Filed 11-4-93; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL TRADE COMMISSION

[Docket No. C-3460]

Consol, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order permits, among other things, the Pennsylvania-based provider of coal export terminal services to acquire Island Creek Coal, Inc., but it requires the respondent to divest the Curtis Bay Company to a Commission-approved acquirer within 12 months, and to obtain, for the next 10 years, prior Commission-approval before acquiring any interest in any concern that provides export coal terminal services in the Port of Baltimore or within 50 miles of it.

DATES: Complaint and Order issued September 27, 1993.[1]

FOR FURTHER INFORMATION CONTACT: Howard Morse, FTC/H-304, Washington, DC 20580, (202) 326-2949.

SUPPLEMENTARY INFORMATION: On Wednesday, July 14, 1993, there was published in the **Federal Register**, 58 FR 37934, a proposed consent agreement with analysis In the Matter of Consol, Inc., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to divest, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

Donald S. Clark,

Secretary.

[FR Doc. 93-27277 Filed 11-4-93; 8:45 am]

BILLING CODE 6750-01-M

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 6th Street & Pennsylvania Avenue NW., Washington, DC 20580.

[Docket No. C-3464]

Gisela E. Flick; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, the former Executive Vice President of Numex, a California-based corporation that advertised and promoted "Therapy Plus", from misrepresenting: The efficacy of certain devices; the degree to which scientific proof demonstrates that any such device is effective in reducing, relieving, or eliminating pain; the degree to which such a device is a significant medical breakthrough; or the degree to which the device is used, recommended, or accepted by the relevant medical or scientific community as effective in reducing, relieving or eliminating pain. This consent order also requires the respondent to possess competent and reliable scientific evidence to substantiate future health and pain-relief claims. In addition, the order prohibits the respondent from misrepresenting the endorsement for any product or service or the connection between the endorser and any individual or company marketing the product or service.

DATES: Complaint and Order issued October 7, 1993.[1]

FOR FURTHER INFORMATION CONTACT: Beth Grossman, FTC/S-4002, Washington, DC 20580 (202) 326-3019.

SUPPLEMENTARY INFORMATION: On Wednesday, June 2, 1993, there was published in the **Federal Register**, 58 FR 31395, a proposed consent agreement with analysis In the Matter of Gisela E. Flick, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

A comment was filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45, 52)

Donald S. Clark,

Secretary.

[FR Doc. 93-27281 Filed 11-4-93; 8:45 am]

BILLING CODE 6750-01-M

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 6th Street & Pennsylvania Avenue NW., Washington, DC 20580.

[Docket No. C-3467]

G.C. Thorsen, Inc., d/b/a G.C. Electronics, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, an Illinois manufacturer of aerosol cleaning products from representing that any product containing an ozone-depleting substance is ozone friendly or that it

will not damage or deplete the ozone in the upper atmosphere and from making environmental benefit claims for any product unless the respondent possesses competent and reliable evidence to substantiate the claims.

DATES: Complaint and Order issued October 8, 1993.[1]

FOR FURTHER INFORMATION CONTACT: Jeffrey Klurfeld or Ralph Stone, San Francisco Regional Office, Federal Trade Commission, 901 Market St., suite 570, San Francisco, CA 94103. (415) 744-7920.

SUPPLEMENTARY INFORMATION: On Monday, Aug. 2, 1993, there was published in the **Federal Register**, 58 FR 41093, a proposed consent agreement with analysis In the Matter of G.C. Thorsen, Inc. d/b/a G.C. Electronics, Inc., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

A comment was filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Donald S. Clark,

Secretary.

[FR Doc. 93-27284 Filed 11-4-93; 8:45 am]

BILLING CODE 6750-01-M

[Dkt. C-3459]

Michael S. Levey, et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, the California-based producers of infomercials from misrepresenting infomercials as independent programming rather than paid advertising and from selling any baldness or impotence product not approved by the Food and Drug Administration; and requires the respondents to have competent and reliable scientific evidence to support any representations about the efficacy or safety of any food, drug or device they sell. In addition, the respondents are required to pay $275,000 in consumer redress.

DATES: Complaint and Order issued September 23, 1993.[1].

FOR FURTHER INFORMATION CONTACT: Kathryn Nielsen, Seattle Regional Office, Federal Trade Commission, 2806 Federal Bldg., 915 Second Ave., Seattle, WA 98174. (206) 220-6350.

SUPPLEMENTARY INFORMATION: On Tuesday, July 20, 1993, there was published in the **Federal Register**, 58 FR 38764, a proposed consent agreement with analysis In the Matter of Michael S. Levey, et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45, 52)

Donald S. Clark,

Secretary.

[FR Doc. 93-27276 Filed 11-4-93; 8:45 am]

BILLING CODE 6750-01-M

[Docket No. C-3462]

Lomas Mortgage U.S.A. Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, the Texas mortgage lender from misrepresenting the terms or the nature of lock-in agreements on loans it offers consumers in the future, and requires the respondent to pay $300,000 in consumer redress, to the Commission, to be used for refunds of up to $1,000 each to certain Lomas customers.

DATES: Complaint and Order issued October 7, 1993.[1]

FOR FURTHER INFORMATION CONTACT: Arthur Levin, FTC/S-4429, Washington, DC 20580. (202) 326-3040.

SUPPLEMENTARY INFORMATION: On Wednesday, July 14, 1993, there was published in the **Federal Register**, 58 FR 37951, a proposed consent agreement with analysis In the Matter of Lomas Mortgage U.S.A., Inc., for the purpose of soliciting public comment.

Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Donald S. Clark,

Secretary.

[FR Doc. 93-27279 Filed 11-4-93; 8:45 am]

BILLING CODE 6750-01-M

[Docket No. C-3465]

James L. McElhaney, M.D.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, the former Vice President and Medical Director of Numex, a California-based corporation that advertised and promoted "Therapy Plus", from misrepresenting: The efficacy of certain devices; the degree to which scientific proof demonstrates that any such device is effective in reducing, relieving, or eliminating pain; the degree to which such a device is a significant medical breakthrough; or the degree to which the device is used, recommended, or accepted by the relevant medical or scientific community as effective in reducing, relieving or eliminating pain.

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 6th Street & Pennsylvania Avenue NW., Washington, DC 20580.

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[1] Copies of the Complaint, the Decision and Order, and Commissioner Azcuenaga's statement are available from the Commission's Public Reference Branch, H-130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

This consent order also requires the respondent, when making certain claims as an expert endorser, to possess competent and reliable scientific evidence to substantiate those claims.

DATES: Complaint and Order issued October 7, 1993.[1]

FOR FURTHER INFORMATION CONTACT: Beth Grossman, FTC/S–4002, Washington, DC 20580. (202) 326–3019.

SUPPLEMENTARY INFORMATION: On Wednesday, June 2, 1993, there was published in the Federal Register, 58 FR 31399, a proposed consent agreement with analysis In the Matter of James L. McElhaney, M.D., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

A comment was filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement; made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45, 52)

Donald S. Clark,

Secretary.

[FR Doc. 93–27282 Filed 11–4–93; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. C–3463]

Numex Corp.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, a California-based corporation, that advertised and promoted "Therapy Plus", from misrepresenting: The efficacy of certain devices; the degree to which scientific proof demonstrates that any such device is effective in reducing, relieving, or eliminating pain; the degree to which such a device is a significant medical breakthrough; or the degree to which the device is used, recommended, or accepted by the relevant medical or scientific community as effective in reducing, relieving or eliminating pain. This consent order also requires the respondent to possess competent and reliable scientific evidence to substantiate future health and pain-relief claims. In addition, the order prohibits the respondent from misrepresenting the endorsement for any product or service or the connection between the endorser and any individual or company marketing the product or service.

DATES: Complaint and Order issued October 7, 1993.[1]

FOR FURTHER INFORMATION CONTACT: Beth Grossman, FTC/S–4002, Washington, DC 20580. (202) 326–3019.

SUPPLEMENTARY INFORMATION: On Wednesday, June 2, 1993, there was published in the Federal Register, 58 FR 31402, a proposed consent agreement with analysis In the Matter of Numex Corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

A comment was filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

Authority: Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45, 52.

Donald S. Clark,

Secretary.

[FR Doc. 93–27280 Filed 11–4–93; 8:45 am]

BILLING CODE 6750–01–M

[Docket No. 9071]

Service Corp. International; Petition To Reopen and Set Aside Order

AGENCY: Federal Trade Commission.

ACTION: Notice of period for public comment on petition to reopen and set aside the order.

SUMMARY: Service Corporation International, respondent in the order in Docket No. 9071 (said order concerning the prohibition of misrepresentations in connection with the sale and pricing of funeral services, caskets and other incidental merchandise offered for sale by respondent), filed a petition on September 30, 1993, requesting that the Commission reopen and set aside the order. This document announces the public comment period on this petition.

DATES: The deadline for filing comments in this matter is November 22, 1993.

ADDRESSES: Comments should be sent to the Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580. Requests for copies of the petition should be sent to the Public Reference Branch, room 130.

FOR FURTHER INFORMATION CONTACT: Deborah Kelly or Robert Frisby, Enforcement Division, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580. (202) 326–3004 (Kelly) or (202) 326–2098 (Frisby).

SUPPLEMENTARY INFORMATION: The order in Docket No. 9071 was published at 41 FR 53468 on December 7, 1976, reported at 88 FTC 530. The petitioner, Service Corporation International (SCI), alleges that changes in law and fact since entry of this consumer protection order, as well as consideration of the public interest, make reopening and setting aside the order appropriate. Since entry of the order, the Federal Trade Commission has issued its Trade Regulation Rule Regarding Funeral Industry Practices, 16 CFR Part 453, which applies to the petitioner. The Federal Trade Commission, subsequent to the entry of the order in Docket No. 9071, also entered into three antitrust consent orders that apply to Service Corporation International. These orders are Sentinel Group, Inc., Docket No. C–3348; Service Corporation International, Docket No. C–3372; and Service Corporation International, Docket No. C–3440. Like the order issued in Docket No. 9071, these three orders require SCI to notify the FTC of funeral home acquisitions by SCI. The petition was placed on the public record on October 22, 1993.

Donald S. Clark,

Secretary.

[FR Doc. 93–27286 Filed 11–4–93; 8:45 am]

BILLING CODE 6750–01–M

[Docket No. 9251]

Synchronal Corporation, et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue NW., Washington, DC 20580.

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methods of competition, this consent order prohibits, among other things, a New York-based infomercial company, two of its former officers, and several other respondents from making any unsubstantiated claims for a number of different types of products; and from disseminating the two infomercials for a purported baldness cure and a cellulite treatment; and from misrepresenting the results of any tests or studies used for marketing any product or service. In addition, the consent order requires Synchronal to pay $3.5 million into a consumer redress fund, and requires Ira Smolev, a former officer, to maintain a $500,000 escrow account before advertising various consumer products.

DATES: Complaint issued October 28, 1991. Order issued October 1, 1993.[1]

FOR FURTHER INFORMATION CONTACT: Richard Cleland, FTC/S–4002, Washington, DC 20580. (202) 326–3088 or Michael Bloom, New York Regional Office, Federal Trade Commission, 150 William St., suite 1300, New York, NY 10038. (212) 264–1207.

SUPPLEMENTARY INFORMATION: On Monday, June 14, 1993, there was published in the **Federal Register**, 58 FR 32947, a proposed consent agreement with analysis In the Matter of Synchronal Corporation, et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

A comment was filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45, 52; 39 U.S.C. 3009)

Donald S. Clark,

Secretary.

[FR Doc. 93–27285 Filed 11–4–93; 8:45 am]

BILLING CODE 6750–01–M

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue NW., Washington, DC 20580.

[Docket No. C–3466]

The Texwipe Company; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, a New Jersey-based manufacturer of aerosol cleaning products from representing that any product containing an ozone-depleting substance is ozone friendly or that it will not damage or deplete the ozone in the upper atmosphere and from making environmental benefit claims for any product unless the respondent possesses competent and reliable evidence to substantiate the claims.

DATES: Complaint and Order issued October 8, 1993.[1]

FOR FURTHER INFORMATION CONTACT: Jeffrey Klurfeld or Ralph Stone, San Francisco Regional Office, Federal Trade Commission, 901 Market Street, suite 570, San Francisco, CA. 94103. (415) 744–7920.

SUPPLEMENTARY INFORMATION: On Monday, Aug. 2, 1993, there was published in the **Federal Register**, 58 FR 41096, a proposed consent agreement with analysis In the Matter of The Texwipe Company, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46, Interprets or applies sec. 5, 38 Stat. 719, as amended, 15 U.S.C. 45)

Donald S. Clark,

Secretary.

[FR Doc. 93–27283 Filed 11–4–93; 8:45 am]

BILLING CODE 6750–01–M

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

[Docket No. C–3461]

United Real Estate Brokers of Rockland, Ltd.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, the New York provider of real estate brokerage services from restricting exclusive-agency listings; restricting brokers from soliciting homeowners with current listings for future business; interfering with the cancellation of a listing; and excluding from membership brokers who do not operate a full-time office, or maintain an office in Rockland County, or who are not residents of New York state.

DATES: Complaint and Order issued September 27, 1993.[1]

FOR FURTHER INFORMATION CONTACT: Michael Bloom, New York Regional Office, Federal Trade Commission, 150 William Street, 13th Fl., New York, NY (212) 264–1200.

SUPPLEMENTARY INFORMATION: On Friday, July 23, 1993, there was published in the **Federal Register**, 58 FR 39551, a proposed consent agreement with analysis In the Matter of United Real Estate Brokers of Rockland, Ltd., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Donald S. Clark,

Secretary.

[FR Doc. 93–27278 Filed 11–4–93; 8:45 am]

BILLING CODE 6750–01–M

[1] Copies of the Complaint, the Decision and Order, and Commissioner Azcuenaga's statement are available from the Commission's Public Reference Branch, H–130, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580.

GENERAL SERVICES ADMINISTRATION

Steering Committee for the African Burial Ground, New York, NY; Meeting

Notice is hereby given that the Steering Committee for the African Burial Ground, New York, NY, (Steering Committee) will have a special meeting during the week of November 8–12, 1993 on a date not as yet determined. The meeting will commence at 6 p.m. and will be held in the 2nd floor archives of the Schomburg Center for

Research in Black Culture, New York Public Library, 515 Malcolm X Boulevard (at 135th Street), New York, NY.

Members of the Steering Committee will be notified of the exact date of the meeting as soon as practicable after it has been determined. Members of the public at large may call (212) 264–0456 for notice of the exact date of the meeting and to reconfirm the time and place of the meeting.

At the meeting the Steering Committee will consider the adoption of recommendations to GSA respecting procedures and protocols to be followed by GSA and its contractors for the installation of utilities, and for other work which may be required to be performed, in the streets adjacent to 290 Broadway in the Borough of Manhattan; and such other matters properly coming before the Steering Committee under its charter and its rules and regulations.

Less than 15 days published notice in the **Federal Register** is being given for the above meeting because the installation of utilities, and other work which may be performed, in the streets adjacent to 290 Broadway is scheduled to commence prior to the next regularly scheduled meeting of the Steering Committee.

The meeting will be open to the public. Members of the public at large, as may be recognized by the Chairman of the Steering Committee, will be able to speak at the meetings at designated times as provided in the rules of procedure of the Steering Committee. In addition, written comments by any person may be directed to any aspect of the Steering Committee's mission and other questions regarding the Steering Committee's meetings may be directed to: Chairman Howard Dodson, Chief, Schomburg Center for Research in Black Culture, New York Public Library 515 Malcolm X Boulevard, New York, NY 10037–1801, Tel: (212) 491–2200.

Copies of such written comments may be sent to Robert W. Martin, Acting Regional Administrator, General Services Administration, Region 2, 26 Federal Plaza, New York, NY 10278.

Dated: October 26, 1993

William B. Jenkins,

Acting Regional Administrator, General Services Administration, Region 2, 26 Federal Plaza, New York, NY 10278.

[FR Doc. 93–27167 Filed 11–4–93; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Centers for Disease Control and Prevention; Statement of Organization, Functions and Delegations of Authority

Part H, Chapter HC (Centers for Disease Control and Prevention) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–67776, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 58 FR 45339, dated August 27, 1993) is amended to reflect the establishment of the National Immunization Program, Office of the Director, Center for Disease Control and Prevention (CDC).

Section HC–B, Organization and Functions, is hereby amended as follows:

After the functional statement for the *CDC Washington Office (HCA6),* insert the following:

National Immunization Program (HCA8). Provides national leadership for the planning, coordination, and conduct of Federal, State, and local immunization activities. In carrying out this mission, the National Immunization Program: (1) Provides consultation, training, statistical, promotional, educational, epidemiological, and other technical services to assist and stimulate State and local health departments in the planning, development, implementation, and overall improvement of programs for the prevention, control and eventual eradication of designated serious diseases for which effective immunizing agents are available; (2) supports the establishment of vaccine supply contracts for vaccine distribution to State and local immunization programs; (3) assists State and local health departments in developing vaccine information management systems to facilitate identification of children who need vaccination and help parents and providers assure that all children are immunized at the appropriate age, assess immunization levels at State and local levels, and monitor the safety and efficacy of vaccines by linking vaccine administration information with adverse event reporting and disease outbreak patterns; (4) administers research and operational programs for the prevention and control of vaccine-preventable diseases; (5) supports a nationwide framework for effective surveillance of designated diseases for which effective immunizing agents are available; and, (6) supervises State and local assignees working on immunization activities.

Office of the Director (HCA81). (1) Manages, directs, and coordinates the activities of the Program; (2) provides leadership and guidance in policy formulation, program planning and development, program management, and operations of the Program; (3) identifies needs and resources for new initiatives and assigns responsibilities for their development; (4) prepares, reviews, and coordinates budgetary, informational, and programmatic documents; (5) oversees the Program's activities and expenditures; (6) assures the overall quality of the science conducted by the Program; (7) assures the overall success of the Program's Comprehensive Childhood Immunization Initiative (CCII); (8) plans, directs, and sets forth national policy regarding the overall activities concerning information systems development, data management, statistical analysis, and survey design; (9) provides epidemiologic and program direction in the areas of policy development, research, international activities, and CCII; (10) recruits, assigns and provides career development for field assignees; (11) directs polio eradication activities; (12) provides administrative, fiscal, and technical information services for Program activities; and, (13) serves as the principal CDC focus for liaison and coordination with other PHS agencies, the Department of Health and Human Services, Federal agencies, State and local health authorities, and public and private organizations concerned with immunization activities.

Following the title *National Center for Prevention Services (HCM), Office of the Director (HCM1),* delete the functional statement for the *Division of Immunization (HCM2)* in its entirety.

Section HC–D, Delegations of Authority. All delegations and redelegations of authority to any officers or employees which were in effect immediately prior to this reorganization and which are consistent with this reorganization shall continue in effect pending further redelegation.

Dated: October 23, 1993.

Donna E. Shalala,

Secretary.

[FR Doc. 93–27198 Filed 11–4–93; 8:45 am]

BILLING CODE 4160–18–M

Food and Drug Administration

[Docket No. 92N-0459]

Charles G. DiCola; Denial of Hearing; Final Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is denying Mr. Charles G. DiCola's request for a hearing and is issuing a final order under section 306(a) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 335a(a)) permanently debarring Mr. Charles G. DiCola, #28372-037 FPC Allenwood, Montgomery, PA 17752, from providing services in any capacity to a person that has an approved or pending drug product application. FDA bases this order on a finding that Mr. DiCola was convicted of a felony under Federal law for conduct relating to the regulation of a drug product under the act.

EFFECTIVE DATE: November 5, 1993.

ADDRESSES: Application for termination of debarment to the Dockets Management Branch (HFA-305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1-23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Megan L. Foster, Center for Drug Evaluation and Research (HFD-366), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-594-2041.

SUPPLEMENTARY INFORMATION:

I. Background

Mr. Charles G. DiCola, a former vice president of operations and general manager of production at Bolar Pharmaceutical Co., Inc. (Bolar), pled guilty and was sentenced on September 9, 1992, for failing to maintain accurate drug production records and for manufacturing adulterated drugs with the intent to defraud and mislead, a felony offense under 21 U.S.C. 331(e), 331(k), and 331(a)(2) (formerly 21 U.S.C. 333(b)). The basis for this conviction was Mr. DiCola's act of manufacturing a product using ingredients and production procedures that varied from the FDA-approved master formula and manufacturing process, and for preparing and maintaining batch production records that falsely represented that the FDA-approved ingredients and manufacturing procedures had been utilized.

In a certified letter received by Mr. DiCola on February 8, 1993, the Deputy Commissioner for Operations offered Mr. DiCola an opportunity for a hearing on the agency's proposal to issue an order under section 306(a) of the act debarring Mr. DiCola from providing services in any capacity to a person that has an approved or pending drug product application. FDA based the proposal to debar Mr. DiCola on its finding that he was convicted of a felony under Federal law for conduct relating to the regulation of Bolar's drug products.

The certified letter also informed Mr. DiCola that his request for a hearing could not rest upon mere allegations or denials but must present specific facts showing that there was a genuine and substantial issue of fact requiring a hearing. The letter also notified Mr. DiCola that if it conclusively appeared from the face of the information and factual analyses in his request for a hearing that there was no genuine and substantial issue of fact which precluded the order of debarment, FDA would enter summary judgment against him and deny his request for a hearing.

In a letter dated March 4, 1993, Mr. DiCola requested a hearing, and, in a letter dated May 10, 1993, Mr. DiCola submitted arguments and information in support of his hearing request. In his request for a hearing, Mr. DiCola acknowledges that he was convicted of a felony under Federal law as alleged by FDA. However, Mr. DiCola argues that the agency's proposal to debar him is unconstitutional based on the ex post facto and double jeopardy clauses of the U.S. Constitution. Mr. DiCola further argues that the Generic Drug Enforcement Act of 1992 is vague and, therefore, imposes harsh penalties unrelated to any valid regulatory purpose.

The Deputy Commissioner for Operations has considered Mr. DiCola's arguments and concludes that they are unpersuasive and fail to raise a genuine and substantial issue of fact requiring a hearing. Mr. DiCola's arguments only raise questions of law and, therefore, do not create a basis for a hearing (see 21 CFR 12.24(b)(1)). These arguments are discussed below.

II. Mr. DiCola's Arguments in Support of a Hearing

A. The Ex Post Facto Clause of the Constitution

Mr. DiCola argues that his debarment under the Generic Drug Enforcement Act of 1992 (GDEA), an amendment to the Federal Food, Drug, and Cosmetic Act, violates the ex post facto clause of the U.S. Constitution because his debarment constitutes more burdensome punishment after the commission of his crime than the punishment for the crime at the time it was committed.

An ex post facto law is one that reaches back to punish acts that occurred before enactment of the law or that adds a new punishment to one that was in effect when the crime was committed. (*Ex Parte Garland*, 4 Wall. 333, 377, 18 L. Ed. 366 (1866); *Collins* v. *Youngblood*, 110 S.Ct. 2715 (1990).) Mr. DiCola's claim that his debarment violates the ex post facto clause is unpersuasive. Because the intent behind debarment under the section that applies to Mr. DiCola, section 306(a)(2) of the act, is remedial rather than punitive, this section does not violate the ex post facto clause.

The congressional intent with respect to actions under section 306(a)(2) of the act is clearly remedial. Congress created the GDEA in response to findings of fraud and corruption in the generic drug industry. Both the language of the GDEA itself and its legislative history reveal that the purpose of the debarment provisions set forth in the GDEA is "to restore and ensure the integrity of the ANDA approval process and to protect the public health." (See section 1, Pub. L. 102-282, The Generic Drug Enforcement Act of 1992.) This is a remedial rather than punitive goal. (See *Manocchio* v. *Kusserow*, 961 F.2d 1539, 1542 (11th Cir. 1992) (exclusion of physician from participation in medicare programs because of criminal conviction is remedial, not punitive).) Supporting the remedial character of debarment is a statement by Senator Hatch in the Congressional Record of April 10, 1992, at S 5616, "* * * [t]he legislation * * * provides a much-needed remedy for the blatant fraud and corruption uncovered in the generic drug industry * * * during the last 3 years."

The Supreme Court has long held that statutes that deny future privileges to convicted offenders because of their previous criminal activities in order to insure against corruption in specified areas do not impose penalties for past conduct and, therefore, do not violate the ex post facto prohibitions. (See e.g., *Hawker* v. *New York*, 170 U.S. 189, 190 (1898) (physician barred from practicing medicine for a prior felony conviction); *DeVeau* v. *Braisted*, 373 U.S. 154 (1960) (convicted felon's exclusion from employment as officer of waterfront union is not a violation of the ex post facto clause).)

In *DeVeau*, the Court upheld a law that prohibited a convicted felon from employment as an officer in a waterfront union. The purpose of the law was to remedy the past corruption and to

insure against future corruption in the waterfront unions. The Court in *DeVeau*, 363 U.S. at 160, stated:

> The question in each case where unpleasant consequences are brought to bear upon an individual for prior conduct, is whether the legislative aim was to punish that individual for past activity, or whether the restriction of the individual comes about as a relevant incident to a regulation of a present situation, such as the proper qualifications for a profession * * *.

As in *DeVeau*, the legislative purpose of the relevant statute is to ensure that fraud and corruption are eliminated from the drug industry. The restrictions placed on individuals convicted of a felony under Federal law are not intended as punishment but are "incident to a regulation of a present situation" (*DeVeau*, 363 U.S. at 160) and necessary in order to remedy the past fraud and corruption in the industry.

B. The Double Jeopardy Clause of the Constitution

Mr. DiCola next argues that the proposal to debar him under section 306(a)(2) of the act violates the double jeopardy clause of the Fifth Amendment to the U.S. Constitution. The double jeopardy clause states that no person shall "be subject for the same offense to be twice put in jeopardy of life or limb." Mr. Dicola relies on *U.S.* v. *Halper*, 109 S.Ct. 1892 (1989), to argue that imposition of civil penalties that are punitive following imposition of criminal penalties violates the double jeopardy clause.

Mr. DiCola's argument is unpersuasive. First, "jeopardy" cannot attach because the effect of section 306(a)(2) of the act is remedial, not punitive. As discussed above, the legislative goal of this section is to restore and ensure the integrity of the drug approval and regulatory process and to protect the public health by eradicating fraud and corruption from the drug industry. This is plainly a remedial rather than punitive goal. (*Manocchio* v. *Kusserow*, 961 F.2d at 1542.)

The fact that Mr. DiCola's debarment is permanent rather than temporary does not signify that the legislation is nonremedial or punitive. The Supreme Court has upheld laws which, for remedial purposes, permanently bar a class or group of individuals from certain occupations due to a prior criminal conviction. (See *Hawker* v. *New York*, 170 U.S. 189, 190 (1898); *DeVeau* v. *Braisted*, 373 U.S. 154 (1960).)

Second, the double jeopardy clause is inapplicable to FDA's proposal to debar Mr. DiCola because the sanctions imposed by section 306(a)(2) of the act are rationally related to the remedial governmental goal of eradicating fraud from the drug industry. Under *U.S.* v. *Halper*, the relevant question is whether the sanction imposed in the second proceeding "bears any rational relation to the damages suffered by the government." (*U.S.* v. *Halper*, 109 S.Ct. at 1904.)

Due to the potentially serious consequences to the public health of fraud and corruption in the drug industry, the permanent debarment of convicted felons like Mr. DiCola is not an excessive means to eliminate fraud from the industry. The legislative history of the GDEA is replete with statements, some cited above, that the act provides a reasonable means of ridding the generic drug industry of widespread corruption and to restore consumer confidence in generic drugs.

C. Vagueness

In his final argument, Mr. DiCola claims that the vagueness of a phrase in the GDEA results in punitive treatment that does not bear any relation to a valid regulatory purpose. He asserts that he will suffer a substantial penalty because he will be unable to provide "services in any capacity" to a company with an approved or pending drug product application, and FDA has not defined the phrase, "services in any capacity."

Mr. DiCola's argument is unpersuasive. A statute may be held void for vagueness if it fails to give a person of ordinary intelligence fair notice that his contemplated conduct is forbidden. (See 21 Am Jur 2d, Criminal Law section 17 *et eq.*) The phrase at issue, "* * * provide services in any capacity * * *" is clear on its face. A debarred individual cannot provide any type of service to a person that has an approved or pending drug product application. This clearly constitutes "fair notice" of the forbidden conduct.

Mr. DiCola also fails to demonstrate that this phrase is unrelated to any valid regulatory purpose. To the contrary, individuals are proscribed "from providing services in any capacity to a person that has an approved or pending drug product application" in order to meet the valid regulatory purpose of restoring the integrity of the drug approval and regulatory process and protecting the public health. Congress can legitimately achieve this purpose by proscribing "all services" due to the serious administrative difficulties involved in distinguishing between those positions clearly related to drug regulation from those not clearly related. These difficulties would include the problem of ascertaining the exact nature of the employee's relationship with the employer as well as defining what constitutes a sufficient nexus with the regulatory scheme under all circumstances.

Mr. DiCola acknowledges that he was convicted as alleged by FDA in its proposal to debar him and has raised no genuine and substantial issue of fact regarding this conviction. In addition, Mr. DiCola's legal arguments do not create a basis for a hearing and, in any event, are unpersuasive. Accordingly, the Deputy Commissioner for Operations denies Mr. DiCola's request for a hearing.

III. Findings and Order

Therefore, the Deputy Commissioner for Operations, under section 306(a) of the act, and under authority delegated to her (21 CFR 5.20), finds that Mr. Charles G. DiCola has been convicted of a felony under Federal law for conduct (1) relating to the development or approval, including the process for development or approval, of a drug product (21 U.S.C. 335a(a)(2)(A)); and (2) relating to the regulation of a drug product (21 U.S.C. 335a(a)(2)(B)).

As a result of the foregoing findings, Mr. Charles G. DiCola is permanently debarred from providing services in any capacity to a person with an approved or pending drug product application under section 505, 507, 512, or 802 of the act (21 U.S.C. 355, 357, 360b, or 382), or under section 351 of the Public Health Service Act (42 U.S.C. 262), effective November 5, 1993 (21 U.S.C. 335a(c)(1)(B) and (c)(2)(A)(ii) and 21 U.S.C. 321(ee)). Any person with an approved or pending drug product application who knowingly uses the services of Mr. DiCola in any capacity, during his period of debarment, will be subject to civil money penalties (21 U.S.C. 335b(a)(6)). If Mr. DiCola, during his period of debarment, provides services in any capacity to a person with an approved or pending drug product application, he will be subject to civil money penalties (21 U.S.C. 335b(a)(7)). In addition, FDA will not accept or review any abbreviated new drug application or abbreviated antibiotic drug application submitted by or with Mr. DiCola's assistance during his period of debarment.

Mr. DiCola may file an application to attempt to terminate his debarment, pursuant to section 306(d)(4)(A) of the act. Any such application would be reviewed under the criteria and processes set forth in section 306 (d)(4)(C) and (d)(4)(D) of the act. Such an application should be identified with Docket No. 92N–0459 and sent to the Dockets Management Branch (address

above). All such submissions are to be filed in four copies. The public availability of information in these submissions is governed by 21 CFR 10.20(j). Publicly available submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 6, 1993.

Jane E. Henney,

Deputy Commissioner for Operations.

[FR Doc. 93-27196 Filed 11-4-93; 8:45 am]

BILLING CODE 4160-01-P

[Docket No. 92N-0460]

Liaquat Hossain; Denial of Hearing; Final Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Deputy Commissioner for Operations of the Food and Drug Administration (FDA) denies Mr. Liaquat Hossain's request for a hearing and issues a final order under section 306(a) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 335a(a)) permanently debarring Mr. Liaquat Hossain, 4 Dix Hills Court, Dix Hills, NY 11746, from providing services in any capacity to a person with an approval or pending drug product application. FDA bases this order on a finding that Mr. Hossain was convicted of a felony under Federal law for conduct relating to the development or approval, including the process for development or approval, of a drug product; and relating to the regulation of a drug product under the act.

EFFECTIVE DATE: November 5, 1993.

ADDRESSES: Application for termination of debarment to the Dockets Management Branch (HFA-305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1-23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Megan L. Foster, Center for Drug Evaluation and Research (HFD-366), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-594-2041.

SUPPLEMENTARY INFORMATION:

I. Background

Mr. Liaquat Hossain, the former manager of Product Development of Superpharm Corp. (Superpharm), pled guilty and was sentenced on March 10, 1992, for making a false statement in a matter within the jurisdiction of a Federal agency, a felony offense under 18 U.S.C. 1001. The basis for this conviction was various misrepresentations made by Mr. Hossain to FDA in one of Superpharm's abbreviated new drug applications regarding batch records of the drug product covered by the application.

In a certified letter received by Mr. Hossain on January 13, 1993, the Deputy Commissioner for Operations offered Mr. Hossain an opportunity for a hearing on the agency's proposal to issue an order under section 306(a) of the act debarring Mr. Hossain from providing services in any capacity to a person that has an approved or pending drug product application. FDA based the proposal to debar Mr. Hossain on its finding that he was convicted of a felony under Federal law for conduct relating to the development, approval, and regulation of Superpharm's drug products.

The certified letter also informed Mr. Hossain that his request for a hearing could not rest upon mere allegations or denials, but it must present specific facts showing that there was a genuine and substantial issue of fact requiring a hearing. The letter additionally notified Mr. Hossain that if it conclusively appeared from the face of the information and factual analyses in his request for a hearing that there was no genuine and substantial issue of fact which precluded the order of debarment, FDA would enter summary judgment against him and deny his request for a hearing.

In a letter dated February 2, 1993, Mr. Hossain requested a hearing, and in a letter dated March 12, 1993, Mr. Hossain submitted arguments and information in support of his hearing request. In the March 12, 1993, letter, Mr. Hossain acknowledged that he was convicted of a felony under Federal law as alleged by FDA. However, Mr. Hossain argued that FDA's retroactive application of section 306(a)(2) of the act is unjustified and goes against congressional intent. He further argued that debarment under the act is punitive and therefore is unconstitutional based on the ex post facto and double jeopardy clauses, as well as provisions of the Constitution that prohibit cruel and unusual punishment. Finally, Mr. Hossain argued that the act, by treating individuals and business entities differently, is unconstitutional based on the equal protection and the due process clauses of the Constitution.

The Deputy Commissioner for Operations has considered Mr. Hossain's arguments and concludes that they are unpersuasive and fail to raise a genuine and substantial issue of fact requiring a hearing. Mr. Hossain's arguments only raise questions of law and therefore do not create a basis for a hearing (see 21 CFR 12.24(b)(1)). These arguments are discussed below.

II. Mr. Hossain's Arguments in Support of a Hearing

A. Retroactive Application

Mr. Hossain argues that because the act and its legislative history are silent on the issue of retroactivity, the more reasonable interpretation of the language of section 306(a)(2) is that it only applies to convictions after the date of enactment of the act. He further contends that if Congress had intended section 306(a)(2) to be retroactive, it would have included affirmative language to this effect.

Mr. Hossain's argument that section 306(a)(2) of the act should not be applied retroactively is unpersuasive. A commonly used rule of statutory construction states that where Congress includes particular language in one section of a statute but omits it in another section of the same act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion. (*I.N.S.* v. *Cardoza-Fonseca*, 107 S.Ct. 1207, 1213 (1987), citing *Russelo* v. *United States*, 104 S. Ct. 296, 300 (1983).) Under this rule of statutory construction, section 306(a)(2) of the act is clearly retroactive. Section 306(a) of the act treats mandatory debarment of business entities differently from mandatory debarment of individuals with respect to retroactivity. Mandatory debarment of business entities under section 306(a)(1) of the act is not retroactive because it only applies to convictions "after the date of enactment of this section." However, section 306(a)(2) of the act, which pertains to mandatory debarment of individuals, does not contain this limiting language. Therefore, if Congress had intended for section 306(a)(2) of the act not to be retroactive, it would have included the language "after the date of enactment of this section." The limitation does not apply where it was excluded.

Another appropriate application of this rule of statutory construction is with regard to section 306(l)(2) of the act, which sets out the effective dates for each provision of the act. Section 306(l)(2) of the act also indicates that section 306(a)(2) is retroactive. The only limitation section 306(l)(2) of the act sets on section 306(a) of the act is that section 306(a) shall not apply to a conviction which occurred more than 5 years before the initiation of an agency action. This language indicates that any applicable conviction may be used as the basis for debarment, so long as it occurred no more than 5 years prior to

the initiation of debarment proceedings. Certain other provisions covered in section 306(l) of the act are further limited by the statement that the section shall not apply to an action which occurred before June 1, 1992. Thus, when Congress intended that a certain section not be retroactive, it set a specific effective date or used specific limiting language as in section 306(a)(1) of the act. Congress' intentional omission of an effective date for section 306(a)(2) of the act indicates its intent that this section be retroactive.

Finally, because section 306(a)(2) of the act does not explicitly address the retroactivity issue, FDA's interpretation must be based on a permissible construction of the act. A permissible construction is one that is reasonable and consistent with the purpose of the statute. (See *Chevron* v. *N.R.D.C.*, 104 S. Ct. 2778 (1984), and *Schering Corp.* v. *Sullivan* (782 F. Supp. 645 (1992).) The purpose of the Generic Drug Enforcement Act of 1992 (GDEA) is "to restore and ensure the integrity of the ANDA approval process and to protect the public health." (See section 1, Pub. L. 102–282, The Generic Drug Enforcement Act of 1992.) FDA's interpretation is consistent with this purpose. The GDEA was passed in response to the widespread fraud and corruption revealed by the generic drug investigations that began in the late 1980's. (See House Committee Report, October 24, 1991, p. 11.) Congress clearly passed the GDEA in order to take action against the wrongdoers of the 1980's, as well as current wrongdoers. FDA's retroactive interpretation of the statutory language in section 306(a)(2) of the act is reasonable in that it is consistent with the purpose of the GDEA, which is to remedy past fraud and corruption.

B. The Ex Post Facto, Double Jeopardy and Cruel and Unusual Punishment Clauses of the Constitution

Mr. Hossain argues that the GDEA is designed to be punitive rather than remedial and that any retroactive debarment action would violate the ex post facto, double jeopardy, and cruel and unusual punishment clauses of the Constitution. Mr. Hossain contends that his debarment would result in additional punishment more severe than the penalty assessed by the Federal District Court. He further argues that his debarment would be punishment disproportionate and excessive when compared to the facts of his conviction and when compared to his prior penalty.

Each of the constitutional provisions to which Mr. Hossain refers requires a punishment in order to apply to a particular case. The ex post facto clause forbids a law to reach back to punish acts that occurred before enactment of the law, or to add a new punishment to one that was in effect when the crime was committed. (*Ex Parte Garland*, 4 Wall, 333, 377, 18 L. Ed. 366 (1866). *Collins* v. *Youngblood*, 110 S. Ct. 2715 (1990).) The double jeopardy clause states that no person shall "be subject for the same offense to be twice put in jeopardy of life or limb." The 8th amendment prohibits cruel and unusual punishments.

Debarment of Mr. Hossain does not violate these provisions of the Constitution because the congressional intent behind debarment under section 306(a)(2) of the act is remedial rather than punitive. Congress created the GDEA in response to findings of fraud and corruption in the generic drug industry. Both the language of the GDEA itself and its legislative history reveal that the purpose of the debarment provisions set forth in the GDEA is "to restore and ensure the integrity of the ANDA approval process and to protect the public health." (See section 1, Pub. L. 102–282, The Generic Drug Enforcement Act of 1992.) This is a remedial rather than punitive goal. (See *Manocchio* v. *Kusserow*, 961 F.2d 1539, 1542 (11th Cir. 1992) (exclusion of physician from participation in Medicare programs because of criminal conviction is remedial, not punitive).) Supporting the remedial character of debarment is a statement by Senator Hatch in the Congressional Record of April 10, 1992, at S5616, "* * * [t]he legislation * * * provides a much-needed remedy for the blatant fraud and corruption uncovered in the generic drug industry * * * during the last 3 years."

The fact that Mr. Hossain's debarment is permanent rather than temporary and the fact that Mr. Hossain's debarment is retroactive do not signify that the legislation is nonremedial or punitive. The Supreme Court has upheld laws which, for remedial purposes, in order to insure against corruption in specified areas, permanently bar a class or group of individuals from certain occupations due to a prior criminal conviction. (See *Hawker* v. *New York*, 170 U.S. 189, 190 (1898); *DeVeau* v. *Braisted*, 373 U.S. 154 (1960).) The restrictions the GDEA places on individuals convicted of a felony under Federal law are not intended as punishment, but they are "incident to a regulation of a present situation" (*DeVeau*, 363 U.S. at 160) and necessary in order to remedy the past fraud and corruption in the industry.

Mr. Hossain's claim that his debarment is excessive or additional punishment is unpersuasive because the sanctions imposed by section 306(a)(2) of the act are rationally related to the remedial governmental goal of eradicating fraud from the generic drug industry. Under *U.S.* v. *Halper*, the relevant question is whether the sanction imposed in the second proceeding "bears any rational relation to the damages suffered by the government." (*U.S.* v. *Halper*, 109 S.Ct. at 1904.)

Due to the potentially serious consequences to the public health of fraud and corruption in the drug industry, the permanent debarment of convicted felons like Mr. Hossain is not an excessive or grossly disproportionate means to eliminate fraud from the industry. The legislative history of the GDEA is replete with statements that the act provides a reasonable means needed to rid the generic drug industry of widespread corruption and to restore consumer confidence in generic drugs.

C. The Equal Protection and Due Process Clause

Mr. Hossain argues that the GDEA affects individuals with a greater and disproportionate severity than it does business entities, without a showing of the existence of a legitimate class distinction based on a rational economic or social purpose. He maintains that this different treatment violates the equal protection and due process clauses of the Constitution.

Because debarment of Mr. Hossain amounts to Federal action, the equal protection and due process clauses of the 14th amendment, which only apply to State action, are inapplicable to Mr. Hossain's debarment. However, while the 5th amendment, which applies to Federal action, does not contain an equal protection clause, some courts have recognized an equal protection argument through use of the 5th amendment due process clause. This theory only applies where the discrimination is so unjustified as to be violative of due process. (*Bolling* v. *Sharpe*, 74 S.Ct. 693, 694 (1954).)

In order for Mr. Hossain to make an equal protection argument under the 5th amendment due process clause, he must first show that individuals being debarred are similarly situated to business entities being debarred. He has not shown this. In fact, an individual is different from a business entity in that, although both can be rehabilitated, the public can have confidence in the rehabilitation of a business entity if it changes management and cooperates with government investigators, whereas

the rehabilitation of an individual is less susceptible to verification.

Moreover, even if Mr. Hossain demonstrated that he was similarly situated to business entities, because the GDEA neither burdens fundamental constitutional rights nor creates suspect classifications, Mr. Hossain's constitutional rights still would not have been violated unless he could have shown that there was no rational basis for the legislation. (*U.S.* v. *Sperry Corporation*, 110 S.Ct. 387, 396 (1989).)

The rational legislative purpose for treating individuals differently from business entities is to protect the public health by ensuring the integrity of the drug approval process while ensuring the availability of drugs by allowing ethical employees to rehabilitate a business.

Congress could reasonably conclude that businesses purged of high ranking malefactors can reform and become good corporate citizens, but tainted individuals, whose rehabilitation is less certain, must be purged and permanently debarred from further participation in the drug approval process—at least partly to restore public confidence in an industry shaken by scandal. Congress could also reasonably conclude that business entities include good as well as bad people and that the good should not invariably be out of a job when corrupt executives violate the law.

Therefore, any differences in the treatment of individuals and business entities under the GDEA do not violate the 5th amendment due process clause.

Mr. Hossain acknowledges that he was convicted as alleged by FDA in its proposal to debar him and has raised no genuine and substantial issue of fact regarding this conviction.

Mr. Hossain's legal arguments do not create a basis for a hearing and, in any event, are unpersuasive. Accordingly, the Deputy Commissioner for Operations denies Mr. Hossain's request for a hearing.

III. Findings and Order

Therefore, the Deputy Commissioner for Operations, under section 306(a) of the act, and under authority delegated to her (21 CFR 5.20), finds that Mr. Liaquat Hossain has been convicted of a felony under Federal law for conduct (1) relating to the development or approval, including the process for development or approval, of a drug product (21 U.S.C. 335a(a)(2)(A)); and (2) relating to the regulation of a drug product (21 U.S.C. 335a(a)(2)(B)).

As a result of the foregoing findings, Mr. Liaquat Hossain is permanently debarred from providing services in any capacity to a person with an approved or pending drug product application under section 505, 507, 512, or 802 of the act (21 U.S.C. 355, 357, 360b, or 382), or under section 351 of the Public Health Service Act (42 U.S.C. 262), effective November 5, 1993, (21 U.S.C. 335a(c)(1)(B) and (c)(2)(A)(ii) and 21 U.S.C. 321(ee)). Any person with an approved or pending drug product application who knowingly uses the services of Mr. Hossain in any capacity, during his period of debarment, will be subject to civil money penalties (21 U.S.C. 335b(a)(6)). If Mr. Hossain, during his period of debarment, provides services in any capacity to a person with an approved or pending drug product application, he will be subject to civil money penalties (21 U.S.C. 335b(a)(7)). In addition, FDA will not accept or review any abbreviated new drug application or abbreviated antibiotic drug application submitted by or with Mr. Hossain's assistance during his period of debarment.

Mr. Hossain may file an application to attempt to terminate his debarment, pursuant to section 306(d)(4)(A) of the act. Any such application would be reviewed under the criteria and processes set forth in section 306(d)(4)(C) and (d)(4)(D) of the act. Such an application should be identified with Docket No. 92N-0460 and sent to the Dockets Management Branch (address above). All such submissions are to be filed in four copies. The public availability of information in these submissions is governed by 21 CFR 10.20(j). Publicly available submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 13, 1993.

Jane E. Henney,

Deputy Commissioner for Operations.

[FR Doc. 93-27246 Filed 11-4-93; 8:45 am]

BILLING CODE 4160-01-F

[Docket No. 93N-0022]

Daphne Pai; Denial of Hearing; Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing an order under section 306(a)(2) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 335a(a)(2)) permanently debarring Ms. Daphne Pai, No. 29095037, 12 East 31st St., New York, NY 10016, from providing services in any capacity to a person that has an approved or pending drug product application. FDA bases this order on a finding that Ms. Pai was convicted of a felony under Federal law for conduct relating to the development or approval, including the process for development or approval, of a drug product; and relating to the regulation of a drug product under the act. Ms. Pai has failed to file with the agency information and analyses sufficient to create a basis for a hearing concerning this action.

EFFECTIVE DATE: November 5, 1993.

ADDRESSES: Application for termination of debarment to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Tamar S. Nordenberg, Center for Drug Evaluation and Research (HFD-366), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-594-2041.

SUPPLEMENTARY INFORMATION:

I. Background

Ms. Daphne Pai, former Vice President of Regulatory Affairs and Quality Control of American Therapeutics, Inc. (ATI), pled guilty and was sentenced on December 2, 1992, to one count of making a false statement in a matter within the jurisdiction of a Federal agency, a Federal felony offense under 18 U.S.C. 1001. The basis for this conviction was the finding that, in her capacity as Vice President of Regulatory Affairs and Quality Control of ATI, Ms. Pai knowingly and willfully prepared false batch records, contained in an abbreviated new drug application (ANDA) submitted by ATI, which misrepresented the number of capsules manufactured and the amounts of active and inactive ingredients used in the production of a test batch.

In a certified letter received by Ms. Pai on February 8, 1993, the Deputy Commissioner for Operations offered Ms. Pai an opportunity for a hearing on the agency's proposal to issue an order under section 306(a) of the act debarring her from providing services in any capacity to a person that has an approved or pending drug product application. FDA based the proposal to debar on its finding that she was convicted of a felony under Federal law for conduct relating to the development or approval of ATI's drug product and relating to the regulation of ATI's drug product.

The certified letter informed Ms. Pai that her request for a hearing could not

rest upon mere allegations or denials but must present specific facts showing that there is a genuine and substantial issue of fact requiring a hearing. The letter also notified Ms. Pai that if it conclusively appeared from the face of the information and factual analyses in her request for a hearing that there was no genuine and substantial issue of fact which precluded the order of debarment, FDA would enter summary judgment against her and deny her request for a hearing.

In a letter dated February 26, 1993, and a second letter from newly retained counsel dated March 8, 1993, Ms. Pai requested a hearing, and in a letter dated March 29, 1993, Ms. Pai submitted arguments and information in support of her hearing request. In her request for a hearing, Ms. Pai does not dispute that she was convicted of a felony under Federal law as alleged by FDA. She does argue, however, that the agency's proposal to debar her violates her constitutional rights under the ex post facto and double jeopardy clauses of the U.S. Constitution. The Deputy Commissioner for Operations has considered Ms. Pai's arguments and concludes that they are unpersuasive and fail to raise a genuine and substantial issue of fact requiring a hearing. The constitutional arguments that Ms. Pai offers do not create a basis for a hearing because hearings are not granted on matters of policy or law, but only on genuine and substantial issues of fact (see 21 CFR 12.24(b)(1)). The arguments are, in any event, unconvincing, for the reasons discussed below.

II. Ms. Pai's Arguments In Support of a Hearing

Ms. Pai contends that the ex post facto clause of the U.S. Constitution prohibits application of section 306(a)(2) of the act to her because this section was not in effect at the time of Ms. Pai's criminal conduct. With the enactment of the Generic Drug Enforcement Act (GDEA) on May 13, 1992, Congress amended the Federal Food, Drug, and Cosmetic Act to include section 306(a)(2), whereas Ms. Pai's criminal conduct occurred on or about August 31, 1987.

An ex post facto law is one that reaches back to punish acts that occurred before enactment of the law or that adds a new punishment to one that was in effect when the crime was committed. (*Ex Parte Garland*, 4 Wall. 333, 377, 18 L. Ed. 366 (1866); *Collins* v. *Youngblood*, 110 S.Ct. 2715 (1990).)

Ms. Pai's claim that application of the mandatory debarment provisions of the act is prohibited by the ex post facto clause is unpersuasive. Because the intent behind debarment under section 306(a)(2) of the act is remedial rather than punitive, this section does not violate the ex post facto clause.

The congressional intent with respect to actions under section 306(a)(2) of the act is clearly remedial. Congress created the GDEA in response to findings of fraud and corruption in the generic drug industry. Both the language of the GDEA itself and its legislative history reveal that the purpose of the debarment provisions set forth in the GDEA is "to restore and ensure the integrity of the ANDA approval process and to protect the public health" (see section 1, Pub. L. 102-282, The Generic Drug Enforcement Act of 1992). This is a remedial rather than a punitive goal (see *Manacchio* v. *Kusserow*, 961 F.2d 1539, 1542 (11th Cir. 1992) (exclusion of physician from participation in medicare programs because of criminal conviction is remedial, not punitive)). Supporting the remedial character of debarment is a statement by Senator Hatch in the Congressional Record of April 10, 1992, at S5616, "* * * [t]he legislation * * * provides a much-needed remedy for the blatant fraud and corruption uncovered in the generic drug industry * * * during the last 3 years."

The Supreme Court has long held that statutes that deny future privileges to convicted offenders because of their previous criminal activities in order to ensure against corruption in specified areas do not impose penalties for past conduct and, therefore, do not violate the ex post facto law prohibitions (see, e.g., *Hawker* v. *New York*, 170 U.S. 189, 190 (1898) (physician barred from practicing medicine for a prior felony conviction); *DeVeau* v. *Braisted*, 373 U.S. 154 (1960) (convicted felon's exclusion from employment as officer of waterfront union)).

The legislative purpose of the GDEA is to ensure that fraud and corruption are eliminated from the drug industry. The restrictions placed on individuals convicted of a felony under Federal law are not intended as punishment but are "incident to a regulation of a present situation" (*DeVeau*, 363 U.S. at 160) and necessary to remedy the past fraud and corruption in the industry.

Ms. Pai also claims that the proposal to debar her under section 306(a)(2) of the act violates the double jeopardy clause of the Fifth Amendment to the U.S. Constitution, which states that no person shall "be subject for the same offense to be twice put in jeopardy of life or limb." Ms. Pai's argument is unpersuasive.

First, "jeopardy" cannot attach because the effect of section 306(a)(2) of the act is remedial, not punitive. As discussed above, the legislative goal of this section is to restore and ensure the integrity of the drug approval process and to protect the public health by eradicating fraud and corruption from the drug industry. This is plainly a remedial rather than a punitive goal. (*Manacchio* v. *Kusserow*, 961 F.2d at 1542.)

The double jeopardy clause is inapplicable to FDA's proposal to debar Ms. Pai because the sanctions imposed by section 306(a)(2) of the act are rationally related to the remedial governmental goal of eradicating fraud from the drug industry (see *U.S.* v. *Halper*, 490 U.S. 435 (1989)).

Due to the potentially serious consequences to the public health of fraud and corruption in the drug industry, the permanent debarment of convicted felons like Ms. Pai is not an excessive means to eliminate fraud from the industry. The legislative history of the GDEA is replete with statements, some cited above, that the act provides a reasonable means of ridding the generic drug industry of widespread corruption and restoring consumer confidence in generic drugs.

Ms. Pai does not dispute the fact that she was convicted as alleged by FDA in its proposal to debar her, and she has raised no genuine and substantial issue of fact regarding this conviction. Her legal arguments do not create a basis for a hearing and, in any event, are unpersuasive. Accordingly, the Deputy Commissioner for Operations denies Ms. Pai's request for a hearing.

III. Findings and Order

The Deputy Commissioner for Operations, under section 306(a) of the act, and under authority delegated to her (21 CFR 5.20), finds that Ms. Daphne Pai has been convicted of a felony under Federal law for conduct (1) relating to the development or approval, including the process for development of approval, of a drug product; and (2) relating to the regulation of a drug product (21 U.S.C. 335a(a)(2)). As a result of the foregoing findings, Ms. Pai is permanently debarred from providing services in any capacity to a person with an approved or pending drug product application under section 505, 507, 512, or 802 of the act (21 U.S.C. 355, 357, 360b, or 382), or under section 351 of the Public Health Service Act (42 U.S.C. 262), effective November 5, 1993 (21 U.S.C. 335a(c)(1)(B) and (c)(2)(A)(ii) and 21 U.S.C. 321(ee)). Any person with an approved or pending drug product application who knowingly uses the services of Ms. Pai in any capacity, during her period of debarment, will be

subject to civil money penalties. If Ms. Pai, during her period of debarment, provides services in any capacity to a person with an approved or pending drug product application, she will be subject to civil money penalties. In addition, FDA will not accept or review any abbreviated new drug applications submitted by or with the assistance of Ms. Pai during her period of debarment.

Any application by Ms. Pai for termination of debarment under section 306(d)(4) of the act should be identified with Docket No. 93N-0022 and sent to the Dockets Management Branch (address above). All such submissions are to be filed in four copies. The public availability of information in these submissions is governed by 21 CFR 10.20(j). Publicly available submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 25, 1993.

Jane E. Henney,

Deputy Commissioner for Operations.

[FR Doc. 93-27195 Filed 11-4-93; 8:45 am]

BILLING CODE 4160-01-F

[Docket No. 93N-0354]

White Chocolate Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to Ganong Bros., Ltd., to market test a product identified as "white chocolate" that deviates from the U.S. standards of identity for chocolate products, e.g., chocolate liquor, sweet chocolate, milk chocolate, buttermilk chocolate, skim milk chocolate, and mixed dairy product chocolates, in that it is prepared without the nonfat components of the ground cacao nibs but contains the fat (cacao butter) expressed from the cacao nibs. The purpose of the temporary permit is to allow the applicant to collect data on consumer acceptance of the product in support of establishing a standard of identity for white chocolate.

DATES: This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but not later than February 3, 1994.

FOR FURTHER INFORMATION CONTACT: Michelle A. Smith, Center for Food Safety and Applied Nutrition (HFS-158), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-205-5099.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to Ganong Bros., Ltd. (Ganong), One Chocolate Dr., St. Stephen, NB, Canada E3L 2X5.

The permit covers limited interstate marketing tests of a product that deviates from the U.S. standard of identity for chocolate products, e.g., chocolate liquor (21 CFR 163.111), sweet chocolate (21 CFR 163.123), milk chocolate (21 CFR 163.130), buttermilk chocolate (21 CFR 163.135), skim milk chocolate (21 CFR 163.140), and mixed dairy product chocolates (21 CFR 163.145).

According to the applicant, white chocolate, as defined in Canada and for the purposes of this temporary permit, is the solid or semi-plastic food prepared by intimately mixing and grinding cocoa butter with one or more nutritive carbohydrate sweeteners and one or more dairy ingredients. It contains not less than 20 percent of cocoa butter, not less than 14 percent of total milk solids, not less than 3.5 percent of milkfat, not more than 55 percent of nutritive carbohydrate sweetener, and not more than 1 percent hydroxylated lecithin or lecithin. It may also contain spices, natural and artificial flavorings (not imitating chocolate, milk, or butter), other seasonings, and antioxidants approved for food use. It contains no added coloring.

The test product will bear the name "Polar Bears, White Chocolate with Almonds." The test product differs from the standardized chocolate products described in 21 CFR part 163 in that it is prepared without the nonfat components of the ground cacao nibs but contains the fat (cocoa butter) expressed from the ground cacao nibs. The test product meets all other requirements of the standards for chocolate products in part 163.

This permit provides for the temporary marketing of 11,076 kilograms (24,367 pounds) of the test product. The product will be manufactured at The Blommer Chocolate Co., Blommer Dr., East Greenville, PA 18041, and at Splendid Chocolates Ltd., 4810 Jean Talon W., suite 304, Montreal, Quebec H4P 2N5. The product will be distributed by Ganong Bros., Ltd., One Chocolate Dr., St. Stephen, NB, Canada E3L 2X5, in Canada and in Connecticut, Maine, Massachusetts, New Hampshire, and Vermont.

Each of the ingredients used in the food must be declared on the label as required by the applicable sections of 21 CFR part 101. This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but no later than February 3, 1994.

Dated: October 27, 1993.

Janice F. Oliver,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 93-27244 Filed 11-4-93; 8:45 am]

BILLING CODE 4160-01-F

[Docket No. 93P-0310]

White Chocolate Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to Hershey Foods Corp. (Hershey), to market test products identified, in part, as "white chocolate" that deviate from the U.S. standards of identity for chocolate products, e.g., chocolate liquor, sweet chocolate, milk chocolate, buttermilk chocolate, skim milk chocolate, or mixed dairy product chocolates. The purpose of the temporary permit is to allow the applicant to collect data on consumer acceptance of the products in support of a petition to establish a standard of identity for white chocolate that was submitted by the permit holder.

DATES: The permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but no later than February 3, 1994.

FOR FURTHER INFORMATION CONTACT: Michelle A. Smith, Center for Food Safety and Applied Nutrition (HFS-158), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-205-5099.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to Hershey Foods Corp.

(Hershey), 100 Crystal A Dr., P.O. Box 810, Hershey, PA 17033.

The permit covers limited interstate market testing of products identified, in part, as "white chocolate" that deviate from the U.S. standards of identity for chocolate products, e.g., chocolate liquor (21 CFR 163.111), sweet chocolate (21 CFR 163.123), milk chocolate (21 CFR 163.130), buttermilk chocolate (21 CFR 163.135), skim milk chocolate (21 CFR 163.140), or mixed dairy product chocolates (21 CFR 163.145).

A previous temporary permit issued to the same firm for the same products (i.e., test products containing a component designated as "white chocolate") was in effect for a 15-month period that ended December 6, 1992 (56 FR 46798, September 16, 1991). On December 10, 1992, Hershey submitted a citizen's petition to establish a standard of identity for white chocolate (filed December 15, 1992, docket number 86P–0297/CP 2). FDA has also received a citizen's petition from the Chocolate Manufacturers Association requesting that the agency establish a standard of identity for white chocolate (filed March 2, 1993, docket number 86P–0297/CP 3).

White chocolate, according to a suggested standard in Hershey's petition, is the solid or semi-plastic food prepared by intimately mixing and grinding cocoa butter with one or more nutritive carbohydrate sweeteners and one or more of the optional dairy ingredients specified in 21 CFR part 163. It contains not less than 20 percent of cocoa butter, not less than 14 percent of total milk solids, not less than 3.5 percent of milkfat, and not more than 55 percent of nutritive carbohydrate sweetener. It may also contain emulsifying agents, spices, natural and artificial flavorings and other seasonings, and antioxidants approved for food use. White chocolate, as defined in Hershey's petition, contains no coloring material.

Hershey is now interested in market testing their test products over a wider area of distribution in order to gain additional information in support of any proposal that may result from their petition. However, Hershey's original temporary permit expired on December 6, 1992. Therefore, the firm has requested that FDA issue a new temporary marketing permit for their test products.

Under this temporary permit, the white chocolate product will be test marketed in two forms, one as a combination of white chocolate and milk chocolate, and the other as a combination of white chocolate, milk chocolate, and almonds. The test products will bear the fanciful names "Hershey's Hugs, Mini Hershey's Kisses Hugged by White Chocolate" and "Hershey's Hugs, Mini Hershey's Kisses Hugged by White Chocolate, with Almonds." The white chocolate component of the test products differs from the standardized chocolate products described in 21 CFR part 163 in that: (1) It is prepared without the nonfat components of the ground cacao nibs but contains the fat (cocoa butter) expressed from the ground cacao nibs; and (2) safe and suitable antioxidants are added. The test products meet all other requirements of the standards for chocolate products in part 163.

This permit provides for the temporary marketing of 27,300,000 kilograms (60,000,000 pounds) of the test product. The products will be manufactured at Hershey Chocolate, 1033 Old West Chocolate Ave., Hershey, PA 17033, and will be distributed nationwide.

The information panel of the label will bear nutrition labeling in accordance with 21 CFR 101.9. Each of the ingredients used in the food must be declared on the label as required by the applicable sections of 21 CFR part 101.

The permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but no later than February 3, 1994.

Dated: October 27, 1993.

Janice F. Oliver,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 93–27245 Filed 11–4–93; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 93N–0400]

Drug Export; Nitro-Dur® (Nitroglycerin) 0.8 mg/hr (40 cm²) Patch

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Schering Corporation has filed an application requesting approval for the export of the human drug Nitro-Dur® (nitroglycerin) 0.8 milligrams per hour (mg/hr) (40 square centimeters (cm²) Patch to Canada.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human drugs under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: James E. Hamilton, Division of Drug Labeling Compliance (HFD–313), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2073.

SUPPLEMENTARY INFORMATION: The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of drugs that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Schering Corporation, Galloping Hill Rd., Kenilworth, NJ 07033, has filed an application requesting approval for the export of the human drug Nitro-Dur® (nitroglycerin) 0.8 mg/hr (40 cm²) Patch to Canada. Nitro-Dur® (nitroglycerin) 0.8 mg/hr (40 cm²) Patch is indicated for the prevention of anginal attacks in patients with stable angina pectoris associated with coronary artery disease. The firm has conditional approval to market the 20 cm² and 30 cm² patches in the United States. The application was received and filed in the Center for Drug Evaluation and Research on May 25, 1993, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by November 15, 1993, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the

information during the 30-day review period.This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Drug Evaluation and Research (21 CFR 5.44).

Dated: October 21, 1993.

Stephanie R. Gray,

Acting Director, Office of Compliance, Center for Drug Evaluation and Research.

[FR Doc. 93-27243 Filed 11-4-93; 8:45 am]

BILLING CODE 4160-01-F

Public Health Service

Chronic Fatigue Syndrome Interagency Coordinating Committee: Public Meeting

AGENCY: Office of the Assistant Secretary for Health, DHHS.

ACTION: Notice of meeting.

PURPOSE: The Office of the Assistant Secretary for Health will hold a public meeting of the DHHS Chronic Fatigue Syndrome Interagency Coordinating Committee as a follow-up to the September 28 public meeting that took place in Atlanta, Georgia. This meeting will provide an opportunity for information sharing among Federal officials and the concerned public. It will be chaired by the Assistant Secretary for Health.

Those persons wishing to make a presentation at the meeting are asked to register with Dr. Brian Mahy, the contact person identified below, before November 12. Individuals and organizations with common interests are urged to coordinate their presentations. Length of the presentation will be determined by the number of individuals or groups wishing to comment.

TIME AND DATE: 2 to 3:30 p.m., November 17, 1993.

PLACE: Hubert Humphrey Building, room 729G, 200 Independence Avenue, SW., Washington, DC.

STATUS: Open to the public, limited only by space available.

CONTACT PERSON FOR MORE INFORMATION: Dr. Brian W.J. Mahy, Chronic Fatigue Syndrome Interagency Coordinating Committee, Centers for Disease Control, 1600 Clifton Road, NE., Atlanta, GA 30333. Telephone (404) 639-3574, FAX (404) 639-3163.

Philip R. Lee,

Assistant Secretary for Health.

[FR Doc. 93-27428 Filed 11-4-93; 8:45 am]

BILLING CODE 4160-17-M

Centers for Disease Control and Prevention; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HC (Centers for Disease Control and Prevention) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772-67776, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 58 FR 45339, dated August 27, 1993) is amended to reflect the establishment of the programmatic divisions and offices within the National Center for Injury Prevention and Control (NCIPC).

Section HC-B, Organization and Functions, is hereby amended as follows:

After the functional statement for the *Office of Program Management and Operations (HCE13),* insert the following:

Office of Statistics, Programming, and Graphics (HCE2). (1) Develops, adapts, evaluates, and implements innovative statistical, computer programming, data management, and graphics methods for application to injury surveillance, epidemiologic studies, and programmatic activities; (2) provides expert consultation in statistics, programming, data management, and graphics imaging to all NCIPC staff; (3) collaborates with NCIPC scientists on epidemiologic studies and provides technical advice in the areas of study design, sampling, and the collection, management, analysis, interpretation, and presentation of injury data; (4) coordinates, manages, maintains, and provides tabulations from national surveillance systems and other data sources that contain national, State and local data on injury morbidity and mortality; (5) prepares and produces high quality statistical reports, publications, and visual material for information presentation and dissemination by NCIPC staff; (6) advises the Office of the Director, NCIPC, on statistical issues and on the presentation of data for use in the evaluation of program effectiveness and priority setting; (7) in carrying out the above functions, collaborates with other Divisions/Offices in NCIPC, CDC Centers/Institute/Offices, PHS Agencies, and other Federal departments and agencies, and private organizations as appropriate.

Statistics, Programming, and Data Management Section (HCE22). (1) Provides consultation in the areas of statistics, computer programming, database design, and data management to NCIPC staff on surveillance, evaluation research projects, and epidemiologic studies of injuries; (2) collaborates with NCIPC staff on epidemiologic and analytic studies of injuries by making recommendations in the areas of statistics, study design, data collection procedures, database and systems design, data processing and analysis; (3) identifies new data sources and develops analytic methods for the maximum utilization of data sets on national, State and local injury morbidity and mortality data, and risk factors; (4) provides training and technical assistance and training to NCIPC scientists on state-of-the-art programming and data management methods; (5) provides training and technical advice on the design development, maintenance, and improvement of national and other surveillance systems, and use the data to develop analytic methods for monitoring, evaluating, and disseminating information on injuries and trends; (6) produces statistical reports, including injury mapping, using information from national and other databases on behavioral risk factors, physician visits, trauma center and emergency department visits, hospital discharge, rehabilitation, vital statistics, medical examiner reports, emergency medical services, police reports, and other relevant sources of information; (7) maintains and manages databases from national surveillance systems and other data sources for access to, and analysis of, current injury morbidity and mortality data; (8) provides advice to the Director, Office of Statistics, Programming and Graphics (OSPG), on statistics, surveillance, and systems-related issues relevant to program planning and evaluation.

Graphics Imaging Section (HCE23). (1) Provides consultation on graphics imaging for publications, presentations, and exhibits to NCIPC staff; (2) collaborates with NCIPC statisticians, scientists, and programmers on analytic studies of injuries that require injury mapping and other complex graphical displays of data; (3) produces high quality visual presentations, publication graphics, electronic typesetting (e.g., desktop publishing) of publication materials, using state-of-the-art techniques for NCIPC staff, and for use by Federal, State and local public health agencies, and other organizations outside CDC; (4) works with the Center's Information Resource Manager to develop, maintain, and manage a graphics information system that allows ready access to available slides and graphics presentations on various topics

of injury prevention and control and to provide text and image scanning services for NCIPC staff; (5) provides advice to the Divisions and the Director, OSPG, on effective methods for presentation of data for use in evaluating program effectiveness and priority setting.

Office of Research Grants (HCE3). (1) Establishes strategic goals and tactical objectives for the funding of the extramural research activities in keeping with the Center's mission of injury prevention and control; (2) initiates and develops new grant programs to focus on injury priorities and needs, in conjunction with other components of the Center, and other governmental and nongovernmental agencies and organizations; (3) manages and coordinates an integrated and comprehensive program for injury control research grants, Injury Control Research Centers, Research Program Project grants, and research training grants; (4) develops Program Announcements and Requests for Assistance in collaboration with the Procurement and Grants Office and coordinates review for scientific merit and relevance to injury control; (5) monitors each awarded grant to ensure adequate progress to the goals of that research; (6) disseminates research findings to facilitate interpretation and to improve current injury control strategies; (7) promotes training of researchers in the area of injury control.

Scientific Review Section (HCE32). (1) Manages the Injury Research Grant Review Committee (IRGRC) and initiates procedures for the nomination, clearance, invitation, and appointment of members. Working with major medical, scientific, and public societies, the members of the IRGRC ensures that diverse perspectives of leaders in injury prevention and control are considered in the grant review process; (2) manages all logistics related to the peer review process; (3) responsible for the development of technical summary statements containing evaluations of grant submissions, recommendations for funding, and feedback to principal investigators; (4) maintains databases of scientific/technical experts and grant applications; (5) maintains procedures in updated manuals on all aspects of conducting the peer review.

Scientific Programs Section (HCE33). (1) Manages and monitors extramural research grants in injury control; (2) develops, coordinates, and manages programmatic announcements for research grants, research program project grants, center grants, and training grants; (3) provides technical information on grant activities and consults with the Advisory Committee for Injury Prevention and Control regarding newly approved and competitive renewal applications; (4) links investigators and projects that have complementary elements and attempts to stimulate and recruit new investigators in injury research; (5) develops and manages workplans to assure the success of the research efforts being carried out by grantees; (6) develops and disseminates annual documents related to extramural research grant activities, progress and findings.

Division of Violence Prevention (HCE4). (1) Provides leadership in developing and executing a national program for the prevention and control of non-occupational violence-related injuries and deaths in collaboration with Federal, State, and local agencies, voluntary and private sector organizations; (2) proposes goals and objectives for national violence prevention and control programs, monitors progress toward these goals and objectives, and recommends priority prevention and control activities and develops guidelines for these activities, facilitates similar activities by other Federal, State, and local agencies, academic institutions, and private and other public organizations; (3) plans, directs, conducts, and supports research focused on development and evaluation of strategies to prevent and control violence-related injuries and deaths, including research in biomechanics, epidemiology, and prevention; (4) plans, establishes, and evaluates surveillance systems to monitor national trends in morbidity, mortality, disabilities, and cost of violence-related injuries and deaths, and facilitates the development of surveillance systems by State and local agencies; (5) develops, implements, directs, and evaluates demonstration programs to prevent and control violence; (6) serves as the primary Federal health resource for technical assistance and management expertise in the epidemiology, statistics, prevention, and control of violence-related injuries and deaths; (7) assists in increasing the capacity of states and localities to prevent and control injuries by providing financial assistance and technical management consultation and assistance in assessing the problem of violence-related injuries and deaths, conducting surveillance, planning injury prevention and control programs, and evaluating injury prevention and control activities; (8) serves as a principal focus for training programs to increase the number and competence of personnel engaged in violence prevention and control research or practice; (9) supports the dissemination of research findings and transfer of violence prevention and control technologies to Federal, State, and local agencies, private organizations, and other national and international groups; (10) in carrying out the above functions, collaborates with other Divisions in NCIPC, CDC Centers/Institute/Offices, PHS agencies, and other Federal departments and agencies, and private organizations, as appropriate.

Division of Unintentional Injury Prevention (HCE5). (1) Provides leadership and coordination of a national program for the prevention and control of non-occupational unintentional injuries through collaborative efforts with Federal, State and local agencies, and public and private sector organizations; (2) proposes goals and objectives for the prevention and control of unintentional injuries, monitors and evaluates progress towards their achievement, determines priority recommendations, develops guidelines, and facilities implementation strategies in cooperation with other Federal agencies, State and local health agencies, academic institutions, public and private sector organizations, and international agencies; (3) provides scientific consultation and technical advice to states and localities to increase their capacity to develop, implement, and evaluate unintentional injury programs and surveillance activities; (4) plans, establishes, and evaluates surveillance systems to monitor national trends in morbidity, mortality, disabilities, and costs of unintentional injuries; (5) plans, directs, conducts, and supports research to assess environmental, social, behavioral, and other risk factors and evaluate intervention activities to prevent and control unintentional injuries; (6) plans and directs strategies to collect, analyze, and interpret scientific findings from surveillance and epidemiologic research activities for use in evaluating trends, setting priorities, and developing intervention strategies for unintentional injuries; (7) plans, directs, supports, and evaluates demonstration programs to prevent and control unintentional injuries; (8) supports dissemination of injury prevention and control research findings and transfer technologies to Federal, State, and local health agencies, public and private sector organizations, and other national and international groups with responsibilities and interests related to unintentional injuries; (9) supports training to increase

the number and competence of personal engaged in injury prevention and control research and practices; (10) facilitates the development of scientific approaches to injury prevention and control through publication of research findings in professional journals and through participation in national and international meetings, seminars, and conferences; (11) carries out mission through collaborative efforts with NCIPC Divisions and Offices, CDC Centers/Institute/Offices, PHS agencies, other Federal departments and agencies, State and local agencies, and professional and private organizations.

Division of Acute Care, Rehabilitation Research, and Disability Prevention (HCE6). (1) Plans, establishes, and evaluates surveillance systems to monitor the incidence, causes, risk factors, and treatments of outcomes of injuries, including disability at the person and interaction-with-environment levels; (2) collaborates with other NCIPC Divisions and Offices to conduct research and design and evaluate programs in the acute care and rehabilitation setting for the primary prevention of traumatic injuries; (3) plans, conducts, directs, and supports research and demonstration efforts to evaluate and improve the effectiveness of acute care and rehabilitation services and systems in mitigating the impact of injuries; (4) coordinates the biomechanics program within the NCIPC and coordinates with other relevant Federal agencies, academic institutions, and public and private organizations; (5) conducts epidemiological research on the treatments and outcomes of injury, defines and develops validated methods, tools, and coding systems for measuring injury severity, causes, quality of care, functional recovery, and resulting disability at the cause, origin, person, and interaction-with-environment levels; (6) collaborates with the Disabilities Prevention Program, National Center for Environmental Health, CDC, in providing technical assistance and consultation to states, communities, and research and academic institutions in the prevention of disabilities due to injuries; (7) serves as the focal point for traumatic head and spinal cord injury activities within CDC; (8) supports the dissemination of research findings and the transfer of acute care and rehabilitation technologies to Federal, State, and local agencies, private organizations, and other national and international groups; (9) plans and supports training programs and technical assistance efforts to strengthen the competence of national and international practitioners and researchers in delivering acute care and rehabilitation services in a variety of health care settings, (10) coordinates activities with other NCIPC Divisions and Offices, CDC Centers/Institute/Offices, PHS Agencies, other Federal departments and agencies, State and local agencies, professional and private organizations, and accrediting bodies.

Dated: October 25, 1993.

Walter R. Dowdle,

Acting Director, CDC.

[FR Doc. 93-27158 Filed 11-4-93; 8:45 am]

BILLING CODE 4160-18-M

Preventive Health Amendments of 1992; Delegation of Authority

Notice is hereby given that in furtherance of the delegation of authority from the Secretary to the Assistant Secretary for Health on January 14, 1981, (46 FR 10016), the Assistant Secretary for health has delegated to the Director, Centers for Disease Control and Prevention, with authority to redelegate, all the authorities pertaining to the National Program of Cancer Registries under Part M, Title III of the Public Health Service Act (42 U.S.C. 241 *et seq.*), as amended, insofar as they pertain to the functional responsibilities of the Centers for Disease Control and Prevention. This delegation excludes the authority to promulgate regulations and to submit reports to Congress.

This delegation becomes effective upon date of signature. In addition, I have affirmed and ratified any actions taken by the Director, Centers for Disease Control and Prevention or by the Director's subordinates which, in effect, involved the exercise of the authorities delegated herein prior to the effective date of the delegation.

Dated: October 26, 1993.

Philip R. Lee,

Assistant Secretary for Health.

[FR Doc. 93-27199 Filed 11-4-93; 8:45 am]

BILLING CODE 4160-18-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-93-1917; FR-3350-N-56]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

ADDRESSES: For further information, contact Mark Johnston, room 7262, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708-4300; TDD number for the hearing- and speech-impaired (202) 708-2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1-800-927-7588.

SUPPLEMENTARY INFORMATION: In accordance with 56 FR 23789 (May 24, 1991) and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88-2503-OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Judy Breitman, Division of Health Facilities Planning, U.S. Public Health Service, HHS, room 17A-10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443-2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 56 FR 23789 (May 24, 1991).

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1-800-927-7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (i.e., acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: *GSA:* Leslie Carrington, Federal Property Resources Services, GSA, 18th and F Streets NW, Washington, DC 20405; (202) 208-0619; *U.S. Air Force:* Bob Menke, Area-MI, Bolling AFB, 172 Luke Avenue, Suite 104, Washington, DC 20332-5113; (202) 767-6235; (These are not toll-free numbers).

Dated: October 29, 1993.

Jacquie M. Lawing,

Deputy Assistant Secretary for Economic Development.

Title V, Federal Surplus Property Program Federal Register Report for 11/05/93

Suitable/Available Properties

Buildings (by State)

Montana

Bldg. 00007
Havre Air Force Station Co: Hill MT 59501-
Landholding Agency: Air Force
Property Number: 189330066
Status: Unutilized
Comment: 992 sq. ft., 1-story metal, most recent use—auto/hobby shop

Bldg. 00008
Havre Air Force Station Co: Hill MT 59501-
Landholding Agency: Air Force
Property Number: 189330067
Status: Unutilized
Comment: 2640 sq. ft., 1-story metal, most recent use—vehicle parking

Bldg. 00016
Havre Air Force Station Co: Hill MT 59501-
Landholding Agency: Air Force
Property Number: 189330068
Status: Unutilized
Comment: 3604 sq. ft., 1-story cinder block, most recent use—storage

Bldg. 00023
Havre Air Force Station Co: Hill MT 59501-
Landholding Agency: Air Force
Property Number: 189330069
Status: Unutilized
Comment: 3315 sq. ft., 1-story wood, most recent use—fire station

Bldg. 00024
Havre Air Force Station Co: Hill MT 59501-
Landholding Agency: Air Force
Property Number: 189330070
Status: Unutilized
Comment: 5016 sq. ft., 1-story brick, most recent use—dormitory

Bldg. 00027
Havre Air Force Station Co: Hill MT 59501-
Landholding Agency: Air Force
Property Number: 189330071
Status: Unutilized
Comment: 14280 sq. ft., 1-story cinder block, most recent use—recreation center and commissary store

Bldg. 00029
Havre Air Force Station Co: Hill MT 59501-
Landholding Agency: Air Force
Property Number: 189330072
Status: Unutilized
Comment: 63 sq. ft., 1-story metal

Bldg. 00031
Havre Air Force Station Co: Hill MT 59501-
Landholding Agency: Air Force
Property Number: 189330073
Status: Unutilized
Comment: 3130 sq. ft., 1-story cinder block, most recent use—maintenance shop and admin.

Bldg. 00032
Havre Air Force Station Co: Hill MT 59501-
Landholding Agency: Air Force
Property Number: 189330074
Status: Unutilized
Comment: 64 sq. ft., metal, most recent use—storage

Bldg. 00035
Havre Air Force Station Co: Hill MT 59501-
Landholding Agency: Air Force
Property Number: 189330075
Status: Unutilized
Comment: 2252 sq. ft., 4-story metal, most recent use—storage

Bldg. 00039
Havre Air Force Station Co: Hill MT 59501-
Landholding Agency: Air Force
Property Number: 189330076
Status: Unutilized
Comment: 21824 sq. ft., 1-story masonry, most recent use—storage

Bldg. 00040
Havre Air Force Station Co: Hill MT 59501-
Landholding Agency: Air Force
Property Number: 189330077
Status: Unutilized
Comment: 874 sq. ft., 1-story masonry, most recent use—storage

Bldg. 00041
Havre Air Force Station Co: Hill MT 59501-
Landholding Agency: Air Force
Property Number: 189330078
Status: Unutilized
Comment: 108 sq. ft., 1-story masonry

Bldg. 00042
Havre Air Force Station Co: Hill MT 59501-
Landholding Agency: Air Force
Property Number: 189330079
Status: Unutilized
Comment: 760 sq. ft., 1-story masonry, most recent use—warehouse

Bldg. 00044
Havre Air Force Station Co: Hill MT 59501-
Landholding Agency: Air Force
Property Number: 189330080
Status: Unutilized
Comment: 3298 sq. ft., 1-story metal, most recent use—wood hobby shop

Bldgs. 51, 52, 56, 58
Havre Air Force Station Co: Hill MT 59501-
Landholding Agency: Air Force
Property Number: 189330081
Status: Unutilized
Comment: 1352 sq. ft. each, 1-story wood, most recent use—residential

Bldgs. 53-55, 57, 59, 61, 63, 65, 67, 69, 71
Havre Air Force Station Co: Hill MT 59501-
Landholding Agency: Air Force
Property Number: 189330082
Status: Unutilized
Comment: 1152 sq. ft., each, 1-story wood, most recent use—residential

Bldgs. 60, 62, 64, 66, 68
Havre Air Force Station Co: Hill MT 59501-
Landholding Agency: Air Force
Property Number: 189330083
Status: Unutilized
Comment: 1361 sq. ft. each, 1-story wood, most recent use—residential

Bldgs. 70, 72, 74, 78
Havre Air Force Station Co: Hill MT 59501-
Landholding Agency: Air Force
Property Number: 189330084
Status: Unutilized
Comment: 1455 sq. ft. each, 1-story wood, most recent use—residential

Bldgs. 76, 80
Havre Air Force Station Co: Hill MT 59501-
Landholding Agency: Air Force
Property Number: 189330085
Status: Unutilized
Comment: 1343 sq. ft. each, 1-story wood, most recent use—residential

Bldg. 82
Havre Air Force Station Co: Hill MT 59501-
Landholding Agency: Air Force
Property Number: 189330086
Status: Unutilized
Comment: 1553 sq. ft., 1-story wood, most recent use—residential

Bldgs. 150, 152, 154, 156, 158, 160, 162, 164, 168, 170, 172, 174, 176, 178, 180, 182, 184
Havre Air Force Station Co: Hill MT 59501-
Landholding Agency: Air Force
Property Number: 189330087
Status: Unutilized
Comment: 1247 sq. ft. each, 1-story wood, most recent use—residential

Bldgs. 106-109, 112-113
Havre Air Force Station Co: Hill MT 59501-
Landholding Agency: Air Force
Property Number: 189330088
Status: Unutilized
Comment: 36 sq. ft. each, most recent use—fire hose house

Bldgs. 202, 204, 206, 212, 214, 216, 218
Havre Air Force Station Co: Hill MT 59501-
Landholding Agency: Air Force
Property Number: 189330089
Status: Unutilized
Comment: 72 sq. ft. each, most recent use—storage units

Bldgs. 208, 210
Havre Air Force Station Co: Hill MT 59501-
Landholding Agency: Air Force
Property Number: 189330090
Status: Unutilized
Comment: 36 sq. ft. each, most recent use—storage

Land (by State)

South Carolina

Land—7.28 acres
Georgetown Wayside Park
Georgetown Co: Georgetown SC 29440-
Landholding Agency: GSA
Property Number: 549330007
Status: Excess
Comment: 7.28 acres, potential utilities
GSA Number: 4-GR-SC-521A

Unsuitable Properties

Buildings (by State)

Arizona

Facility 90002
Holbrook Radar Site
Holbrook Co: Navajo AZ 86025-
Landholding Agency: Air Force
Property Number: 189340049
Status: Unutilized
Reason: Within airport runway clear zone

California

Bldg. 4412
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437-
Landholding Agency: Air Force
Property Number: 189340001
Status: Unutilized
Reason: Within airport runway clear zone; Secured Area

Bldg. 4415
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437-
Landholding Agency: Air Force
Property Number: 189340002
Status: Unutilized
Reason: Within airport runway clear zone; Secured Area

Bldg. 1988
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437-
Landholding Agency: Air Force
Property Number: 189340003
Status: Unutilized
Reason: Other; Secured Area
Comment: Electrical Power Generator Bldg.

Bldg. 11147
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437-
Landholding Agency: Air Force
Property Number: 189340004
Status: Unutilized
Reason: Other; Secured Area
Comment: Detached latrine

Bldg. 1130
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437-
Landholding Agency: Air Force
Property Number: 189340005
Status: Unutilized
Reason: Secured Area

Bldg. 1324
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437-
Landholding Agency: Air Force
Property Number: 189340006
Status: Unutilized
Reason: Secured Area

Bldg. 1341
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437-
Landholding Agency: Air Force
Property Number: 189340007
Status: Unutilized
Reason: Secured Area

Bldg. 1955
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437-
Landholding Agency: Air Force
Property Number: 189340008
Status: Unutilized
Reason: Secured Area

Bldg. 5007
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437-
Landholding Agency: Air Force
Property Number: 189340009
Status: Unutilized
Reason: Secured Area

Bldg. 5107
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437-
Landholding Agency: Air Force
Property Number: 189340010
Status: Unutilized
Reason: Secured Area

Bldg. 5118
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437-
Landholding Agency: Air Force
Property Number: 189340011
Status: Unutilized
Reason: Secured Area

Bldg. 5120
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437-
Landholding Agency: Air Force
Property Number: 189340012
Status: Unutilized
Reason: Secured Area

Bldg. 5132
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437-
Landholding Agency: Air Force
Property Number: 189340013
Status: Unutilized
Reason: Secured Area

Bldg. 6008
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437-
Landholding Agency: Air Force
Property Number: 189340014
Status: Unutilized
Reason: Secured Area

Bldg. 6418
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437-
Landholding Agency: Air Force
Property Number: 189340015
Status: Unutilized
Reason: Secured Area

Bldg. 6420
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437-
Landholding Agency: Air Force
Property Number: 189340016
Status: Unutilized
Reason: Secured Area

Bldg. 6429
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437-
Landholding Agency: Air Force
Property Number: 189340017
Status: Unutilized
Reason: Secured Area

Bldg. 6441
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437-
Landholding Agency: Air Force
Property Number: 189340018
Status: Unutilized
Reason: Secured Area

Bldg. 6442
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437-
Landholding Agency: Air Force
Property Number: 189340019
Status: Unutilized

Reason: Secured Area
Bldg. 6443
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437-
Landholding Agency: Air Force
Property Number: 189340020
Status: Unutilized
Reason: Secured Area
Bldg. 7301
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437-
Landholding Agency: Air Force
Property Number: 189340021
Status: Unutilized
Reason: Secured Area
Bldg. 7306
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437-
Landholding Agency: Air Force
Property Number: 189340022
Status: Unutilized
Reason: Secured Area
Bldg. 8309
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437-
Landholding Agency: Air Force
Property Number: 189340023
Status: Unutilized
Reason: Secured Area
Bldg. 9310
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437-
Landholding Agency: Air Force
Property Number: 189340024
Status: Unutilized
Reason: Secured Area
Bldg. 11190
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437-
Landholding Agency: Air Force
Property Number: 189340025
Status: Unutilized
Reason: Secured Area
Bldg. 11308
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437-
Landholding Agency: Air Force
Property Number: 189340026
Status: Unutilized
Reason: Secured Area
Bldg. 13001
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437-
Landholding Agency: Air Force
Property Number: 189340027
Status: Unutilized
Reason: Secured Area
Bldg. 16164
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437-
Landholding Agency: Air Force
Property Number: 189340028
Status: Unutilized
Reason: Secured Area

Kansas

Bldg. 1407
McConnell Air Force Base
Wichita Co: Sedgwick KS 67221-
Landholding Agency: Air Force
Property Number: 189340029
Status: Unutilized
Reason: Within airport runway clear zone; Secured Area
Bldg. 186
McConnell Air Force Base
Wichita Co: Sedgwick KS 67221-
Landholding Agency: Air Force
Property Number: 189340030
Status: Unutilized
Reason: Other; Secured Area
Comment: Extensive deterioration
Bldg. 187
McConnell Air Force Base
Wichita Co: Sedgwick KS 67221-
Landholding Agency: Air Force
Property Number: 189340031
Status: Unutilized
Reason: Other; Secured Area
Comment: Extensive deterioration

Maryland

Bldg. 3492
Andrews Air Force Base
Andrews AFB Co: Prince George's MD 20335-
Landholding Agency: Air Force
Property Number: 189340050
Status: Unutilized
Reason: Secured Area

South Dakota

Bldg. 88535
Ellsworth Air Force Base
Ellsworth AFB Co: Meade SD 57706-
Landholding Agency: Air Force
Property Number: 189340032
Status: Unutilized
Reason: Secured Area
Bldg. 88470
Ellsworth Air Force Base
Ellsworth AFB Co: Meade SD 57706-
Landholding Agency: Air Force
Property Number: 189340033
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area
Bldg. 88304
Ellsworth Air Force Base
Ellsworth AFB Co: Meade SD 57706-
Landholding Agency: Air Force
Property Number: 189340034
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Other; Secured Area
Comment: Extensive deterioration
Bldg. 9011
Ellsworth Air Force Base
Ellsworth AFB Co: Meade SD 57706-
Landholding Agency: Air Force
Property Number: 189340035
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Other; Secured Area
Comment: Extensive deterioration
Bldg. 9010
Ellsworth Air Force Base
Ellsworth AFB Co: Meade SD 57706-
Landholding Agency: Air Force
Property Number: 189340036
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Other; Secured Area
Comment: Extensive deterioration
Bldg. 7506
Ellsworth Air Force Base
Ellsworth AFB Co: Meade SD 57706-
Landholding Agency: Air Force
Property Number: 189340037
Status: Unutilized
Reason: Secured Area
Bldg. 6908
Ellsworth Air Force Base
Ellsworth AFB Co: Meade SD 57706-
Landholding Agency: Air Force
Property Number: 189340038
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Other; Secured Area
Comment: Extensive deterioration
Bldg. 6904
Ellsworth Air Force Base
Ellsworth AFB Co: Meade SD 57706-
Landholding Agency: Air Force
Property Number: 189340039
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Other; Secured Area
Comment: Extensive deterioration
Bldg. 4102
Ellsworth Air Force Base
Ellsworth AFB Co: Meade SD 57706-
Landholding Agency: Air Force
Property Number: 189340040
Status: Unutilized
Reason: Secured Area
Bldg. 4101
Ellsworth Air Force Base
Ellsworth AFB Co: Meade SD 57706-
Landholding Agency: Air Force
Property Number: 189340041
Status: Unutilized
Reason: Secured Area
Bldg. 4100
Ellsworth Air Force Base
Ellsworth AFB Co: Meade SD 57706-
Landholding Agency: Air Force
Property Number: 189340042
Status: Unutilized
Reason: Secured Area
Bldg. 3016
Ellsworth Air Force Base
Ellsworth AFB Co: Meade SD 57706-
Landholding Agency: Air Force
Property Number: 189340043
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Other; Secured Area
Comment: Waste treatment bldg.
Bldg. 1115
Ellsworth Air Force Base
Ellsworth AFB Co: Meade SD 57706-
Landholding Agency: Air Force
Property Number: 189340044
Status: Unutilized
Reason: Secured Area
Bldg. 1210
Ellsworth Air Force Base
Ellsworth AFB Co: Meade SD 57706-
Landholding Agency: Air Force
Property Number: 189340045
Status: Unutilized
Reason: Secured Area
Bldg. 1112
Ellsworth Air Force Base

Ellsworth AFB Co: Meade SD 57706-
Landholding Agency: Air Force
Property Number: 189340046
Status: Unutilized
Reason: Secured Area

Bldg. 1110
Ellsworth Air Force Base
Ellsworth AFB Co: Meade SD 57706-
Landholding Agency: Air Force
Property Number: 189340047
Status: Unutilized
Reason: Secured Area

Bldg. 606
Ellsworth Air Force Base
Ellsworth AFB Co: Meade SD 57706-
Landholding Agency: Air Force
Property Number: 189340048
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area

[FR Doc. 93-27013 Filed 11-4-93; 8:45 a.m.]

BILLING CODE 4210-29-F

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA-060-04-5440-10-B026]

Intent to Amend the California Desert Conservation Area Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the Bureau of Land Management proposes to change the northern boundary of the Singer Geoglyphs Area of Critical Environmental Concern (ACEC) to follow the 1988 realignment of HWY 78 and exclude the following public lands:

San Bernardino Base & Meridian, Imperial County, California

T.13 S., R.19 E.:
Section 21: That position situated north of HWY 78, containing 35 acres more or less.

These lands would be classified as Multiple-Use Class M (Moderate Use) under the California Desert Conservation Area (CDCA) Plan.

FOR ADDITIONAL INFORMATION CONTACT: Thomas Zale, Multi-Resource Staff Chief, Bureau of Land Management, El Centro Resource Area, 1661 South Fourth Street, El Centro, California, 92243; phone (619) 353-1060.

SUPPLEMENTARY INFORMATION: The Singer Geoglyphs ACEC was designated in 1980 as the Gold Basin/Rand Intaglio ACEC (No. 67) by CDCA Plan. A 1985 amendment to the Plan (85-13) revised the boundaries of the ACEC to correct a 1980 mapping error. In 1986, the name of the ACEC was changed to the Singer Geoglyphs ACEC to reflect local usage.

In 1988, Gold Fields Mining Company relocated a stretch of HWY 78 to the south and west of the Mesquite Mine to improve public safety. The realignment cut through the northwest corner of the Singer Geoglyphs ACEC in an area that was devoid of the cultural resources for which the ACEC was established.

In 1992, Arid Operations, Inc., a subsidiary of Gold Fields Mining Company, proposed a land exchange involving, in part, that portion of the Singer Geoglyphs ACEC lying north of HWY 78 in Section 21. The land exchange is part of a proposed Class III Municipal Solid Waste landfill project. A cultural resource inventory of the federal exchange lands indicates that this portion of the ACEC does not contain the cultural resource values for which the ACEC was established. The proposed amendment would modify the boundary of the ACEC to more accurately reflect the distribution of cultural resources in this vicinity and exclude lands that do not contain these resource values.

The proposed amendment to the CDCA plan is being analyzed as part of the proposed action in a joint Environmental Impact Statement/ Environmental Impact Report (EIS/EIR) for the proposed land exchange and landfill. It is anticipated that the Draft EIS/EIR will be printed and made available to the public for comment in December 1993.

Dated: October 20, 1993.

Thomas F. Gale,

Acting Area Manager.

[FR Doc. 93-27185 Filed 11-4-93; 8:45 am]

BILLING CODE 4310-40-M

[WY-920-41-5700; WYW115890]

Proposed Reinstatement of Terminated Oil and Gas Lease

October 27, 1993.

Pursuant to the provisions of 30 U.S.C. 188 (d) and (e), and 43 CFR 3108.2-3 (a) and (b)(1), a petition for reinstatement of oil and gas lease WYW115890 for lands in Carbon County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW115890 effective May 1, 1993, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Pamela J. Lewis,

Supervisory Land Law Examiner.

[FR Doc. 93-27171 Filed 11-4-93; 8:45 am]

BILLING CODE 4310-22-M

[WY-920-41-5700; WYW116090]

Proposed Reinstatement of Terminated Oil and Gas Lease

October 27, 1993.

Pursuant to the provisions of 30 U.S.C. 188 (d) and (e), and 43 CFR 3108.2-3 (a) and (b)(1), a petition for reinstatement of oil and gas lease WYW116090 for lands in Niobrara and Weston Counties, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination. The lessee has agreed to the amended lease terms for rentals and royalties at rates of $5.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW116090 effective May 1, 1993, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Pamela J. Lewis,

Supervisory Land Law Examiner.

[FR Doc. 93-27173 Filed 11-4-93; 8:45 am]

BILLING CODE 4310-22-M

[NM-030-4210-05; NMNM 3875]

Order Providing for Opening of Land; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This order will open lands originally patented among other lands under Patent No. 30-69-0045 to New Mexico State University on January 10, 1969. The lands will be open to the

operation of the public land laws generally, including the mining laws and will remain open to mineral leasing. In accordance with 43 CFR Part 2091, these lands are not segregated as the classification and segregation terminated upon issuance of patent.

EFFECTIVE DATE: November 22, 1993.

FOR FURTHER INFORMATION CONTACT: Marvin James, Bureau of Land Management, Mimbres Resource Area, 1800 Marquess, Las Cruces, NM 88005, 505-525-4349.

SUPPLEMENTARY INFORMATION: On October 18, 1993, the United States accepted title to lands described as the E½SW¼SE¼ and W½W½SE¼SE¼, Section 8, T. 21 S., R. 3 W., New Mexico Principal Meridian, New Mexico, containing 30.00 acres, more or less. These lands were reconveyed by New Mexico State University to the United States in accordance with the provisions of the Act of June 14, 1926, as amended (43 U.S.C. 869 *et seq.*). At 9 a.m. on November 22, 1993, these lands will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on November 22, 1993, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Dated: October 25, 1993.

Stephanie Hargrove,

Associate District Manager.

[FR Doc. 93-27169 Filed 11-4-93; 8:45 am]

BILLING CODE 4310-FB-M

[CO-070-04-7122-03-7408; C-54877]

Realty Action; Lease of Public Lands in Garfield County, CO

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Designation of public lands in Garfield County, Colorado, as suitable for lease for agricultural uses.

SUMMARY: Pursuant to section 302 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716), the Bureau of Land Management, Grand Junction District, has identified the following-described public lands as preliminarily suitable for non-competitive lease.

Sixth Principal Meridian, Colorado

T. 8 S., R. 88 W.,
Sec. 1: SE¼SE¼ (within),
Sec. 12: Lot 1, E½E½ (within)

The lands proposed for lease within the area described above contain 31 acres, more or less. The lease is proposed to authorize agricultural uses, including irrigated hayfield and non-irrigated range land, by the Carbondale Corporation.

Additional information concerning this proposal, including details of the lease area, location map, lease terms and conditions, and planning documents and environmental assessment, is available for review in the Glenwood Springs Resource Area Office, 50629 Highway 6 and 24, P.O. Box 1009, Glenwood Springs, Colorado 81602.

For a period of 30 days from the date of first publication of this notice, interested parties may submit comments to the District Manager, Grand Junction District, Bureau of Land Management, 2815 H Road, Grand Junction, Colorado 81506. Any adverse comments will be evaluated by the District Manager who may sustain, vacate, or modify this Realty Action and issue a final determination.

In the absence of any objections, this Realty Action will become the final determination of the Bureau.

Dated: October 29, 1993.

Richard Arcand,

Acting District Manager, Grand Junction District.

[FR Doc. 93-27184 Filed 11-4-93; 8:45 am]

BILLING CODE 4310-JB-U

[ID-943-04-4210-04; IDI-28748]

Issuance of Land Exchange Conveyance Document; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Exchange of public and private lands.

SUMMARY: The United States has issued an exchange conveyance document to DAW Forest Products Company, of Couer d'Alene, Idaho, under section 206 of the Federal Land Policy and Management Act.

EFFECTIVE DATE: November 5, 1993.

FOR FURTHER INFORMATION CONTACT: Sally Carpenter, BLM, Idaho State Office, 3380 Americana Terrace, Boise, Idaho, (208) 384-3163.

1. In an exchange made under the provisions of section 206 of the Act of October 21, 1976, 90 Stat. 2756, 43 U.S.C. 1716, the following described lands have been conveyed from the United States:

Boise Meridian

T. 48 N., R. 1 E.,
Sec. 21, W½S¼;
Sec. 22, NW¼NW¼.
T. 55 N., R. 3 W.,
Sec. 2, SE¼NE¼;
Sec. 10, E½NE¼;
Sec. 17, NW¼NE¼.
T. 57 N., R. 3 W.,
Sec. 22, NE¼NE¼.

Comprising 320.00 acres of public land.

2. In exchange for these lands, the United States acquired the following described lands:

Boise Meridian

T. 49 N., R. 3 W.,
Sec. 1, by metes and bounds within lots 1, 2, 4 and 5.

Comprising 57.78 acres of private land.

The purpose of the exchange was to acquire non-Federal land which has high public values for recreation. The public interest was well served through completion of the exchange. The values of the Federal and private lands in the exchange were appraised at approximately $807,000 and $812,000, respectively. DAW Forest Products Company has waived any equalization payment from the United States.

Dated: October 22, 1993.

William E. Ireland,

Chief, Realty Operations Section.

[FR Doc. 93-27178 Filed 11-4-93; 8:45 am]

BILLING CODE 4310-66-M

[NV-930-3-4210-05; N-30816]

Notice of Realty Action, Land Classification Change

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: On October 2, 1981, the public lands listed below were classified as suitable for lease, under the authority of the Act of June 14, 1926 (44 Stat. 173), as amended by the Act of October 21, 1976, Section 212, Federal Land Policy and Management Act, Public Law 94-579, to Humboldt County for the purpose of establishing a community dump site for the King's River Valley area located in northern Humboldt County, NV.

Mount Diablo Meridian, Nevada

T. 44 N., R. 33 E.,
Sec. 1. SE¼SW¼NE¼
10 acres.

Notice is hereby given that the Winnemucca District Bureau of Land Management is modifying the land classification decision to include disposal/sale of the following parcel of public land under the authority of the Act of June 14, 1926 (44 Stat. 173), as amended by the Act of October 21, 1976, section 212, Federal Land Policy and Management Act, Public Law 94-579.

Mount Diablo Meridian, Nevada

T. 44 N., R. 33 E.,
Sec. 1, E½SE¼ SW¼NE¼
5 acres.

The above parcel of public land will be used for the purpose of a transfer station for garbage and refuse for the use of King's River Valley residents.

This land classification change is based on the following:

1. Title 43 CFR 2410.1(a) states "the lands are physically suitable and adaptable to the uses and purposes for which they are classified. In addition, the lands possess the physical and other characteristics as the law may require them to have to qualify for this particular land classification."

2. All present and potential uses and users of these lands have been taken into consideration, all other things being equal, the land classification will attempt to achieve the maximum future use with minimum disturbance to or dislocation of existing users.

3. The land classification is consistent with State and local government programs, plans, zoning and regulations applicable to the area in which the lands to be classified are located, to the extent such State and local programs, plans, zoning and regulations are not inconsistent with Federal programs, policies, and uses and will not lead to inequities among private individuals.

4. This land classification is consistent with Federal programs and policies, to the extent that those programs and policies affect the use or disposal of the public lands.

All other information pertinent to this land classification remains the same and is not changed.

FOR FURTHER INFORMATION CONTACT: Hal Green, District Realty Specialist, Winnemucca District Office, Bureau of Land Management, 705 E. 4th Street, Winnemucca, NV 89445, (702) 623-1500.

SUPPLEMENTARY INFORMATION: This notice shall segregate the above listed public lands on the date of publication from appropriation of the public land laws, including the mining and mineral lease laws. This segregation shall continue for a period of 270 days or when a transfer document, patent or other instrument is prepared and issued for the above listed public lands, whichever comes first, or a notice is published stating that the segregation is canceled in total or part.

Reservations to the Federal Government: The patent when issued will reserve all minerals to the United States, together with the right to mine and remove the same under applicable laws and regulations established by the Secretary of the Interior.

For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Winnemucca District Office, Bureau of Land Management, 705 East 4th Street, Winnemucca, NV 89445.

In the absence of comment or objections, this Notice of Realty Action will become the final determination of the Department of the Interior, Bureau of Land Management.

Dated: October 26, 1993.

Ron Wenker,

District Manager, Winnemucca.

[FR Doc. 93-27180 Filed 11-4-93; 8:45 am]

BILLING CODE 4310-HC-M

[ID-942-04-4051-02-3201]

Filing of Plats of Survey; Idaho

The plat, in two sheets, of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9 a.m., October 27, 1993.

The plat, in two sheets, representing certain corrections of the survey performed in section 26, under Group No. 657, accepted November 12, 1985, and the dependent resurvey of portions of the subdivisional lines, the 1983 adjustment of the 1892 meanders of the right bank of the Salmon River in section 35, the subdivision of sections 26 and 35, and the center line of U.S. Highway No. 93 in section 35, the survey of the 1992 meanders of the right bank of the Salmon River in section 35, and the survey certain lots in sections 23, 26, 27, and 35, T. 16 N., R. 20 E., Boise Meridian, Idaho, Group No. 843, was accepted, October 20, 1993.

This survey was executed to meet certain administrative needs of the Bureau of Land Management.

All inquiries concerning the survey of the above described land must be sent to the Chief, Branch of Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho, 83706.

Dated: October 27, 1993.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 93-27179 Filed 11-4-93; 8:45 am]

BILLING CODE 4310-G-M

[NM-940-04-4730-12]

Filing of Plats of Survey; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey described below are scheduled to be officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, on December 6, 1993.

New Mexico Principal Meridian, New Mexico

Survey of an exclusion within the El Poso Ranch Tract, Tierra Amarilla Grant, accepted September 27, 1993, for Group 904 NM.

Supplementals

T. 30 N., R. 14 W.,
Accepted September 27, 1993, NM.
T. 23 N., R. 9 W.,
Accepted September 27, 1993, NM.

If a protest against a survey, as shown on any of the above plats is received prior to the date of official filing, the filing will be stayed pending consideration of the protest. A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

A person or party who wishes to protest against a survey must file with the New Mexico State Director, Bureau of Land Management, a notice that they wish to protest prior to the proposed official filing date given above.

A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within (30) days after the proposed official filing date.

The above-listed plats represent dependent resurveys, survey and subdivision.

These plats will be in the open files of the New Mexico State Office, Bureau of Land Management, P.O. Box 27115, Santa Fe, New Mexico 87502-0115. Copies may be obtained from this office upon payment of $2.50 per sheet.

John P. Bennett,

Chief, Cadastral Survey/Geo Science.

[FR Doc. 93-27183 Filed 11-4-93; 8:45 am]

BILLING CODE 4310-FB-M

[NV-930-4210-06; N-57922]

Proposed Withdrawal and Opportunity for Public Meeting, Nevada; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction notice.

The Notice of Proposed Withdrawal for Nevada published in the **Federal Register** on October 18, 1993, page 53745, is hereby corrected as follows:

The legal description under T. 6 S., R. 56 E. should read: "Secs. 25 and 36."

Marla B. Bohl,

Acting Deputy State Director, Operations.

[FR Doc. 93-27186 Filed 11-4-93; 8:45 am]

BILLING CODE 4310-HC-M

Fish and Wildlife Service

Wild Bird Conservation Act (Act) of 1992; Possible Moratorium on Imports of Wild Birds From Indonesia Into the United States

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of petition receipt; finding of sufficient information; request for public comment.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the receipt of a petition to impose a moratorium on the imports of wild birds from Indonesia into the United States under the Wild Bird Conservation Act of 1992. The petition has been found to present sufficient information indicating that imposing a moratorium on the imports of wild birds from Indonesia may be warranted under the WBCA, and that the trade in wild birds from Indonesia may be detrimental to species' survival. Through the issuance of this notice, the Service now requests additional scientific and commercial data, comments, and suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning the status of wild bird species in Indonesia.

DATES: The Fish and Wildlife Service (Service) will consider comments and information received by January 4, 1994, in making a final decision on this petition.

ADDRESSES: Comments and information should be sent to: Director, U.S. Fish and Wildlife Service, c/o Mr. Marshall P. Jones, Chief, Office of Management Authority, 4401 N. Fairfax Dr., room 420 C, Arlington VA 22203.

FOR FURTHER INFORMATION CONTACT: Dr. Susan S. Lieberman, Office of Management Authority, at the above address, telephone (703) 358-2093.

SUPPLEMENTARY INFORMATION: On October 23, 1992, the Wild Bird Conservation Act (WBCA) was signed into law. The purposes of the WBCA include promoting the conservation of exotic birds by: Ensuring that all imports into the United States of species of exotic birds are biologically sustainable and not detrimental to the species; ensuring that imported birds are not subject to inhumane treatment; and assisting wild bird conservation and management programs in countries of origin.

Pursuant to section 108 (a) (2) (B) (i), "Moratoria for species not covered by Convention" of the Wild Bird Conservation Act of 1992 (Act), the Secretary of the Interior (Secretary) is authorized to establish a moratorium on the importation of all species of exotic birds from a particular country, if the Secretary determines that:

1. The country has not developed and implemented a management program for exotic birds in trade generally, that ensures both the conservation and the humane treatment of exotic birds during capture, transport, and maintenance; and

2. The moratorium or quota is necessary for the conservation of the species or is otherwise consistent with the purpose of the Act.

This action is based on various documents, including published and unpublished studies, and agency documents. All documents on which this petition finding is based are on file in the Fish and Wildlife Service Office of Management Authority, and are available on request.

On June 21, 1993, the Environmental Investigation Agency, the Animal Welfare Institute, the Humane Society of the United States, and Defenders of Wildlife submitted a petition to the Service requesting the Secretary to impose a moratorium on the imports of wild birds from Indonesia under the WBCA.

Although occupying only 1.3% of the world's land surface, Indonesia contains 17% of the world's bird species, of which about 430 of the 1,500 bird species are endemic to this island archipelago and 126 of these endemic species are considered highly threatened (Whitten and Whitten 1992). Indonesia is the largest reported source of wild-caught birds in the Asia and Oceania region, supplying 88,072 CITES-listed birds to other countries during 1988 (Mulliken et al. 1992). The majority of Indonesia's reported exports are psittacines, primarily cockatoos (Cacatuidae) and lories (Loriidae); both are endemic to the Indo-Pacific region. A documented total of 538,590 psittacines were recorded as exported from Indonesia during 1983 to 1990 (Edwards and Nash 1992). Due to mortalities in capture, holding, and transport, far more were removed from the wild during the same period.

The capture and trade of wild birds in Indonesia is regulated by the Directorate General of Forest Protection and Nature Conservation (PHPA), which serves as the Indonesian CITES Management Authority (Edwards and Nash 1992). Within this Directorate General, the Directorate of Nature Conservation and the Sub-Directorate for Species Conservation are responsible for controlling most trade in Indonesian wildlife. The Indonesian Institute of Sciences Research, Development Center for Biology (LIPI) is the designated CITES Scientific Authority, although its recommendations have carried no special influence in the establishing of wildlife trade quotas (Edwards and Nash 1992). Nash (1993) provides extensive documentation of problems with the implementation of CITES Article IV in Indonesia.

Indonesia lacks comprehensive CITES-implementing legislation. Ministerial Decrees reference the Act on Conservation of Living Resources and their Ecosystems (1990 Conservation Act) which focuses on domestic conservation and does not provide any additional authority for implementation of CITES than existed in the 1931 Ordinance for the Protection of Wild Animals (Edwards and Nash 1992). Government Ministers are authorized to issue Decrees and Decrees issued by the Minister of Forestry are the most important legal instrument for implementing Indonesia's responsibilities with respect to CITES.

These Decrees include: The Ministry of Forestry Decree (No. 86/Kpts-II/1983), which requires permits to capture, keep, and transport all wildlife; The Director General of Forest Protection and Nature Conservation Decree (No. 5/Kpts/VI-Sek/1985), which outlines administrative procedures for obtaining a permit for capture, possession, keeping, and transport for wildlife; a number of Decrees to establish 'protected' status for wildlife species; and an Annual Decree that establishes the year's quota for capture of wild birds (Edwards and Nash 1992).

The trade in wild birds in Indonesia is regulated by a system of capture quotas (Edwards and Nash 1992). According to PHPA, capture quotas are based on an evaluation of prior capture records and not on scientific information. The average capture rate for the prior three years is calculated for each species. On this basis an 'effective capture effort per unit' is determined. Trends in the market value of each species are also assessed. If the capture rate is down and the market value is stable or decreasing each year, then the capture quota is reduced from the prior year. If the capture rate is increasing and the market value is increasing or stable, the capture quota is increased. Therefore, capture quotas are set by

export volume, market price, and consumer demand, rather than by scientific or biological data. Wild bird traders (exporters) provide information on population status, relative abundance, and market demands to PHPA and work closely with PHPA to establish capture quotas (Nash 1993).

In a number of cases, the export volume appears to be dictating the harvest quota [e.g. *Trichoglossus haematodus* (Rainbow Lory); *Psittacula alexandri* (Mustached Parakeet); and *Eos squamata* (Violet-necked Lory)] (Edwards and Nash 1992). Capture quotas often result in a lack of effective trade control and enforcement. Capture quotas are often filled completely or exceeded by exports (Edwards and Nash 1992). In 1988, reported exports significantly exceeded the capture quota for 15 species/subspecies, with export volumes ranging from 112% to 312% of established quotas (Edwards and Nash 1992). Exports exceeded quotas for twelve species/subspecies in 1989 (exports 108% to 192% of quotas) and for four species/subspecies in 1990 (exports 106% to 127% of quotas).

The government of Indonesia has not undertaken any field surveys of wild bird species in trade (Edwards and Nash 1992). In the absence of field studies, there is insufficient scientific information for the sustainable management of Indonesian bird species. Indonesia has had more species of birds transferred to CITES Appendix I than any other party. Lastly, capture quotas make no provision for mortality or loss due to inhumane treatment or other causes during capture, transport, and maintenance.

Parrot specialists have expressed their concerns that wild psittacine populations in Indonesia are being severely exploited (Wirth 1990). Although the Moluccan Cockatoo (*Cacatua moluccensis*) was regarded as endangered by some ornithologists in 1987, Indonesia set capture quotas at 5,000 in 1988 and at 3,000 in 1989. In 1989, the annual capture quota of 3,000 for this species was exceeded in U.S. imports by over 2,000 individuals. The Moluccan Cockatoo was placed on CITES Appendix I later that year.

The Environmental Investigation Agency et al. petition documented various case studies in psittacines where the establishment, poor management, and lack of enforcement of capture quotas have resulted in significant population declines. The Citron-crested Cockatoo (*Cacatua sulphurea citronocristata*) has declined from an estimated population of 12,000 birds in 1986 to 2,400 birds in 1989 because of heavy trapping. In 1989, a zero capture quota was set for the species, yet 2,945 birds were exported from Indonesia that year with permits from the Management Authority.

A recent IUCN-sponsored study of the status and trade of White Cockatoo (*Cacatua alba*), Chattering Lory (*Lorius garrulus*), and Violet-necked Lory (*Eos squamata*) in the North Moluccan Province of Indonesia found that the quota system was completely inadequate in regulating trade in these species (Lambert 1993). In addition, the study found that much of the trade in parrots from the North Moluccas occurs outside of the quota system. Trapping without permits, or in excess of permits, and the illegal trade were found to be significant problems.

No records on the domestic trade in Indonesia of wild birds are available (Edwards and Nash 1992), and this trade is neither monitored nor regulated. The effects of this trade on wild bird populations remain unknown. Data are lacking that Indonesia's management plan provides conservation incentives to species in the trade. PHPA personnel report that income from the tax assessed on exports is important, but it does not contribute a significant amount to their annual operating budget (Edwards and Nash 1992). These taxes do not fund wild bird conservation or trade monitoring or enforcement efforts.

There appear to be no measures to insure the humane treatment of wild birds during capture, transport, and maintenance in Indonesia, in spite of relevant CITES requirements. Nash (1990) found that 30 to 40% of the psittacine species trapped for trade in Irian Jaya died by the time they were shipped to Jakarta for export. A recent IUCN-sponsored study suggested that 15–20% of *Lorius garrulus*, 7–10% of *Cacatua alba*, and greater than 25% of *Eos squamata* die prior to shipment to other destinations in Indonesia. The Environmental Investigation Agency provided unpublished data extracted from analyses of U. S. Department of Agriculture Quarantine Forms which show that transport mortality for Indonesian birds is consistently high and averaged 9,565 birds or 8% during a four-year period (1988–1990).

After a review of the petition and other information available to the Service, the Service concludes that imposing a moratorium on the imports of wild birds from Indonesia may be warranted under the WBCA, and that the trade in wild birds from Indonesia may be detrimental to species' survival. The information available indicates that the government of Indonesia has been unable to implement a management program for wild birds in trade that ensures both the conservation of the species and the humane treatment of birds during capture, trade, and maintenance.

Public Comments Solicited

The Service intends that any final decision resulting from this petition finding will be as accurate and as effective as possible. Therefore, any comments or data from the public, other concerned governmental agencies, the scientific or conservation communities, trade organizations, or any other interested party concerning any aspect of the wild bird trade in Indonesia are hereby solicited.

References Cited

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Authors

The authors of this notice are Dr. Rosemarie Gnam and Dr. Susan S. Lieberman, U. S. Fish and Wildlife Service, Division of Law Enforcement and Office of Management Authority, respectively.

Dated: October 21, 1993.

Brian Blanchard,

Director.

[FR Doc. 93–27317 Filed 11–4–93; 8:45 am]

BILLING CODE 4310–55–P

Wild Bird Conservation Act (Act) of 1992; Possible Moratorium on Imports of Wild Birds From Sénégal Into the United States

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of petition receipt; finding of sufficient information; request for public comment.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the receipt of a petition to impose a moratorium on the imports of wild birds from Sénégal into the United States under the Wild Bird Conservation Act of 1992 (Act). The petition has been found to present sufficient information indicating that imposing a moratorium on the imports of wild birds from Sénégal may be warranted under the Act, and that the trade in wild birds from Sénégal may be detrimental to species' survival. Through the issuance of this notice, the Service now requests additional data, comments, and suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this petition and the status of wild bird species in, and/or exported from Sénégal.

DATES: The Fish and Wildlife Service (Service) will consider comments and information received by January 4, 1994, in making a final decision on this petition.

ADDRESSES: Comments and information should be sent to: Director, U.S. Fish and Wildlife Service, c/o Mr. Marshall P. Jones, Chief, Office of Management Authority, 4401 N. Fairfax Dr., room 420 C, Arlington VA 22203.

FOR FURTHER INFORMATION CONTACT: Dr. Susan S. Lieberman, Office of Management Authority, at the above address, telephone (703) 358–2093.

SUPPLEMENTARY INFORMATION: On October 23, 1992, the Wild Bird Conservation Act (Act) was signed into law. The purposes of the Act include promoting the conservation of exotic birds by: Ensuring that all imports into the United States of species of exotic birds are biologically sustainable and not detrimental to the species; ensuring that imported birds are not subject to inhumane treatment; and assisting wild bird conservation and management programs in countries of origin.

Pursuant to section 108(a)(2)(B), "Moratoria for species not covered by Convention" of the Wild Bird Conservation Act of 1992 (Act), the Secretary of the Interior (Secretary) is authorized to establish a moratorium on the importation of all species of exotic birds from a particular country, if the Secretary determines that:

1. The country has not developed and implemented a management program for exotic birds in trade generally, that ensures both the conservation and the humane treatment of exotic birds during capture, transport, and maintenance; and

2. The moratorium or quota is necessary for the conservation of the species or is otherwise consistent with the purpose of the Act.

This notice is based on various documents, including published and unpublished studies, and agency documents. All documents on which this petition finding is based are on file in the Fish and Wildlife Service Office of Management Authority, and are available on request.

On August 3, 1993, the Environmental Investigation Agency, the Animal Welfare Institute, and Ms. Greta Nilsson submitted a petition to the Service requesting the Secretary to impose a moratorium on the imports of wild birds from Sénégal under the Act.

On a regional basis, Africa is the largest recorded exporter of wild-caught birds (Mulliken et al. 1992). African countries provided over two-thirds (68%) of all CITES-listed species recorded in trade in 1988 (Mulliken et al. 1992). The region's two largest exporters of wild birds are Sénégal and Tanzania. Together, Sénégal and Tanzania accounted for an estimated 53% of all CITES-listed specimens reported in trade in 1988.

Sénégal is the world's largest exporting nation of wild-caught birds. It exported over 4 million birds from 1985 to 1989 (Edwards and Biteye 1992). In the period 1990–1992, Sénégal directly exported 179,537 CITES-listed birds and 59,036 non-CITES-listed birds to the United States. In 1993, under the quota system established under the Wild Bird Conservation Act, Sénégal has directly exported 33,051 CITES-listed birds and 3,400 Non-CITES-listed birds to the United States.

Sénégal is a major source of wild-caught songbirds in trade, as well as an important source of African psittacine birds. In 1990, Sénégal exported 627,143 non-psittacines and 69,167 psittacines (Edwards and Biteye 1992).

The Hunting and Wildlife Protection Act, adopted by the President of the Republic of Sénégal in 1967, establishes the general principles for wildlife hunting and conservation (Edwards and Biteye 1992). It provides the legal framework for regulations on the capture and export of birds. In 1982, the Minister of Commerce and the Secretary of State of the Ministry for Water and Forests (now incorporated into the Ministry of Rural Development) issued an Inter-Ministerial order which listed the birds that may be traded, and established the maximum allowable export quotas for each species (Edwards and Biteye 1992). There are 35 species on this list, including 4 species of Columbids (pigeons and doves), 3 species of parrots, 3 species of starlings, and 25 species of finches. This order also provided for a Commission to establish the export quotas. This Commission has not met since 1982 when it established the initial quotas. These 1982 export quotas remain in effect today. A 1986 Presidential Decree (86–844) established a list of 'totally protected' species and a list of 'semi-protected' species subject to specific regulations (Edwards and Biteye 1992).

Two Ministries share responsibility for conservation and management of wildlife in Sénégal: Ministry of Rural Development and Hydraulics and Ministry of Tourism and Environmental Protection. The Directorate for Water, Forests, Hunting and Soil Conservation is responsible for Sénégal's requirements under CITES and its Director serves as the head of the CITES Management Authority. Within the Directorate, the Division of Hunting acts as the agency responsible for the implementation of CITES and its Bureau of Licenses and Permits issues capture and CITES export permits to wild bird exporters.

The trade in wild birds in Sénégal is regulated by a system of capture quotas which was initiated in 1982 by the government Commission. Five of the 32 non-psittacine species authorized for export have been designated as agricultural pests and unlimited capture and export is authorized for these species: Red-billed Quelea (*Quelea quelea*), Red-headed Quelea (*Quelea erythrops*), Golden Sparrow (*Passer luteus*), Village Weaver (*Ploceus cucullatus*), and Black-headed Weaver (*Ploceus melanocephalus*) (Edwards and Biteye 1992). The 1982 quotas were set in the absence of biological data on the bird species in trade. Since that time, no field surveys have been undertaken for bird species in the trade and no population monitoring programs have been initiated (Edwards and Biteye 1992). In the absence of such studies, there is insufficient scientific information on which to base the sustainable management of bird populations in Sénégal. Lastly, capture quotas make no provision for mortality or loss due to inhumane treatment during capture, transport, and maintenance.

Regulation and enforcement of the wild bird trade in Sénégal are weak. Each registered wild bird dealer is allocated a share of the established quotas. Capture quotas are often filled completely or exceeded by exports (Edwards and Biteye 1992; RSPB et al. 1991). In 1990, export quotas were exceeded for 11 (41%) of the 27 species of songbirds with quotas and for all 3 (100%) species of parrots which resulted in the excess total of 155,007 birds (Edwards and Biteye 1992). The largest single increase over the quota in 1990 was the White-rumped Seedeater (*Serinus leucopygius*) whose 6,000 quota was exceeded by 846%, or 44,748 birds.

In addition, Sénégal regularly exports wild birds which are not its list of exports or occur in neighboring countries which protect their wild bird species. Since 1985, over 20,000 African Grey Parrots (*Psittacus erithacus*) have been imported into the U. S. from Sénégal, although this species does not occur there. The Cape Parrot (*Poicephalus fuscicollis*) does not have an export quota, yet, 95 birds were imported into the U.S. over a 7-year period. The petition submitted by the Environmental Investigation Agency et al noted that the probable source of these birds is Gambia, where the species is considered endangered and protected from the trade by an export ban. A 1991 RSPB investigation found that five species not authorized for capture or export in Sénégal were being held by exporters (RSPB et al. 1991).

No records on the domestic trade in Sénégal of wild birds are available and this trade does not appear to be either monitored or regulated (Edwards and Biteye 1992). It is a local tradition in Dakar to buy songbirds and release them as "charity". The effects of this trade on wild bird populations remain unknown.

Data are lacking that Sénégal's wildlife management plan provides conservation incentives or benefits to species in the trade. Revenues collected in association with bird permit fees are deposited in the National Forest Fund (Edwards and Biteye 1992). Although these funds have enhanced the Division of Hunting, it is uncertain if these funds are used to conserve or manage the wild bird species being harvested for the trade.

It is uncertain if there are measures in place to insure the humane treatment of wild birds during capture, transport, and maintenance in Sénégal, in spite of relevant CITES requirements. Carter and Currey (1987) in a study of the wild bird trade in Sénégal found the average mortality of birds during capture and collection to be 20%, during transport 25%, and during holding by exporters 17.5%.

In the petition, the Environmental Investigation Agency et al provided unpublished data extracted from analyses of U. S. Department of Agriculture Quarantine Forms which indicate that transport mortality for Sénégalese birds is consistently high, with over 30% of all wild birds dying in transit and quarantine. Since 1985, 11 shipments have arrived from Sénégal with over 1,000 birds dead on arrival per shipment. The total dead on arrival from Sénégal (1988–1991) of 20,865 birds represents 35% of all birds that arrived dead at U. S. ports of entry.

After a review of the petition and other information available to the Service, the Service finds that imposing a moratorium on the imports of wild birds from Sénégal may be warranted under the Act, and that the trade in wild birds from Sénégal may be detrimental to species' survival. The information available indicates that Sénégal may not have implemented a management program for wild birds in trade which ensures both the conservation of the species and the humane treatment of birds during capture, trade and maintenance.

Public Comments Solicited

The Service intends that any final decision resulting from this petition finding will be as accurate and as effective as possible. Therefore, any comments or data from the public, other concerned governmental agencies, the scientific or conservation communities, trade organizations, or any other interested party concerning this petition and/or any aspect of the wild bird trade in Sénégal are hereby solicited.

References Cited

Carter, N. and D. Currey. 1987. The trade in live wildlife, mortality and transport conditions. Environmental Investigation Agency Report, United Kingdom.

Edwards, S.R., and M. Biteye. 1992. Wild bird trade: perceptions and management in the Republic of Sénégal. In J.B. Thomsen, S.R. Edwards, and T.A. Mulliken (eds.) Perceptions, Conservation and Management of Wild Birds in Trade. Pp. 117–130. TRAFFIC International.

Mulliken, T.A., S.R. Broad, and J.B. Thomsen. 1992. The Wild Bird Trade—an Overview. In J.B. Thomsen, S.R. Edwards, and T.A. Mulliken (eds.) Perceptions, Conservation and Management of Wild Birds in Trade. Pp. 1–42. TRAFFIC International. Cambridge, UK.

Royal Society for the Protection of Birds (RSPB), Royal Society for the Prevention of Cruelty to Animals, and Environmental Investigation Agency. 1991. Investigations into the international wild bird trade in Africa, South America, and Southeast Asia. 1991.

Authors

The authors of this notice are Dr. Rosemarie Gnam and Dr. Susan S. Lieberman, U. S. Fish and Wildlife Service, Division of Law Enforcement and Office of Management Authority, respectively.

Dated: October 29, 1993.

Richard N. Smith,

Acting Director.

[FR Doc. 93–27316 Filed 11–4–93; 8:45 am]

BILLING CODE 4310-55-P

National Park Service

Award of Concession Contract; Lake Chelan National Recreation Area

AGENCY: National Park Service, Interior.

ACTION: Public notice.

SUMMARY: Public notice is hereby given that the National Park Service proposes to award a concession contract authorizing continued operation of North Cascades Lodge, which includes lodging, food and beverage, marine, general store, bus tour, bicycle rental, and shower and laundry facilities and services for the public at Lake Chelan National Recreation Area for a period of five years from January 1, 1994, through December 31, 1998.

EFFECTIVE DATE: January 4, 1994.

ADDRESSES: Interested parties should contact the Regional Director, National Park Service, Pacific Northwest Region, Concessions Division, 83 South King Street, suite 212, Seattle, Washington 98104, to obtain a copy of the prospectus describing the requirements of the proposed contract.

SUPPLEMENTARY INFORMATION: This contract renewal has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The existing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expires by limitation of time on December 31, 1993, and therefore pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract providing that the existing concessioner submits a responsive offer (a timely offer which meets the terms and conditions of the Prospectus). This means that the contract will be awarded to the party submitting the best offer, provided that if the best offer was not submitted by

the existing concessioner, then the existing concessioner will be afforded the opportunity to match the best offer, then the contract will be awarded to the existing concessioner.

If the existing concessioner does not submit a responsive offer, the right of preference in renewal shall be considered to have been waived, and the contract will then be awarded to the party that has submitted the best responsive offer.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be received by the Superintendent not later than the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Dated: October 26, 1993.

Charles H. Odegaard,

Regional Director, Pacific Northwest Region.

[FR Doc. 93-27318 Filed 11-4-93; 8:45 am]

BILLING CODE 4310-70-M

Willow Beach Development Concept Plan Amendment, Lake Mead National Recreation Area, Arizona and Nevada

Notice of Actions Proposed to be Located in or Impact a Floodplain and Notice of Availability of Draft Supplemental Environmental Impact Statement

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (Pub. L. 91-190 as amended), and Executive Order 11988, Floodplain Management, the National Park Service has prepared a supplemental environmental impact statement (SEIS), to the General Management Plan/Final Environmental Impact Statement (GMP/FEIS) for the Lake Mead National Recreational Area, in conjunction with an amended Development Concept Plan (DCP) for Willow Beach on the Arizona side of Lake Mohave.

The DCP Amendment/SEIS describes and analyzes four alternative development concept plans for Willow Beach. The proposal, Alternative C in the SEIS, focuses on enhancement of visitor experience along the riverfront at Willow Beach with the addition of picnic areas, fishing piers and small docks. A campground would be added. Existing visitor services would be reduced to minimize crowding of facilities along the river, and flood protection for facilities currently located in Willow Beach floodplain would be provided through structural measures and relocation or removal. Parking spaces would be reduced to 210 spaces, from the existing 330, after relocation to minimize use of the floodplain. The trailer village, motel, marina dry boat storage and restaurant, currently located within a high hazard floodplain area, would be eliminated. Alternative A, the no action alternative, would continue present conditions and uses within the floodplain, and flood protection would consist of nonstructural measures limited to an early warning system and evacuation plan. Alternative B would retain existing uses in the floodplain but would add structural flood protection and relocate some facilities. Parking would be reduced to 175 spaces. Alternative D would allow for continued provision of a variety of visitor services at Willow Beach except that the motel and trailer village would be eliminated. A campground would be added, as in the proposal, and flood protection measures would be similar to the proposal and Alternative B except for more extensive structural measures that would allow 320 parking spaces. The proposal and alternatives were analyzed for impacts on public safety and property in floodplains, desert plant communities, water and air quality, species of special concern, visitor experience, trailer village occupants, concession operations and cultural resources.

SUPPLEMENTARY INFORMATION: Written comments on the Draft DCP Amendment/SEIS will be accepted until January 4, 1994 and should be addressed to: Superintendent, Lake Mead National Recreation Area, 601 Nevada Highway, Boulder City, NV 89005. During November, 1993, informational open houses on the Draft DCP Amendment/SEIS will be held at Kingman, AZ and Boulder City and Las Vegas, NV. In addition, a public meeting will be held in Las Vegas, NV. The times, dates and specific locations will be announced, through the media, by Lake Mead National Recreation Area. Also, the times, dates and locations can be obtained by calling the park at (702) 293-8947.

For copies of the Draft DCP Amendment/SEIS or further information on either the document or the informational open houses and public meeting, please contact the Superintendent, Lake Mead National Recreation Area at the above address or telephone number. Copies of the document are available at park headquarters, libraries in the area and at the following location: Western Regional Office, National Park Service, Division of Planning, Grants and Environmental Quality, 600 Harrison Street, suite 600, San Francisco, CA 94107-1372.

Dated: September 17, 1993.

Phil H. Ward,

Acting Associate Regional Director for Operations.

[FR Doc. 93-27194 Filed 11-4-93; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Notice of Intent to Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

A. Parent Corporation and Address of Principle Office

The parent corporation is General Electric Company ("GE"). GE's principal office of business is 3135 Easton Turnpike, Fairfield, Connecticut 06431.

B. Wholly Owned Subsidiaries Which Will Participate in Intercorporate Hauling Operations and States of Incorporation

(1) Advanced Services, Inc.; Tennessee
(2) Aircraft Services Corporation; Nevada
(3) Ames Productions, Inc.; Delaware
(4) Appliance Sales Enterprises, Inc.; Delaware
(5) Atlantic Plant Maintenance, Inc.; Delaware
(6) Australian Holdings Corporation; Delaware
(7) Auto and Equipment Leasing Company of Hawaii, Inc.; Hawaii
(8) Barter Music, Inc.; Delaware
(9) Bates Turner, Inc.; Kansas
(10) Bridgeport Mineral, Inc.; Nevada
(11) Cardinal Operating Personnel, Inc.; Delaware
(12) Caribbean General Electric Company, Inc.; Delaware
(13) Casablanca Fan Company; California
(14) CEF VII, Inc.; Delaware
(15) CEF VIII, Inc.; Delaware
(16) CEF X, Inc.; Delaware
(17) CFD III, Inc.; Delaware
(18) CFD IV, Inc.; Delaware
(19) CFE Core Corporation; Arizona
(20) Chemico Air Pollution Control Corporation; New York
(21) Chemico Engineering Company, Ltd.; Delaware
(22) CIIP, Inc.; Delaware
(23) Claremont Management Company; Nevada

(24) Client Business Services, Inc.; Delaware
(25) CNBC, Inc.; Delaware
(26) Commonwealth, Inc.; Oregon
(27) Creative Media of Bala CYNWYD, Inc.; Delaware
(28) Crown Coach, Inc.; Delaware
(29) Decimus Corporation; California
(30) Diamond Oaks Corporation; Delaware
(31) EAPD Bayou Cogeneration, Inc.; Delaware
(32) East Erie Commercial Railroad; Pennsylvania
(33) Elano Corporation; Ohio
(34) ELLCO Leasing Corporation; Delaware
(35) Employers Reinsurance Corporation; Missouri
(36) Employers Reinsurance Corporation; Delaware
(37) Exhibition Music, Inc.; Delaware
(38) Fairfield Minerals, Inc.; Nevada
(39) FFEC-Four, Inc.; Missouri
(40) FGIC Corporation; Delaware
(41) Financial Guaranty Insurance Company; New York
(42) First Excess and Reinsurance Corporation; Missouri
(43) First Fidelity Equity Corporation; Missouri
(44) First Speciality Insurance Corporation; Missouri
(45) FNV, Inc.; New York
(46) Fremont Development, Inc.; Delaware
(47) FTM Investments Inc.; Delaware
(48) Full Service Leasing Corporation; Delaware
(49) GE American Communications Venture, Inc.; Delaware
(50) GE American Communications, Inc.; Delaware
(51) GE and RCA Licensing Management Operation, Inc.; Delaware
(52) GE Capital Auto Lease, Inc.; Delaware
(53) GE Capital Corporate Finance Group, Inc.; Delaware
(54) GE Capital Corporation of Puerto Rico; Delaware
(55) GE Capital Corporation; New York
(56) GE Capital Small Fleet, Inc.; Hawaii
(57) GE Chemicals, Inc.; Delaware
(58) GE Communications, Inc.; Delaware
(59) GE International Service Corporation; Delaware
(60) GE Investment Management, Inc.; Delaware
(61) GE Japan Holding, Inc.; Delaware
(62) GE Medical Systems Asia, Ltd.; Delaware
(63) GE Petrochemicals, Inc.; Delaware
(64) GE Specialty Chemicals, Inc.; Delaware
(65) GECC Capital Markets Group, Inc.; Delaware
(66) GECC Finance Corporation; Hawaii
(67) GECC Options Corporation; Delaware
(68) GECMO Corporation I; Delaware
(69) GEFS Financing Corporation, Inc.; Delaware
(70) GELCO Corporation; Minnesota
(71) GELCO Equipment Leasing Company of Delaware, Inc.; Delaware
(72) GELCO International Corporation; Delaware
(73) GEM Products International, Inc.; California
(74) GEM Products, Inc.; California
(75) GENEL Company, Inc.; Oregon
(76) General Electric Asia Capital Corporation; Delaware
(77) General Electric California Properties, Inc.; Nevada
(78) General Electric Consulting Services Corporation; Delaware
(79) General Electric Credit and Leasing Corporation; Delaware
(80) General Electric Credit Capital Services of Puerto Rico Inc.; Delaware
(81) General Electric Credit Corporation of Georgia; Georgia
(82) General Electric Credit Corporation of Tennessee; Tennessee
(83) General Electric Credit Equities, Inc.; Delaware
(84) General Electric Environmental Services, Inc.; Delaware
(85) General Electric Fleet Services, Inc.; Delaware
(86) General Electric Guaranty Insurance Corporation; North Carolina
(87) General Electric Healthcare Financial Services, Inc.; Delaware
(88) General Electric Holdings, Inc.; Nevada
(89) General Electric International Operations Company Inc.; Delaware
(90) General Electric Investment Corporation; Delaware
(91) General Electric Minerals Inventory Inc.; Nevada
(92) General Electric Mortgage Capital Corporation; Delaware
(93) General Electric Mortgage Corporation of Delaware; Delaware
(94) General Electric Mortgage Insurance Corp. of California; California
(95) General Electric Mortgage Insurance Corp. of North Carolina; North Carolina
(96) General Electric Mortgage Insurance Corporation; North Carolina
(97) General Electric Mortgage Securities Corporation; Delaware
(98) General Electric Power Funding Corporation; Delaware
(99) General Electric Radio Services Corporation; Delaware
(100) General Electric Railcar Repair Services Corporation; Delaware
(101) General Electric Railcar Wheel and Parts Service Corporation; Delaware
(102) General Electric Real Estate Credit Corporation; Delaware
(103) General Electric Real Estate Equities, Inc.; Delaware
(104) General Electric Real Estate Services, Inc.; Delaware
(105) General Electric Technical Services Company, Inc.; Delaware
(106) General Electric Trading Company; Delaware
(107) General Electric Transportation Services, Inc.; Delaware
(108) GFC Leasing Corporation, Hawaii
(109) GRAE Holdings, Inc., New York
(110) Granite Services, Inc.; Delaware
(111) International Couriers Corporation; Delaware
(112) International Executive Management Services Co., Ltd.; Delaware
(113) International Management Services Company, Ltd.; Delaware
(114) International Transportation & Space, Inc.; Pennsylvania
(115) Isla Del Sol, Inc.; Florida
(116) JCB Credit Corporation; Delaware
(117) KYK, Ltd.; Delaware
(118) LeaseAmerica Corporation; Iowa
(119) Little Matchgirl Productions, Inc.; Delaware
(120) Living Music, Inc.; New York
(121) LMX Corporation; Delaware
(122) Management and Technical Services Company; Delaware
(123) Master Publications; California
(124) Metropolitan Reim; California
(125) Middle East Technical Services Company, Ltd.; Delaware
(126) Midwest Electric Products, Inc.; Minnesota
(127) Monogram Credit Card Bank of Georgia; Georgia
(128) Monogram General Agency of Arkansas, Inc.; Arkansas
(129) Monogram General Agency of Florida, Inc.; Florida
(130) Monogram General Agency of Kentucky, Inc.; Kentucky
(131) Monogram General Agency of Mississippi, Inc.; Mississippi
(132) Monogram General Agency of Montana, Inc.; Montana
(133) Monogram General Agency of Nevada, Inc.; Nevada
(134) Monogram General Agency of North Carolina, Inc.; North Carolina
(135) Monogram General Agency of Ohio, Inc.; Ohio
(136) Monogram General Agency of South Carolina, Inc.; South Carolina
(137) Monogram General Agency of Texas, Inc.; Texas
(138) Monogram General Agency of West Virginia, Inc.; West Virginia
(139) Monogram General Insurance Agency, Inc.; Delaware
(140) Monogram Retailer Credit Services, Inc.; Delaware
(141) Montgomery Ward Credit Corporation; Delaware
(142) Multi-Craft Installation Services, Inc.; Delaware
(143) NBC American Movie Classics Holding, Inc.; Delaware

(144) NBC Baseball Holdings, Inc.; Delaware
(145) NBC Bravo Holding, Inc.; Delaware
(146) NBC Cable Holding, Inc.; Delaware
(147) NBC Enterprises, Inc.; New York
(148) NBC Europe, Inc.; New York
(149) NBC Facilities, Inc.; New York
(150) NBC IGN Holdings, Inc.; Delaware
(151) NBC News 12 Holding, Inc.; Delaware
(152) NBC News Bureaus, Inc.; Delaware
(153) NBC News Overseas, Inc.; Delaware
(154) NBC News Productions, Inc.; Delaware
(155) NBC News Worldwide, Inc.; Delaware
(156) NBC Productions, Inc.; New York
(157) NBC Radio Corporation; New York
(158) NBC Rainbow Network Communications Holding, Inc.; Delaware
(159) NBC SC America Holding, Inc.; Delaware
(160) NBC SC Chicago Holding, Inc.; Delaware
(161) NBC SC Florida Holding, Inc.; Delaware
(162) NBC SC Holding, Inc.; Delaware
(163) NBC SC Los Angeles Holding, Inc.; Delaware
(164) NBC SC NE Holding, Inc.; Delaware
(165) NBC SC Ohio Holding, Inc.; Delaware
(166) NBC SC Prism Holding, Inc.; Delaware
(167) NBC Sports International, Inc.; Delaware
(168) NBC Sports Productions, Inc.; Delaware
(169) NBC Sports Ventures, Inc.; Delaware
(170) NBC Subsidiary (KCNC–TV), Inc.; Colorado
(171) NBC Subsidiary (WRC–TV), Inc.; Delaware
(172) NBC Subsidiary (WTVJ–TV), Inc.; Florida
(173) NBC, Inc.; Delawre
(174) P.G. West, Inc.; California
(175) Petaluma Center, Inc.; Nevada
(176) PGA International Trading Corporation; New York
(177) Plant Operations Personnel, Inc.; Delaware
(178) Plastics Realty Corporation; Massachusetts
(179) Polaris Aircraft Leasing Corporation; California
(180) Polaris Depository Company III; California
(181) Polaris Depository Company IV; California
(182) Polaris Depository Company V; California
(183) Polaris Investment Management Corporation; California
(184) Polaris Jet Leasing, Inc.; California
(185) Polaris Leasing International, Inc.; California
(186) Polaris Securities Corporation; California
(187) Polaris Technical Services, Inc.; California
(188) Polymerland, Inc.; Delaware
(189) Private Residential Insured Mortgage Exchange, Inc.; Delaware
(190) Product Distribution Company; Delaware
(191) PSVO Bayonne, Inc.; Delaware
(192) Puritan Excess and Surplus Lines Insurance Company; Connecticut
(193) Puritan Insurance Company; Connecticut
(194) Puritan Title Insurance Company; Connecticut
(195) RCA Appliance Corporation; Delaware
(196) RCA Cable, Inc.; Delaware
(197) RCA Corporation; Delaware
(198) RCA Defense Electronics Corporation; Delaware
(199) RCA International Audio-Visuals, Inc.; Delaware
(200) Reuter-Stokes, Inc.; Delaware
(201) Ridgeview Management Company; Delaware
(202) Rollings Hills Corporation; Delaware
(203) Roper Corporation; Georgia
(204) Sansome Realty Corporation; California
(205) Serra Cogen, Inc.; Delaware
(206) SMO Bethpage, Inc.; Delaware
(207) Spectacular Music, Inc.; New York
(208) Superabrasives America, Inc.; Delaware
(209) System Craft, Inc.; California
(210) TIFD I, Inc.; Delaware
(211) TIFD II A, Inc.; Delaware
(212) TIFD II, Inc.; Delaware
(213) TIFD III–A, Inc.; Delaware
(214) TIFD III–B, Inc.; Delaware
(215) TIFD III–C, Inc.; Delaware
(216) TIFD III–D, Inc.; Delaware
(217) TIFD III–E, Inc.; Delaware
(218) TIFD III–F, Inc.; Delaware
(219) TIFD III–G, Inc.; Delaware
(220) TIFD III–H, Inc.; Delaware
(221) TIFD III–J, Inc.; Delaware
(222) TIFD III–K, Inc.; Delaware
(223) TIFD IV, Inc.; Delaware
(224) TIFD V, Inc.; Delaware
(225) TIFD VI, Inc.; Delaware
(226) TIFD VII–A, Inc.; Delaware
(227) TIFD VII, Inc.; Delaware
(228) Trafalgar Credit Corporation; Florida
(229) Trafalgar Developers of America, Inc.; Florida
(230) Trafalgar Developers of Florida, Inc.; Florida
(231) Trafalgar Financial Corporation; Florida
(232) Trafalgar Realty, Inc.; Florida
(233) Transport International Pool, Inc.; Pennsylvania
(234) Transport Pool Corporation; Delaware
(235) Transportation & Industrial Funding Corporation; Delaware
(236) Vandenberg Village Development Company; Nevada
(237) WCI Financial Corporation; Delaware

Sidney L. Strickland, Jr.,
Secretary.

[FR Doc. 93–27268 Filed 11–4–93; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 32379]

Georgia Southern and Florida Railway Co., et al; Exemption

In the matter of Georgia Southern and Florida Railway Co.; Control Exemption; St. Johns River Terminal Co., and the Georgia Northern Railway Co. and Georgia Southern and Florida Railway Co., Merger Exemption; St. Johns River Terminal Co., the Georgia Northern Railway Co., and Live Oak, Perry and South Georgia Railway Co.

Georgia Southern and Florida Railway Company (GS&F), St. Johns River Terminal Company (SJRT), The Georgia Northern Railway Company (GN), and Live Oak, Perry and South Georgia Railway Company (LOP&SG) have jointly filed a notice of exemption for: (1) GS&F to acquire control through stock ownership of SJRT and GN; and (2) the subsequent merger of SJRT, GN, and LOP&SG with and into GS&F, with GS&F being the surviving entity.

GS&F, a class II carrier, and SJRT and GN, class III carriers, are wholly owned direct subsidiaries of Norfolk Southern Railway Company (NSR), which in turn is controlled through stock ownership by Norfolk Southern Corporation, a noncarrier holding company. LOP&SG, a class III carrier, is a wholly owned direct subsidiary of GS&F. NSR will transfer its shares of SJRT and GN common stock to GS&F. The proposed control transaction was to have been consummated on or as soon as practicable after October 27, 1993.

Subsequently, SJRT, GN, and LOP&SG will be merged into GS&F. GS&F will assume all assets, liabilities, and obligations of SJRT, GN, and LOP&SG. The proposed merger transaction is to be consummated on or as soon as practicable after December 1, 1993.

Because the parties are members of the same corporate family, and the control and merger will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers operating outside the corporate family, the transaction qualifies for the class exemption at 49 CFR 1180.2(d)(3). The purpose of the transaction is to

eliminate SJRT, GN, and LOP&SG as separate corporate entities, thereby simplifying the corporate structure of GS&F and the NSR system, and eliminating costs associated with separate accounting, tax, bookkeeping, and reporting functions.

To ensure that all employees who may be affected by the transaction are given the minimum protection under 49 U.S.C. 10505(g)(2) and 11347, the labor conditions set forth in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979) are imposed.

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on James A. Squires, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510–2191.

Decided: October 27, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–27269 Filed 11–04–93; 8:45 am]

BILLING CODE 7035–01–P

[Finance Docket No. 32322]

Vaughan Railroad Co.—Construction Exemption—Nicholas and Fayette Counties, WV

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: Under 49 U.S.C. 10505, the Commission conditionally exempts from the prior approval requirements of 49 U.S.C. 10901 Vaughan Railroad Company's construction of 7.3 miles of rail line in Nicholas and Fayette Counties, WV, between the point of connection with its existing line near Vaughan and the site (north and east) of a proposed coal loadout facility and preparation plant to be owned by Fola Coal Company. Also contemplated is the construction of a segment of track less than one-half mile in length connecting the extended line with Consolidated Rail Corporation's line at Belva, WV.

DATES: On completion of all environmental review, the Commission will issue a further decision addressing those matters and making the exemption effective at that time, if appropriate. Petitions to reopen must be filed by November 26, 1993.

ADDRESSES: Send pleadings referring to Finance Docket No. 32322 to: (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423 and (2) Frederic L. Wood, 1275 K Street, NW., suite 850, Washington, DC 20005–4078.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder, (202) 927–5661. [TDD for hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359. (Assistance for the hearing impaired is available through TDD services (202) 927–5721.)

Decided: October 27, 1993.

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

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–27270 Filed 11–4–93; 8:45 am]

BILLING CODE 7035–01–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response Compensation and Liability Act and the Resource Conservation and Recovery Act

In accordance with Department policy, 28 CFR 50.7, and with section 122(d)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9622(d)(2), notice is hereby given that on October 18, 1993 the United States filed a complaint and lodged with the United States District Court for the District of New Jersey a proposed consent decree in *United States* versus *Ciba-Geigy Corporation*, Civil Action No. 93–4675(MLP). The proposed consent decree involves the cleanup and reimbursement of response costs in connection with the Ciba-Geigy Superfund Site in Toms River, Ocean County, New Jersey. This settlement is between the United States and Ciba-Geigy Corporation.

The agreement requires Ciba-Geigy Corporation to undertake certain remedial work relating to contaminated groundwater at the Site, as set forth in EPA's April 1989 Record of Decision for the Site. The settlement requires Ciba-Geigy Corporation to pay $8.4 million of EPA's past response costs and all future response costs incurred by the United States in connection with the performance of this remedial work.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* versus *Ciba-Geigy*, DOJ Ref. #90–11–2–289A.

The proposed consent decree may be examined at the Office of the United States Attorney, 970 Broad Street, Newark, New Jersey 07102; the Region II Office of the Environmental Protection Agency, 26 Federal Plaza, New York, NY 10278; and the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $71.50 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Lois J. Schiffer,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 93–27161 Filed 11–4–93; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Settlement Agreement

Notice is hereby given that a proposed Settlement Agreement in *In re Energy Cooperative, Inc.*, Civil Action Nos. 81–B–05811, 92–C–6054, 92–C–4316, and 92–C–4317 (N.D. Ill.) entered into by the United States, the State of Indiana, debtor Energy Cooperative, Inc. ("ECI"), the bankruptcy estate of ECI, the bankruptcy trustee of the ECI estate, and the Member-Owners of ECI, was lodged on October 26, 1993 with the United States District Court for the Northern District of Illinois. The proposed Settlement Agreement resolves certain claims of the United States and the State of Indiana under the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA"), 42 U.S.C. 9601 *et seq.*, the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. 6901 *et seq.*, the Clean Water Act ("CWA"), 33 U.S.C. 1251 *et seq.*, the Oil Pollution Act ("OPA"), 33 U.S.C. 2701 *et seq.*, the Clean Air Act, 42 U.S.C. 7401 *et seq.*, and certain state environmental statutes with respect to debtor ECI's former refinery facility in

or near East Chicago, Indiana. Under the Settlement Agreement, the bankruptcy estate of ECI agrees, *inter alia*, to pay $13,500,000 for response costs and natural resource damages at the ECI Facility.

The Department of Justice will receive comments relating to the proposed Settlement Agreement for 30 days following the publication of this Notice. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to In re Energy Cooperative, Inc., D.J. Ref. No. 90-11-2-817. The proposed Settlement Agreement may be examined at the Office of the United States Attorney for the Northern District of Illinois, 219 S. Dearborn Street, suite 1500, Chicago, Illinois 60604; the Region V Office of the United States Environmental Protection Agency, 77 West Jackson Street, Chicago, Illinois 60604; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005 (202-624-0892). A copy of the proposed Settlement Agreement may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy, please enclose a check in the amount of $11.75 (25 cents per page for reproduction costs), payable to the Consent Decree Library.

Lois J. Schiffer,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 93-27176 Filed 11-4-93; 8:45 am]

BILLING CODE 4410-01-M

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Gary Steel Products Corporation and Percell McQueen*, Civil Action No. H91-0458, was lodged on October 12, 1993 with the United States District Court for the Northern District of Indiana. The Consent Decree resolves the United States' claims for violations of Section 112(c) of the Clean Air Act, 42 U.S.C. 7412(c), as amended, and the National Emission Standards for Hazardous Air Pollutants for asbestos (the "asbestos NESHAP"), 40 CFR part 61, subpart M; section 103(a) of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), as amended by the Superfund Amendments and Reauthorization Act of 1986, 100 Stat. 1613 (1986) ("SARA"), 42 U.S.C. 9603, and regulations promulgated thereunder at 40 CFR 302.06; and Section 304 of the Emergency Planning and Community Right-to-Know Act of 1986 ("EPCRTKA"), 42 U.S.C. 11004. The Consent Decree requires Gary Steel Corporation to pay a civil penalty of $155,000 for its past violations of the Act and the asbestos NESHAP. Under the terms of the Consent Decree, Gary Steel Corporation must ensure that prior to the commencement of any demolition and/or renovation operation, the facility is inspected for the presence of asbestos-containing material. Gary Steel Corporation is also required to diligently investigate each asbestos contractor prior to retaining a contractor for a demolition or renovation operation, and to notify EPA at least ten days prior to commencing any demolition or renovation operation.

The Consent Decree requires Defendant Percell McQueen to complete an EPA-approved training course before engaging in the demolition or renovation of a facility involving the removal of asbestos-containing material; to inspect facilities for the presence of asbestos-containing material prior to the commencement of a demolition or renovation operation; to notify EPA, the Lake County Local Emergency Response Commission and the Indiana State Emergency Response Commission at least ten days prior to any demolition or renovation operation; and to certify that he is not in violation of any requirements of Section 103 of CERCLA and Section 304(b)(1) and 304(c) of EPCRTKA.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Gary Steel Products Corporation and Percell McQueen*, DOJ Ref. #90-5-2-1-1607.

The proposed consent decree may be examined at the office of the United States Attorney, 1001 Main Street, suite A, Dyer, Indiana, 46311; the Region Five Office of the Environmental Protection Agency, 77 West Jackson Blvd., Chicago, Illinois, 60604; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624-0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $4.50 (25 cents per page reproduction costs), payable to the Consent Decree Library.

John C. Cruden,

Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 93-27163 Filed 11-4-93; 8:45 am]

BILLING CODE 4410-01-M

Notice of Lodging of Consent Decree Pursuant to CERCLA

In accordance with section 122(d)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9622(d)(2) and 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *JFD Electronics Corp. and Channel Master Satellite Systems, Inc.*, Civil Action No. 93-650-CIV-5-BO was lodged on October 20, 1993, with the United States District Court for the Eastern District of North Carolina. Suit was brought under sections 106 and 107 of CERCLA, 42 U.S.C. 9606 and 9607, at the request of the Environmental Protection Agency (EPA) for the implementation of remedial action and recovery of response costs incurred and to be incurred by the United States at the JFD/Channel Master Superfund site located in Oxford, North Carolina (the "Site"). The Consent Decree requires Defendants JFD Electronics Corp. and Channel Master Satellite Systems, Inc. to implement the remedy selected by EPA for the Site, pay the United States $1,555,676 for past response costs incurred for the Site, and pay the future costs of overseeing the implementation of the remedial action.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *JFD Electronics Corp. and Channel Master Satellite Systems, Inc.*, DOJ Ref. #90-11-2-871.

The proposed consent decree may be examined at the Office of the United States Attorney, Eastern District of North Carolina, 310 New Bern Avenue, suite 800, Federal Building, Raleigh, North Carolina; the Region IV Office of EPA, 345 Courtland Street, NW., Atlanta, Georgia; and at the Consent Decree Library, 1120 G Street, NW., Fourth Floor, Washington, DC 20005. A copy of the proposed consent decree may be obtained in person or by mail

from the Consent Decree Library. In requesting a copy by mail, please refer to the referenced case, specify whether you are ordering the Consent Decree with or without its appendices, and enclose a check payable to the Consent Decree Library in the amount of $19.00 for a copy without appendices or $73.25 for a copy with all appendices (25 cents per page reproduction costs).

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 93-27160 Filed 11-4-93; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree Pursuant to Clean Water Act

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a consent decree resolving the allegations of the Complaint in *United States v. The Telluride Co., et al.*, Case No. 93-K-2181, was lodged with the United States District Court for the District of Colorado on October 15, 1993.

The proposed consent decree concerns alleged violations of sections 301 and 404 of the Clean Water Act, 33 U.S.C. 1311, 1344, as a result of unpermitted discharges of fill material into wetlands on property owned by The Telluride Company and its related corporate entities ("Telluride") in Telluride, Colorado. Under the terms of the proposed consent decree, Telluride will: Pay a $143,000 civil penalty to the United States Treasury; restore 15.43 acres of wetlands on the property in accordance with a specified multi-year restoration and monitoring plan; will create 26.5 acres of wetland at the Menoken Farms property in accordance with a multi-year mitigation and monitoring plan; create a conservation easement for the restoration and mitigation areas; and carry out a $42,000 wetlands project in San Miguel County by contracting with San Miguel County.

The Department of Justice will receive written comments relating to this consent decree for a period of thirty days from the date of publication of this notice. Comments should be addressed to the Acting Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, Attention: Gary S. Guzy, Attorney, Environmental Defense Section, Environment and Natural Resources Division, U.S. Department of Justice, room 7328, 10th & Pennsylvania Avenues, NW., Washington, DC 20530, and should refer to *United States v. The Telluride Co., et al.*, DJ Reference Number 90-5-1-4-293.

The consent decree and accompanying exhibits may be examined at the Clerk's office, United States District Court for the District of Colorado, U.S. Courthouse, 1929 Stout Street, room C-145, Denver, Colorado 80294, or a copy may be requested from Gary S. Guzy at the Department of Justice, (202) 514-2689.

Lois J. Schiffer,

Acting Assistant Attorney General, Environment & Natural Resources Division.

[FR Doc. 93-27164 Filed 11-4-93; 8:45 am]

BILLING CODE 4410-01-M

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on October 12, 1993, a proposed Consent Decree in *United States v. Solomon and Betty Young*, Civil No. 3-93 CV:02048 (TFGD), was lodged with the United States District Court for the District of Connecticut to resolve this matter. The proposed Consent Decree concerns the response to the existence of hazardous substances at the Kellogg Deering Well Field Site locate in Norwalk, Connecticut pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended.

Under the terms of the Consent Decree, Solomon and Betty Young will reimburse the United States $575,000 for costs incurred for the first and second operable units at the Site up to October 12, 1993. The Youngs also will pay a civil penalty of $50,000 for their failure to comply with a Unilateral Administrative Order issued to them by the Environmental Protection Agency requiring the Youngs to undertake response actions at the Site.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Ben Franklin Station, Washington, DC 20044, and should refer to *United States v. Solomon and Betty Young*, D.J. Ref. 90-11-2-582A.

The proposed Consent Decree may be examined at the Region 1 Office of the Environmental Protection Agency, One Congress Street, Boston, Massachusetts. Copies of the Consent Decree may be examined at the Environmental Enforcement Section Document Center, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624-0892. A copy of the proposed Consent Decree (excluding Appendices) may be obtained in person or by mail from the Document Center. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $8.50 (25 cents per page reproduction cost) made payable to Consent Decree Library.

Lois J. Schiffer,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 93-27162 Filed 11-4-93; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43(a) of title 21 of the Code of Federal Regulations (CFR), this is notice that on October 20, 1993, Penick Corporation, 158 Mount Olivet Avenue, Newark, New Jersey 07114, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
Dihydromorphine (9145)	I
Pholcodine (9314)	I
Alphacetylmethadol (9603)	I
Cocaine (9041)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Diphenoxylate (9170)	II
Benzoylecgonine (9180)	II
Ethylmorphine (9190)	II
Hydrocodone (9193)	II
Meperidine (9230)	II
Methadone (9250)	II
Methadone-intermediate (9254)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II
Morphine (9300)	II
Thebaine (9333)	II
Opium extracts (9610)	II
Opium fluid extract (9620)	II
Opium tincture (9630)	II
Opium powdered (9639)	II
Opium granulated (9640)	II
Oxymorphone (9652)	II
Phenazocine (9715)	II
Fentanyl (9801)	II
Alfentanil (9737)	II
Sufentanil (9740)	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a

hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Director, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than December 6, 1993.

Dated: October 29, 1993.

Gene R. Haislip,

Director, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 93-27271 Filed 11-4-93; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Employment and Training Administration

Federal-State Unemployment Compensation Program: Certifications Under the Federal Unemployment Tax Act for 1993

On October 31, 1993, the Secretary of Labor signed the annual certifications under the Federal Unemployment Tax Act, 26 U.S.C. 3301 *et seq.*, thereby enabling employers who make contributions to State unemployment funds to obtain certain credits for their liability for the Federal unemployment tax. By letter of the same date the certifications were transmitted to the Secretary of the Treasury. The letter and certifications are printed below.

Dated: November 1, 1993.

Doug Ross,

Assistant Secretary of Labor.

October 31, 1993.

The Honorable Lloyd Bentsen,
Secretary of the Treasury, Washington, DC 20220

Dear Secretary Bentsen: Transmitted herewith are an original and one copy of the certifications of the States and their unemployment compensation laws for the 12-month period ending on October 31, 1993. One is required with respect to normal Federal unemployment tax credit by Section 3304 of the Internal Revenue Code of 1986, and the other is required with respect to additional tax credit by Section 3303 of the Code.

The certification pursuant to Section 3304 lists all 53 jurisdictions, except New Jersey. New Jersey is omitted from both certifications because of issues arising under the requirements of Section 3304(a) of the Internal Revenue Code of 1986. (Because of these issues, I have not yet certified New Jersey and its law for 1990, 1991 and 1992.) An agreement has been reached with the State of New Jersey, and, as the State fulfills its obligations under this agreement, I will forward to you the certifications with respect to New Jersey as appropriate.

Please note that, although the certification pursuant to Section 3303 lists all States, the maximum tax rate in the Virgin Islands assigned based on experience is 3.0. Therefore, the additional credit available under Section 3302(b), FUTA, is capped at 3.0 percent.

Sincerely,
Robert B. Reich

Certification of States to the Secretary of the Treasury Pursuant to Section 3304 of the Internal Revenue Code of 1986

In accordance with the provisions of section 3304(c) of the Internal Revenue Code of 1986 (26 U.S.C. 3304(c)), I hereby certify the following named States to the Secretary of the Treasury for the 12-month period ending on October 31, 1993, in regard to the unemployment compensation laws of those States which heretofore have been approved under the Federal Unemployment Tax Act:

Alabama	Montana
Georgia	Tennessee
Alaska	Nebraska
Hawaii	Texas
Arizona	Nevada
Idaho	Utah
Arkansas	New Hampshire
Illinois	Vermont
California	New Mexico
Indiana	Virginia
Colorado	New York
Iowa	Virgin Islands
Connecticut	North Carolina
Kansas	Washington
Delaware	North Dakota
Kentucky	West Virginia
District of Columbia	Ohio
Louisiana	Wisconsin
Florida	Oklahoma
Maine	Wyoming
Maryland	
Oregon	
Massachusetts	
Pennsylvania	
Michigan	
Puerto Rico	
Minnesota	
Rhode Island	
Mississippi	
South Carolina	
Missouri	
South Dakota	

This certification is for the maximum normal credit allowable under section 3302(a) of the Code.

Signed at Washington, DC, on October 31, 1993.

Robert B. Reich,

Secretary of Labor.

Certification of State Unemployment Compensation Laws to the Secretary of the Treasury Pursuant to Section 3303(b)(1) of the Internal Revenue Code of 1986

In accordance with the provisions of paragraph (1) of Section 3303(b) of the Internal Revenue Code of 1986 (26 U.S.C. 3303(b)(1)), I hereby certify the unemployment compensation laws of the following named States, which heretofore have been certified pursuant to paragraph (3) of Section 3303(b) of the Code, to the Secretary of the Treasury for the 12-month period ending on October 31, 1993:

Alabama	Montana
Georgia	Tennessee
Alaska	Nebraska
Hawaii	Texas
Arizona	Nevada
Idaho	Utah
Arkansas	New Hampshire
Illinois	Vermont
California	New Mexico
Indiana	Virginia
Colorado	New York
Iowa	Virgin Islands*
Connecticut	North Carolina
Kansas	Washington
Delaware	North Dakota
Kentucky	West Virginia
District of Columbia	Ohio
Louisiana	Wisconsin
Florida	Oklahoma
Maine	Wyoming
Maryland	
Oregon	
Massachusetts	
Pennsylvania	
Michigan	
Puerto Rico	
Minnesota	
Rhode Island	
Mississippi	
South Carolina	
Missouri	
South Dakota	

*The Virgin Islands credit is capped at 3.0 percent of the Federal taxable wage base.

This certification is for the maximum additional credit allowable under Section 3302(b) of the Code.

Signed at Washington, DC, on October 31, 1993.

Robert B. Reich,

Secretary of Labor.

[FR Doc. 93-27308 Filed 11-4-93; 8:45 am]

BILLING CODE 4510-30-M

Employment Standards Administration

Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., room S-3014, Washington, DC 20210.

New General Wage Determination Decisions

The numbers of the decisions added to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" are listed by Volume and State.

Volume I:

Maryland
MD930044 (Nov. 5, 1993)
Tennessee
TN930049 (Nov. 5, 1993)
TN930050 (Nov. 5, 1993)
TN930051 (Nov. 5, 1993)

Volume II:

Iowa
IA930037 (Nov. 5, 1993)
IA930038 (Nov. 5, 1993)
IA930039 (Nov. 5, 1993)
Kansas
KS930060 (Nov. 5, 1993)
Wisconsin
WI930024 (Nov. 5, 1993)
WI930025 (Nov. 5, 1993)

Volume III:

Wyoming
WY930023 (Nov. 5, 1993)
WY930024 (Nov. 5, 1993)

Modification to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I:

Kentucky
KY930025 (Feb. 19, 1993)
KY930026 (Feb. 19, 1993)
Maryland
MD930001 (Feb. 19, 1993)
MD930002 (Feb. 19, 1993)
MD930006 (Feb. 19, 1993)
MD930010 (Feb. 19, 1993)
MD930014 (Feb. 19, 1993)
MD930015 (Feb. 19, 1993)
MD930017 (Feb. 19, 1993)
MD930021 (Feb. 19, 1993)
MD930025 (Feb. 19, 1993)
MD930031 (Feb. 19, 1993)
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General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (202) 783–3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, D.C. this 29th day of October 1993.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 93–27016 Filed 11–4–93; 8:45 am]

BILLING CODE 4510–27–M

Mine Safety and Health Administration

Summary of Decisions Granting in Whole or in Part Petitions for Modification

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Notice of affirmative decisions issued by the Administrators for Coal Mine Safety and Health and Metal and Nonmetal Mine Safety and Health on petitions for modification of the application of mandatory safety standards.

SUMMARY: Under section 101(c) of the Federal Mine Safety and Health Act of 1977, the Secretary of Labor may modify the application of a mandatory safety standard to a mine if the Secretary determines either that an alternate method exists at a specific mine that will guarantee no less protection for the miners affected than that provided by the standard, or that the application of the standard at a specific mine will result in a diminution of safety to the affected miners.

Summaries of petitions received by the Secretary appear periodically in the **Federal Register**. Final decisions on these petitions are based upon the petitioner's statements, comments and information submitted by interested persons and a field investigation of the conditions at the mine. MSHA has granted or partially granted the requests for modification submitted by the petitioners listed below. In some instances the decisions are conditioned upon compliance with stipulations stated in the decision.

FOR FURTHER INFORMATION CONTACT: Petitions and copies of the final decisions are available for examination by the public in the Office of Standards, Regulations and Variances, MSHA, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203.

Dated: October 28, 1993.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Affirmative Decisions on Petitions for Modification

Docket No.: M–88–236–C.
FR Notice: 54 FR 871.
Petitioner: Dominion Coal Corporation
Req Affected: 30 CFR 75.1701.
Summary of Findings: Petitioner's proposal to cut a 30-foot hole in the test drilling pattern at both corners of the working face considered acceptable alternate method. Granted with conditions.

Docket No.: M–89–93–C.
FR Notice: 54 FR 27776.
Petitioner: Dominion Coal Corporation.
Req Affected: 30 CFR 75.1701.
Summary of Findings: Petitioner's proposal to cut a 30-foot hole in the test drilling pattern at both corners of the working face considered acceptable alternate method. Granted with conditions.

Docket No.: M–89–117–C.
FR Notice: 54 FR 37844.
Petitioner: Westmoreland Coal Company.
Req Affected: 30 CFR 75.350.
Summary of Findings: Petitioner's request to amend paragraph 1(d) of MSHA's Proposed Decision and Order, to require that the velocity of air in the belt conveyor entry be 50 feet per minute or greater and have a definite and distinct movement in the designated direction and to allow for the use of air velocity in excess of 300 feet per minute, considered acceptable alternate method. Granted with conditions.

Docket No.: M–90–10–C.
FR Notice: 55 FR 4033.
Petitioner: Dominion Coal Corporation.
Req Affected: 30 CFR 75.1701.
Summary of Findings: Petitioner's proposal to cut a 30-foot hole in the test drilling pattern at both corners of the working face considered acceptable alternate method. Granted with conditions.

Docket No.: M–90–162–C.
FR Notice: 55 FR 47953.
Petitioner: Dominion Coal Corporation.
Req Affected: 30 CFR 75.1701.
Summary of Findings: Petitioner's proposal to cut a 30-foot hole in the test drilling pattern at both corners of the working face considered acceptable alternate method. Granted with conditions.

Docket No.: M–92–36–C.
FR Notice: 57 FR 13763.
Petitioner: Cordero Mining Company.
Reg Affected: 30 CFR 77.206(c).
Summary of Findings: Petitioner's proposal to use a permanent fall prevention system that would include a rigid rail or a steel cable rope with a grabbing device that locks in place automatically to prevent falls instead of using ladder backguards considered

acceptable alternate method. Granted with conditions only for the permanently installed B.H. Sala brand, Model SB150 fall prevention system.

Docket No.: M-92-49-C.
FR Notice: 57 FR 22493.
Petitioner: Clinchfield Coal Company.
Reg Affected: 30 CFR 75.1710-1(a).
Summary of Findings: Petitioner's proposal to operate the Joy 21SC center driven shuttle cars and the S & S 486 and 482 scoops without canopies in mining heights of 46 inches or less considered acceptable alternate method. Granted with conditions.

Docket No.: M-92-94-C.
FR Notice: 57 FR 38329.
Petitioner: Costain Coal, Inc.
Reg Affected: 30 CFR 75.364(b).
Summary of Findings: Petitioner's proposal to establish monitoring points to continuously monitor the quality and quantity of air entering and leaving the First Submain West due to adverse roof conditions considered acceptable alternate method. Granted with conditions.

Docket No.: M-92-104-C.
FR Notice: 57 FR 44777.
Petitioner: Little Rock Coal Company.
Reg Affected: 30 CFR 75.1400.
Summary of Findings: Petitioner's proposal to use increased rope strength and secondary safety rope instead of safety catches on a slope conveyance (gunboat) used to transport persons considered acceptable alternate method. Granted with conditions.

Docket No.: M-92-108-C.
FR Notice: 57 FR 44777.
Petitioner: Peabody Coal Company.
Reg Affected: 30 CFR 75.325(b).
Summary of Findings: Petitioner's proposal to provide positive ventilation by using the stopping line to separate the intake and return aircourse in rooms previously developed on the same panel considered acceptable alternate method. Granted with conditions.

Docket No.: M-92-109-C.
FR Notice: 57 FR 44777.
Petitioner: Peabody Coal Company.
Reg Affected: 30 CFR 75.360(c)(1).
Summary of Findings: Petitioner's proposal to determine the quantity of air at alternative locations during preshift examinations considered acceptable alternate method. Granted with conditions.

Docket No.: M-92-110-C.
FR Notice: 57 FR 44778.
Petitioner: Peabody Coal Company.
Reg Affected: 30 CFR 75.360(c)(1).
Summary of Findings: Petitioner's proposal to determine the quantity of air at alternative locations during preshift examinations considered acceptable alternate method. Granted with conditions.

Docket No.: M-92-111-C.
FR Notice: 57 FR 44778.
Petitioner: Peabody Coal Company.
Reg Affected: 30 CFR 75.362(c)(1).
Summary of Findings: Petitioner's proposal to determine the quantity of air at alternative locations during on-shift examinations considered acceptable alternate method. Granted with conditions.

Docket No.: M-92-112-C.
FR Notice: 57 FR 44778.
Petitioner: Peabody Coal Company.
Reg Affected: 30 CFR 75.362(c)(1).
Summary of Findings: Petitioner's proposal to determine the quantity of air at alternative locations during on-shift examinations considered acceptable alternate method. Granted with conditions.

Docket No.: M-92-113-C.
FR Notice: 57 FR 44778.
Petitioner: Peabody Coal Company.
Reg Affected: 30 CFR 75.362(c)(1).
Summary of Findings: Petitioner's proposal to determine the quantity of air at alternative locations during on-shift examinations considered acceptable alternate method. Granted with conditions.

Docket No.: M-92-114-C.
FR Notice: 57 FR 44778.
Petitioner: Peabody Coal Company.
Reg Affected: 30 CFR 75.325(b).
Summary of Findings: Petitioner's proposal to provide positive ventilation by using the stopping line to separate the intake and return aircourse in rooms previously developed on the same panel considered acceptable alternate method. Granted with conditions.

Docket No.: M-92-115-C.
FR Notice: 57 FR 44778.
Petitioner: Peabody Coal Company.
Reg Affected: 30 CFR 75.360(c)(1).
Summary of Findings: Petitioner's proposal to determine the quantity of air at alternative locations during preshift examinations considered acceptable alternate method. Granted with conditions.

Docket No.: M-92-116-C.
FR Notice: 57 FR 44778.
Petitioner: Peabody Coal Company.
Reg Affected: 30 CFR 75.325(b).
Summary of Findings: Petitioner's proposal to provide positive ventilation by using the stopping line to separate the intake and return aircourse in rooms previously developed on the same panel considered acceptable alternate method. Granted with conditions.

Docket No.: M-92-117-C.
FR Notice: 57 FR 44779.
Petitioner: Consolidation Coal Company.
Reg Affected: 30 CFR 75.350.
Summary of Findings: Petitioner's proposal to modify petition docket number M-90-192-C to prohibit persons from entering the mine and to halt miners enroute into the mine when a carbon monoxide alarm is activated considered acceptable alternate method. Granted with conditions.

Docket No.: M-92-118-C.
FR Notice: 57 FR 47123.
Petitioner: Bear Coal Company, Inc.
Reg Affected: 30 CFR 75.364(b).
Summary of Findings: Petitioner's proposal to establish evaluation points to monitor the quantity and quality of air entering and leaving the affected area considered acceptable alternate method. Granted with conditions.

Docket No.: M-92-128-C.
FR Notice: 57 FR 47124.
Petitioner: Peabody Coal Company.
Reg Affected: 30 CFR 75.900.
Summary of Findings: Petitioner's proposal to use vacuum contactor circuit interrupting devices in combination with circuit breakers considered acceptable alternate method. Granted with conditions for stationary, permanently installed 480-volt, three-phase belt drives.

Docket No.: M-92-130-C.
FR Notice: 57 FR 53144.
Petitioner: Husky Coal Company, Inc.
Reg Affected: 30 CFR 75.1710-1.
Summary of Findings: Petitioner's proposal to operate haulage equipment without canopies due to ascending and descending grades and dips in the coal bed considered acceptable alternate method. Granted with conditions for the two middle-driven 21SC Joy shuttle cars and the two end-driven 21SC Joy shuttle cars.

Docket No.: M-92-131-C.
FR Notice: 57 FR 53144.
Petitioner: Falls Mining, Inc.
Reg Affected: 30 CFR 75.342.
Summary of Findings: Petitioner's proposal to use a hand-held continuous-duty methane and oxygen monitor on permissible three-wheel tractors with drag bottom buckets considered acceptable alternate method. Granted with conditions.

Docket No.: M-92-142-C.
FR Notice: 57 FR 53145.
Petitioner: McElroy Coal Company.
Reg Affected: 30 CFR 75.364(b).
Summary of Findings: Petitioner's proposal to establish new check points to replace check points previously approved by MSHA under docket number M-81-219-C for monitoring the quantity and quality of air both entering and leaving the affected area considered acceptable alternate method. Granted with conditions.

Docket No.: M-92-143-C.
FR Notice: 57 FR 53145.
Petitioner: Arch of Kentucky.
Reg Affected: 30 CFR 75.1002.
Summary of Findings: Petitioner's proposal to use high-voltage cables to power longwall equipment considered acceptable alternate method. Granted with conditions.

Docket No.: M-92-147-C.
FR Notice: 57 FR 56376.
Petitioner: G & P Contractors.
Reg Affected: 30 CFR 75.342.
Summary of Findings: Petitioner's proposal to use a hand-held continuous-duty methane and oxygen monitor on permissible three-wheel tractors with drag bottom buckets considered acceptable alternate method. Granted with conditions.

Docket No.: M-92-149-C.
FR Notice: 57 FR 56376.
Petitioner: C H & S Coal Company, Inc.
Reg Affected: 30 CFR 75.523-3.
Summary of Findings: Petitioner's proposal to operate S & S 482 scoops without emergency brakes considered acceptable alternate method due to the slope of the mine, coal bed undulation, and wet slippery conditions that would cause emergency brakes to lockup and equipment to skid resulting in a diminution of safety to the operator. Granted with conditions.

Docket No.: M-92-151-C.
FR Notice: 57 FR 56377.
Petitioner: E & E Fuels.
Reg Affected: 30 CFR 75.1400.
Summary of Findings: Petitioner's proposal to use a slope conveyance (gunboat) with an increased rope strength safety factor and secondary safety rope connection to transport persons considered acceptable alternate method. Granted with conditions.

Docket No.: M-92-155-C.
FR Notice: 57 FR 56377.
Petitioner: Enlow Fork Mining Company.
Reg Affected: 30 CFR 75.804(a).
Summary of Findings: Petitioner's proposal to use a high-voltage cable with an internal ground check conductor smaller than No. 10 (A.W.G.) as part of its longwall mining system considered acceptable alternate method. Granted with conditions.

Docket No.: M-92-156-C.
FR Notice: 57 FR 56377.
Petitioner: Paramont Coal Corporation.
Reg Affected: 30 CFR 75.350.
Summary of Findings: Petitioner's proposal to install a low-level carbon monoxide detection system in all belt entries used as intake aircourses as an early warning fire detection system considered acceptable alternate method. Granted with conditions.

Docket No.: M-92-159-C.
FR Notice: 57 FR 59360.
Petitioner: Shadow Coal Company.
Reg Affected: 30 CFR 75.342.
Summary of Findings: Petitioner's proposal to use a hand-held continuous-duty methane and oxygen monitor on permissible three-wheel tractors with drag bottom buckets considered acceptable alternate method. Granted with conditions.

Docket No.: M-92-160-C.
FR Notice: 57 FR 59360.
Petitioner: Costain Coal, Inc.
Reg Affected: 30 CFR 75.507.
Summary of Findings: Petitioner's proposal to use a nonpermissible submersible pump in a borehole in a sealed area of the 11 High Wall Second Main East approximately 11 crosscuts from the elevator landing considered acceptable alternate method. Granted with conditions.

Docket No.: M-92-171-C.
FR Notice: 57 FR 59361.
Petitioner: Minton Hickory Coal Company.
Reg Affected: 30 CFR 75.342.
Summary of Findings: Petitioner's proposal to use a hand-held deck-mounted continuous methane and oxygen monitor on permissible three-wheel tractors with drag bottom buckets considered acceptable alternate method. Granted with conditions.

Docket No.: M-92-173-C.
FR Notice: 57 FR 62390.
Petitioner: Southern Ohio Coal Company.
Reg Affected: 30 CFR 75.1700.
Summary of Findings: Petitioner's proposal to plug and mine through oil and gas wells considered acceptable alternate method. Granted with conditions.

Docket No.: M-92-178-C.
FR Notice: 57 FR 62391.
Petitioner: Consolidation Coal Company.
Reg Affected: 30 CFR 75.1101-8.
Summary of Findings: Petitioner's proposal to use a single overhead pipe system with ½-inch automatic sprinklers located on 10-foot centers to cover 50 feet of fire resistant belt or 150 feet of non-fire resistant belt considered acceptable alternate method. Granted with conditions.

Docket No.: M-92-179-C.
FR Notice: 57 FR 62391.
Petitioner: Little Buck Coal Company.
Reg Affected: 30 CFR 75.1400.
Summary of Findings: Petitioner's proposal to use a slope conveyance (gunboat) with an increased rope strength and secondary safety rope instead of safety catches to transport persons considered acceptable alternate method. Granted with conditions.

Docket No.: M-92-185-C.
FR Notice: 58 FR 5761.
Petitioner: AMAX Coal Company.
Reg Affected: 30 CFR 75.380(d)(4)(i) and (ii).
Summary of Findings: Petitioner's proposal to continue using the 28 inches wide and 66 inches high escapeway door at the North Portal and 32 inches wide and 32 inches high escapeway door at the South Portal shaft bottom areas considered acceptable alternate method. Granted with conditions.

Docket No.: M-93-01-C.
FR Notice: 58 FR 8065.
Petitioner: Headache Coal Company, Inc.
Reg Affected: 30 CFR 75.342.
Summary of Findings: Petitioner's proposal to use a hand-held continuous-duty methane and oxygen monitor instead of a machine-mounted methane monitor on permissible three-wheel tractors with drag bottom buckets considered acceptable alternate method. Granted with conditions.

Docket No.: M-93-06-C.
FR Notice: 58 FR 8065.
Petitioner: Peabody Coal Company.
Reg Affected: 30 CFR 75.364(b).
Summary of Findings: Petitioner's proposal to have a certified person monitor daily for methane and oxygen in alternative specified locations due to hazardous roof conditions for examination of intake aircourse entries and permanent seals considered acceptable alternate method. Granted with conditions.

Docket No.: M-93-57-C.
FR Notice: 58 FR 26167.
Petitioner: Usibelli Coal Mine, Inc.
Reg Affected: 30 CFR 77.1605(k).
Summary of Findings: Petitioner's proposal to use specified safety precautions as an alternative to berms and guardrails on haulage roads due to climatic weather conditions and permafrost which causes hazardous conditions to roadways and vehicular traffic considered acceptable alternate method. Granted with conditions.

Docket No.: M-82-32-M.
FR Notice: 48 FR 97.
Petitioner: AKZO Salt, Inc. (previously International Salt Co.).
Reg Affected: 30 CFR 57.4761 (previously 30 CFR 57.4-61B).
Summary of Findings: Petitioner's granted petition for modification was reviewed and changes were noted which have occurred since petition was granted. Based on this review, MSHA has issued an amended Proposed

Decision and Order. The petitioner's proposal to use a refuge chamber in lieu of fire doors considered acceptable alternate method provided a carbon monoxide monitor with an audible/visual alarm is installed in the work area of each of the two employees working in the return air between the shop and production shaft. Granted with conditions.

Docket No.: M-92-11-M.
FR Notice: 57 FR 43477.
Petitioner: Magma Copper Company.
Reg Affected: 30 CFR 57.11059.
Summary of Findings: Petitioner's proposal to use an independent ventilation system for hoist operators that converts to a one-hour self-contained breathing apparatus instead of a two-hour breathing apparatus considered acceptable alternate method. Granted with conditions.

[FR Doc. 93-27310 Filed 11-4-93; 8:45 am]
BILLING CODE 4510-43-P

Petitions for Modification

The following parties have filed petitions to modify the application of mandatory safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. G & G Coal Company, Inc.

[Docket No. M-93-295-C]

G & G Coal Company, Inc., P.O. Box 727, Dunlap, Tennessee 37327 has filed a petition to modify the application of 30 CFR 75.364(a)(1) (weekly examination) to its Mine No. 1 (I.D. No. 40-02831) located in Sequatchie County, Tennessee. Due to deteriorating roof conditions in certain areas of the intake aircourse, traveling the area would be unsafe. The petitioner proposes to establish evaluation points at specific locations to monitor the quantity and quality of air entering and leaving the affected area. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

2. Hubb Corporation

[Docket No. M-93-296-C]

Hubb Corporation, P.O. Box 189, Isom, Kentucky 41824 has filed a petition to modify the application of 30 CFR 75.335 (construction of seals) to its Hubb No. 1 Mine (I.D. No. 15-02082) located in Perry County, Kentucky. Due to adverse roof conditions, and extreme wetness outby and inby the bleeder system, the area cannot be traveled safely. In addition, much of the affected area is completely sealed with water. The petitioner proposes to establish evaluation points at specific locations to monitor the methane and oxygen in the affected area. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

3. Monterey Coal Company

[Docket No. M-93-297-C]

Monterey Coal Company, Rural Route 4, Box 235, Carlinville, Illinois 62626 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its No. 1 Mine (I.D. No. 11-00726) located in Macoupin County, Illinois. The petitioner proposes to install two 350 MCM SHD-GC type portable cables, 1100 feet in length, on a cable handling and support system to supply power from the Longwall Power Center to the Longwall Controller. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standards.

Request for Comments

Persons interested in these petitions may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 6, 1993. Copies of these petitions are available for inspection at that address.

Dated: November 1, 1993.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 93-27306 Filed 11-4-93; 8:45 am]
BILLING CODE 4510-43-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Privacy Act of 1974; System of Records; Correction

In the notice document 93-26293 beginning on page 57631 in the issue of Tuesday, October 26, 1993, make the following correction:

On page 57632, in the first column, the effective date of the proposed altered system should read "November 29, 1993."

Dated: October 29, 1993.

Mary Ann Hadyka,

Federal Register Liaison.

[FR Doc. 93-27187 Filed 11-4-93; 8:45 am]
BILLING CODE 7515-01-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Cooperative Agreement To Administer an Arts Teachers Fellowship Program

AGENCY: National Endowment for the Arts.

ACTION: Notification of availability.

SUMMARY: The National Endowment for the Arts is requesting proposals leading to the award of a Cooperative Agreement for the continued administration of an arts teachers fellowship program. Eligibility to apply is limited to nonprofit organizations. Approximately 25 fellowships of $3,000 each are awarded yearly, and are meant to enable the teachers of the arts to pursue from four to eight weeks of serious, independent study on a topic of their choice, and to allow them to increase their knowledge and/or skills in their arts discipline without concern for a loss of summer income. Although not required, it is expected that the recipient of the Cooperative Agreement will raise matching funds for the project. Those interested in receiving the Solicitation package should reference Program Solicitation PS 94-03 in their written request and include two (2) self-addressed labels. Verbal requests for the Solicitation will not be honored.

DATES: The Program Solicitation PS 94-03 is scheduled for release approximately December 2, 1993 with proposals due on January 6, 1994.

ADDRESSES: Requests for the Solicitation should be addressed to the National Endowment for the Arts, Contracts Division, room 217, 1100 Pennsylvania Ave. NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: William I. Hummel, Contracts Division, National Endowment for the Arts, 1100 Pennsylvania Ave. NW., Washington, DC 20506 (202/682-5482).

William I. Hummel,

Director, Contracts and Procurement Division.

[FR Doc. 93-27166 Filed 11-4-93; 8:45 am]
BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Permit Application Received Under the Antarctic Conservation Act of 1978

November 2, 1993.

AGENCY: National Science Foundation.

ACTION: Notice of permit application received under the Antarctic Conservation Act of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act of 1978 at title 45 part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by November 29, 1993. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, room 627, Office of Polar Programs, National Science Foundation, Washington, DC 20550.

FOR FURTHER INFORMATION CONTACT: Thomas F. Forhan at the above address or (202) 357–7817.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), has developed regulations that implement the "Agreed Measures for the Conservation of Antarctic Fauna and Flora" for all United States citizens. The Agreed Measures, developed by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest.

The application received is as follows:

1. Applicant

Antarctic Support Associates, 61 Inverness Dr. East, suite 300, Englewood, CO 80112

Activity for Which Permit Requested

Taking. Antarctic Support Associates (ASA), proposes to conduct operations on Cape Hallett in an effort to clean up remnants of past operations. The location of the proposed work lies within a penguin rookery with a population of approximately 80,000 Adelie penguins (Sp. *Pygoscelis adeliae*).

The proposed work involves delivering drums and overpacks to the site; transfer fuel, oil, solvent, and anti-freeze to the drums; and returning the materials to McMurdo Station. The work is proposed to be accomplished in stages over a period of several years. Each phase has the potential of disturbing the local penguin population. The work is justified by the fact that the cleanup operation is an effort to eliminate a potentially hazardous situation which poses a threat to the health and well being of the penguin population should the old containers spill their contents due to corrosion.

Disturbances would come from the noise associated with the activity of personnel on-site, use of equipment, personnel removing penguins from the immediate vicinity of work sites and transportation to and from the site.

Location

Cape Hallett, Victoria Land.

Date

11/1/93–10/31/2003.

Thomas F. Forhan,

Permit Office, Office of Polar Programs.

[FR Doc. 93–27265 Filed 11–4–93; 8:45 am]

BILLING CODE 7555–01–M

Permit Application Received Under the Antarctic Conservation Act of 1978

November 2, 1993.

AGENCY: National Science Foundation.

ACTION: Notice of permit application received under the Antarctic Conservation Act of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act of 1978 at title 45 part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by December 3, 1993. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, room 627, Office of Polar Programs, National Science Foundation, Washington, DC 20550.

FOR FURTHER INFORMATION CONTACT: Thomas F. Forhan at the above address or (202) 357–7817.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), has developed regulations that implement the "Agreed Measures for the Conservation of Antarctic Fauna and Flora" for all United States citizens. The Agreed Measures, developed by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest.

The application received is as follows:

1. Applicant

Dr. Colin M. Harris
International Centre for Antarctic Information and Research
P.O. Box 14–199, Christchurch, New Zealand

Activity for Which Permit Requested

Enter Specially Protected Area and enter Site of Special Scientific Interest. A June 24, 1993, Memorandum between NSF, NZAP and International Centre for Antarctic Information and Research, agreed to review the management plans of SSSI and SPAs in the McMurdo Sound region, and rewrite them in Antarctic Treaty Environmental Protocol, Annex V, format. Field visits to each of the sites are scheduled to gain up-to-date information on the status of the areas, identify management problems, to assess and define Protected Area (PA) boundaries, and to define appropriate management zones.

At each site, the team will:

1. Describe and map geographic features of areas additional to that contained in existing management plans, including important natural and historical features, evidence of human modifications, structures, markers, impacts, landing and access points and paths;
2. Describe evidence of activity contrary to regulations;
3. Document natural or human features of special significance;
4. Describe scientific work being conducted in the area, its effects and influences;
5. Assess whether the area is continuing to serve the purpose for which it was designated, including reassessment of boundaries and management objectives;
6. Map (using GPS) PA boundaries (readily identifiable, preferably permanent and immovable features so as to allow for repeated survey);
7. Define (also using GPS) designated photo point(s); take oblique photographs

of site covering the most important features and as much of the site as practicable.

Helicopters and twin otter aircraft will be used for transport to the PA locations at the sites except SSSI–2 at Arrival Heights. On-site access will be on foot as practical, using helicopters for access to boundaries only where foot access is not feasible. Existing regulations governing access, as described in the management plans and other relevant legislation, will be strictly followed.

Location

Cape Royds, Arrival Heights, Barwick Valley, Cape Crozier, NW White Island, Linnaeus Terrace, Cape Hallett.

Date

12/01/93–01/31/94.

Thomas F. Forhan,

Permit Office, Office of Polar Programs.

[FR Doc. 93–27258 Filed 11–4–93; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Instrumentation and Instrument Development; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Advisory Panel for Instrumentation and Instrument Development.

Date and Time: Thursday, November 18, 1993 from 8:30 a.m.–5 p.m. and Friday, November 19, 1993 from 8:30 a.m.–5 p.m.

Place: Room 390, NSF, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Michael Lamvik, Program Director, Instrumentation and Instrument Development, National Science Foundation, Telephone: (703) 306–1472.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Instrument Development proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Reason for Late Notice: Difficulty in arranging convenient meeting time.

Dated: November 2, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–27259 Filed 11–4–93; 8:45 am]

BILLING CODE 7555–01–M

Research on Digital Libraries Initiative; Notice of Briefing Meeting

The National Science Foundation (NSF) will hold a Briefing Meeting concerning the NSF/ARPA/NASA "Research on Digital Libraries" Initiative (Announcement NSF–93–141). This meeting will take place on December 6, 10 a.m. to 12 noon, at the Auditorium of the National Academy of Sciences, 2100 C Street NW., Washington, DC.

This meeting will be open to all parties interested in responding to this Initiative.

For further information, please contact Gwendolyn Barber. By telephone: (202) 357–9572 By email: gbarberansf.gov.

Dated: October 22, 1993.

Su-Shing Chen,

Program Director, Knowledge Models & Cognitive Systems.

[FR Doc. 93–27260 Filed 11–4–93; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget (OMB) Review

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to OMB for review the following proposal for collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35).

1. *Type of submission, new, revision, or extension:* Revision.

2. *The title of the information collection:* Appendix A of 10 CFR part 40, Uranium Mill Tailings Regulations; Conforming NRC Requirements to EPA Standards.

3. *The form number if applicable:* Not applicable.

4. *How often is the collection required:* On occasion.

5. *Who will be required or asked to report:* Non-operational uranium mill licensees.

6. *An estimate of the number of responses annually:* Four (from a universe of 19 NRC licensees and 9 Agreement State licensees).

7. *An estimate of the number of hours needed annually to complete the requirement or request:* 624 hours (approximately 560 hours of reporting burden and approximately 64 hours of recordkeeping burden).

8. *An indication of whether section 3504(h), Public Law 96–511 applies:* Applicable.

9. *Abstract:* NRC is proposing to amend its regulations governing the disposal of uranium mill tailings. These changes would conform existing NRC regulations to the proposed regulations published by the Environmental Protection Agency (EPA) on June 8, 1993. 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. The reporting and recordkeeping requirements contained in the proposed rule would be mandatory for non-operational uranium mill licensees.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC.

Comments and questions can be directed by mail to the OMB reviewer: Tim Hunt, Office of Information and Regulatory Affairs (3150–0020), NEOB–3019, Office of Management and Budget, Washington, DC 20503.

Comments may also be communicated by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda Jo. Shelton, (301) 492–8132.

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

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 93–27253 Filed 11–4–93; 8:45 am]

BILLING CODE 7590–01–M

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget (OMB) Review

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of OMB review of information collection.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of

information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35).

1. Type of submission, new, revision, or extension: Revision.

2. The title of the information collection:

Amendments to 10 CFR Part 73—"Protection Against Malevolent Use of Vehicles at Nuclear Power Plants".

3. The form number if applicable: Not applicable.

4. How often the collection is required: Submittals are only required once. Records would be retained by the licensee for three years.

5. Who will be required or asked to report: Nuclear power reactor licensees.

6. An estimate of the number of responses annually: 67.

7. An estimate of the total number of hours needed annually to complete the requirement or request: 33,300 hours (an average of 20 hours per response and 477 hours per recordkeeper).

8. An indication of whether section 3504(h), Public Law 96–511 applies: Applicable.

9. Abstract: The amendments to 10 CFR part 73 would require commercial nuclear power reactor licensees to document and maintain records of evaluations of barrier systems installed to protect vital areas and equipment against vehicle bombs, and submit a summary of results of evaluations and, in some cases, proposed additional measures needed to meet requirements. The information will be used by NRC to make a determination whether implemented programs meet the new requirements for protection against vehicle bombs.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC.

Comments and questions may be directed by mail to the OMB reviewer: Tim Hunt, Office of Information and Regulatory Affairs (3150–0002), NEOB–3019, Office of Management and Budget, Washington, DC 20503.

Comments may also be communicated by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda Jo. Shelton, (301) 492–8132.

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

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 93–27255 Filed 11–4–93; 8:45 am]

BILLING CODE 7590–01–M

[DOCKET No. 40–2384]

Environmental Assessment, Finding of No Significant Impact, and Opportunity for Hearing Related to Amendment of Materials License No. SMB–602; RMI Titanium Company, Extrusion Plant, Ashtabula, OH

October 29, 1993.

The U.S. Nuclear Regulatory Commission is considering issuing an amendment of Materials License No. SMB–602, held by RMI Titanium Company Extrusion Plant (RMI), to authorize predecommissioning and waste disposal activities at the RMI facility in Ashtabula, Ohio, of uranium and technetium-99 contaminated materials. Also, the amendment includes the addition of one Radiation Safety Officer (RSO).

Summary of Environmental Assessment

Background

By letters dated June 24, 1993, and September 9, 1993, RMI requested the following amendment to its NRC License No. SMB–602:

1. Predecommissioning work activities, such as survey, cleanup and removal of equipment in preparation for the decommissioning work at RMI.

2. Handling and disposal of existing waste to the Department of Energy (DOE) designated disposal facilities.

3. Addition of two individuals as RSOs.

Proposed Action and the Need

Issuance of a license amendment authorizing RMI to perform the requested activities including addition of two individuals as additional RSOs is the proposed action.

According to RMI, this amendment will better facilitate characterization and decommissioning planning by clearing current unused areas and decommissioning pieces of equipment which are slightly contaminated. In addition, it will allow the testing of decommissioning techniques which could be used in large scale operations. Also, these activities will allow RMI to properly position the facility and the project to optimum scheduling of the decommissioning activities following NRC approval of the decommissioning plan. RMI states that the proposed actions will not result in risk to the environment, risk of significant radiation exposure to personnel, or potential for accidents over and above what existed during facility operation.

Environmental/Radiological Impacts of the Proposed Action

Predecommissioning work activities may include survey, clean-up and removal of equipment in preparation for the decommissioning work at RMI. Radiological surveying of equipment, supplies, and materials which were associated with the extrusion process are included in this category. Non-contaminated items will be removed from the contamination area using existing protocols for free-releasing such items from the site. Contaminated items will be decommissioned, staged, and stored for future disposition. For free release, the administrative limits used by RMI will be below the values given in Reference 1. RMI's administrative action levels are provided in Table 2.1 of the Health Physics Manual (Reference 2) along with the NRC and the DOE limits for both occupational and the general public exposure categories. RMI's administrative action levels are less than or equal to the NRC limits. Air monitoring, surface contamination surveys, external radiation surveys, and bioassay program for routine urinalysis are proposed to be performed. Expected radioactive releases to the air will be small. No liquid releases of radioactivity will be made. Reference 3 provides acceptable programs for ensuring worker and public exposures, and effluent releases meet NRC requirements and are ALARA (Reference 4).

Existing waste will be shipped for disposal to a DOE designated disposal facility such as the Nevada Test Site (NTS) in accordance with requirements defined by DOE. The environmental impacts of these activities will be small and are acceptable.

RMI requested that the license be amended to include two individuals as additional RSOs. Designation of RSOs is an administrative action and will result in no environmental impact. However, only one of the two candidates has the necessary qualifications for an RSO.

Conclusions

The predecommissioning and waste disposal activities will have minimal environmental impacts. However, only one of the two candidates has the necessary qualifications for an RSO. The staff concludes that the predecommissioning and waste disposal activities (Items 1 and 2 under BACKGROUND), and the addition of one of the two individuals as an RSO will not result in any significant environmental or radiological impact.

Alternatives to the Proposed Action

Since this license amendment pertains to predecommissioning

activities, disposal of existing waste at a DOE designated facility and addition of an RSO, no alternatives to proposed action were considered.

Alternative Use of Resources

There are no reasonable alternatives to the energy and land resource uses in the conduct of the predecommissioning and waste disposal activities. The proposed activities do not involve any unresolved conflicts concerning uses of available resources.

Agencies and Persons Consulted, and Sources Used

The EA was prepared entirely by staff of the NRC. No other agencies or persons were consulted. No other sources were used beyond those identified as references.

Findings of No Significant Impact

The staff has prepared an EA evaluating the environmental impacts related to the license amendment request from RMI to authorize predecommissioning and waste disposal activities (Items 1 and 2 under (BACKGROUND), and to add one RSO to the license. The EA has examined the radiological impacts associated with these proposed activities. As the EA has not identified any significant environmental impact associated with these proposed license amendment actions, the staff has concluded that a Finding of No Significant Impact (FONSI) is justified and appropriate.

Opportunity for a Hearing

Any person whose interest may be affected by the issuance of this amendment 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, if U.S. Postal Service to U.S. Nuclear Regulatory Commission, Washington, DC 20555, or deliver directly to One White Flint North, 11555 Rockville Pike, Rockville, MD 20852); on the licensee RMI Titanium Company, ATTN: Mr. Eric P. Marsh, RMI Titanium Company, Extrusion Plant, P.O. Box 579, Ashtabula, Ohio 44004; and must comply with requirements for requesting a hearing set forth in NRC regulations, 10 CFR part 2, subpart L, "Informal Hearing Procedures for Adjudications in Materials and Operator Licensing Proceedings."

These requirements, which the requestor must describe 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 proceedings; 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.

The RMI license amendment application dated June 24, 1993, the Commission's Safety Evaluation Report, Environmental Assessment and Finding of No Significant Impact are available for public inspection and copying at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, 20037.

Dated at Rockville, Maryland, this 29th day of October 1993.

For The Nuclear Regulatory Commission.

John H. Austin,

Chief, Decommissioning and Regulatory Issues Branch, Division of Low-Level Waste Management and Decommissioning, Office of Nuclear Material Safety and Safeguards.

References

1. Guidelines for Decontamination of Facilities and Equipment Prior to Release for Unrestricted Use or Termination of Licenses for Byproduct, Source, or Special Nuclear Material, Prepared by NRC, August 1987.

2. RMI Titanium Company Extrusion Plant Health Physics Manual, RMI-L-60, Prepared by RMI, Revised December 1991.

3. Occupational Safety and Health Administration 1910.120 Site Safety and Health Plan, RMI-L-163, Prepared by RMI, June 1992.

4. As Low As Reasonably Achievable Program Manual, Document No. RMI-L-182, Revision O, Prepared by RMI, March 1993.

[FR Doc. 93-27256 Filed 11-4-93; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-346]

Toledo Edison Co., Centerior Service Co., and the Cleveland Electric Illuminating Co., Davis-Besse Nuclear Power Station, Unit No. 1; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-3 in response to a request filed by the Toledo Edison Company, Centerior Service Company and the Cleveland Electric Illuminating Company (the licensee), for the Davis-Besse Nuclear Power Station (DBNPS), Unit No. 1, located in Ottawa County, Ohio.

Environmental Assessment

Identification of Proposed Action

The proposed amendment would allow storage of new and spent fuel assemblies with an initial enrichment of uranium—235 no greater than 5.0 weight percent versus 3.8 weight percent currently allowed.

The proposed action is in accordance with the licensee's application for amendment dated June 23, 1993, as supplemented on October 5, 1993.

The Need for the Proposed Action

The proposed amendment is needed because the licensee intends to use fuel of higher enrichment than currently used, which will permit longer fuel cycles with smaller fuel assembly feed batches resulting in more efficient uranium utilization. Along with the reduction in reload batch size, there will be an increase in the fuel assembly average discharge burnup not to exceed 60,000 megawatt days per metric ton (MWD/MTU). Also, since fewer spent fuel assemblies will be produced, spent fuel transportation and storage capacity requirements will be reduced.

Environmental Impacts of the Proposed Action

The NRC staff generically reviewed the potential environmental impact of a proposed increase in fuel enrichment to 5.0 weight percent and in burnup to 60,000 MWD/MTU and published its evaluation in the **Federal Register,** (53 FR 6040) dated February 29, 1988, "Extended Burnup Fuel Use in Commercial LWRs; Environmental Assessment and Finding of No Significant Impact," and (53 FR 30355) dated August 11, 1988, "NRC Assessment of the Environmental Effects of Transportation Resulting from Extended Fuel Enrichment and Irradiation." The NRC staff concluded

that the environmental impacts summarized in Table S-3 of 10 CFR 51.51 and in Table S-4 of 10 CFR 51.52 for a burnup level of 33,000 MWD/MTU are conservative and bound the corresponding impacts for burnup levels up to 60,000 MWD/MTU and uranium-235 enrichments up to 5.0 weight percent. The proposed action is bounded by these assessments. In addition, the licensee reevaluated the fuel handling accident and found that the results still meet acceptance criteria. Accordingly, the NRC staff concludes that the proposed action would result in no significant radiological environmental impact.

With regard to potential nonradiological impacts, the proposed increase in fuel enrichment and burnup will not cause significant increase in the nonradiological impacts and will not change any conclusions reached by the staff in the "Final Environmental Statement for the Davis-Besse Nuclear Power Station, Unit 1" dated March 1973 and its supplement dated October 1975. Therefore, the staff concludes that there are no significant nonradiological environmental impacts associated with the proposed amendment.

Alternative to the Proposed Action

Because the Commission's staff has concluded that there are no significant environmental impacts associated with the proposed action, any alternatives would have either no significantly different environmental impact or greater environmental impact.

The principal alternative would be to deny the requested amendment. This would not reduce environmental impacts as a result of plant operations.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statements for the Davis-Besse Nuclear Power Station, Unit 1, dated March 1973 and its supplement dated October 1975.

Agencies and Persons Consulted

The NRC staff consulted with the State of Ohio regarding the environmental impact of the proposed action.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed amendment.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for amendment dated June 23, 1993, as supplemented on October 5, 1993, which is available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555 and at the University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Dated at Rockville, Maryland, this 1st day of November 1993.

For the Nuclear Regulatory Commission.

John N. Hannon,

Director, Project Directorate III-3, Division of Reactor Projects III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 93-27257 Filed 11-4-93; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-366]

Georgia Power Co., Oglethorpe Power Corp., Municipal Electric Authority of Georgia, City of Dalton, Georgia; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-5, issued to Georgia Power Company, et al. (the licensee), for operation of the Edwin I. Hatch Nuclear Plant, Unit 2, located in Appling County, Georgia.

The proposed amendment would permit an increase in the allowable leak rate for the main steam isolation valves (MSIVs) and would delete the Technical Specification (TS) requirements for the MSIV leakage control system (LCS). Specifically, the licensee requested: (1) The allowable leak rate specified in TS Section 3.6.1.2.c be changed from 11.5 standard cubic feet per hour (scfh) for any MSIV to 100 scfh for any MSIV; (2) TS 3/4.6.1.4 and Bases section 3/4.6.1.4 be deleted to reflect the elimination of the LCS; (3) the LCS isolation valves be deleted from TS Table 3.6.3-1; and (4) the TS Index and pages containing TS 3/4.6.1.2 (and associated Actions) and 3/4.6.1.4, and Bases section 3/4.6.1.4 be revised to rearrange the sections and page numbers as appropriate. In addition, an editorial change unrelated to proposed changes 1 through 4 revises Index page XII to reflect that Bases section 3/4.6.3 is on page B 3/4 6-4b rather than on page B 3/4 6-4.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By December 6, 1993, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714, which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order that may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a

supplement to the petition to intervene that must include a list of the contentions that are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion that support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one that, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement that satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building 2120 L Street NW., Washington, DC 20555, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 248-5100 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Robert A. Hermann, Acting Director, Project Directorate II-3: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

If a request for a hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accoruance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated October 1, 1993, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555, and at the local public document room located at Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513.

Dated at Rockville, Maryland, this 29th day of October 1993.

For the Nuclear Regulatory Commission.

Robert A. Hermann,

Acting Director, Project Directorate II-3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 93-27254 Filed 11-4-93; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Notice of Meeting

The Office of Personnel Management announces the following meeting:

Name: National Partnership Council. The National Partnership Council was established by Executive Order 12871 of October 1, 1993.

Date and Time: November 19, 1993, 2 p.m.

Place: Office of Personnel Management, Theodore Roosevelt Building, 1900 E Street, NW., room 5A06A, Washington, DC 20415-0001. To enter the Theodore Roosevelt Building, you must show pictured identification—a government building pass, a driver's license, or some other identification.

Type of Meeting: The meeting will be open to the public. Seating will be available on a first-come, first serve basis.

Point of Contact: Allan D. Heuerman, Assistant Director for Labor Relations and Workforce Performance, Personnel Systems and Oversight Group, Office of Personnel Management, Theodore Roosevelt Building, 1900 E Street, NW., room 7412, Washington, DC 20415-0001, (202) 606-2910.

Purpose of Meeting: To perform the duties of the National Partnership Council as established in Executive Order 12871, including, but not limited to, supporting the creation of labor-management partnerships, proposing statutory changes to achieve the objectives of the Executive Order, and collecting and disseminating information about labor-management partnership efforts in the executive branch.

Agenda: Introduction; Council organization and administration; discussion of Council objectives and responsibilities; closing.

Public Participation: Any interested person or organization is welcome to submit written comments and recommendations. Mail or deliver your comments or recommendations to Mr. Allen D. Heuerman at the address shown above.

Office of Personnel Management.

James B. King,

Director.

[FR Doc. 93-27376 Filed 11-4-93; 8:45 am]

BILLING CODE 6325-01-M

POSTAL RATE COMMISSION

Notice of Commission Visit

November 1, 1993.

Notice is hereby given that on November 9 and 10, 1993, members of the Commission and certain advisory staff personnel will visit the mailing operations of L.L. Bean in Portland and Freeport, Maine. Visits will also take place at W.A. Wilde and Company in Holliston, Massachusetts, and John Hancock Financial Services in Boston, Massachusetts.

A report of the visits will be on file in the Commission's Docket Room. For further information contact Charles L. Clapp, Secretary of the Commission at 202-789-6840.

Charles L. Clapp,

Secretary.

[FR Doc. 93-27224 Filed 11-4-93; 8:45 am]

BILLING CODE 7715-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-33122; File No. SR-NASD-93-25]

Self Regulatory Organizations; Order Approving Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to the Eligibility of Certain Securities for Quotation in the OTC Bulletin Board Service

October 29, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1) (1988), on April 22, 1993, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change to permit more rapid inclusion in the OTC Bulletin Board Service ("OTCBB") of equity securities being delisted either from the New York or American Stock Exchanges ("NYSE" and "AMEX", respectively) for non-compliance with exchange maintenance-of-listing standards.

Notice of the proposal appeared in the **Federal Register** on June 22, 1993.[1] The Commission received no comment letters regarding the proposed rule change. This order approves the proposed rule change.

I. Description of the Proposed Rule Change

Currently, if the NYSE or the AMEX suspends trading in an equity security pending its delisting from the exchange for failure to meet the exchange's maintenance standards, NASD members must stop entering quotations for that security in the Consolidated Quotation Service ("CQS"). The Consolidated Tape also will cease reporting transactions in that security.[2] Moreover, over-the-counter market makers cannot enter quotations for the security on the OTCBB until the security is finally delisted or the suspension is removed because the security will remain listed. Quotations for securities that are pending delisting are, therefore, available only through a printed interdealer quotation medium.

The proposal will allow securities that are undergoing delisting from the NYSE or AMEX to become eligible for quotation in the OTCBB starting on the first business day of the exchange's trading suspension preceding actual delisting. Broker-dealers that wish to initiate quotation of such securities in the OTCBB will have to immediately file with the NASD Form 211 and the requisite issuer information, in accordance with section 4 of Schedule H to the NASD By-Laws. If that broker-dealer demonstrates compliance with Rule 15c2-11, the NASD will authorize the firm to enter quotations for the security in the OTCBB. At the present time, a broker-dealer cannot apply to quote a security until the exchange has affected the delisting.

II. Discussion

The Commission believes that approval of this proposed rule change is consistent with the provisions of the Act and the rules and regulations thereunder, and, in particular with the requirements of sections 15A(b)(6) and 15A(b)(11) of the Act. Section 15A(b)(6) states that an association of brokers and dealers, such as the NASD, may not be registered as a national securities association unless the Commission determines that "the rules of the association are designed to prevent fraudulent and manipulative acts and practices, * * * [and] to promote just and equitable principles of trade." Section 15A(b)(11) states that the association rules must "include provisions governing the form and content of quotations * * * [and] be designed to produce fair and informative quotations, to prevent fictitious or misleading quotations, and to promote orderly procedures for collecting, distributing, and publishing quotations."

Because delisted securities are not eligible for quotation in any medium other than printed interdealer quotation sheets, the rule change represents an improvement in the availability of quotations for these securities. By allowing for quotation of these securities in an electronic medium that permits continual updates of those quotations, the proposal will facilitate price discovery during the period prior to delisting. This, in turn, will provide a measure of comfort for investors in delisted securities. Furthermore, the Commission believes by providing the NASD with real-time access to quotation information the proposal will enhance the NASD's ability to monitor over-the-counter trading in securities that are pending delisting and verify compliance with best execution requirements.

III. Conclusion

For the reasons discussed above, the Commission finds that the proposed rule change is consistent with sections 15A(b)(6) and 15A(b)(11) of the Act.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority, 17 CFR 200.30-3(1)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-27200 Filed 11-4-93; 8:45 am]

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[1] See Securities Exchange Act Release No. 32477 (June 16, 1993), 58 FR 33963.

[2] Part VI(c) of the Consolidated Tape Plan provides that a security shall cease to be an "Eligible Security" whenever "(i) such security does not substantially meet the requirements in effect for continued listing on the NYSE * * * or the AMEX * * * or (ii) such security has been suspended from trading on any national securities exchange because the issuer therefor is in liquidation, bankruptcy or other similar type proceedings."

[Release No. 34-33123; File No. SR-NASD-93-49]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Granting Approval to Proposed Rule Change Relating to Bond Quotation Data Service Fees

October 29, 1993.

I. Introduction

On September 1, 1993, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1). The proposed rule change would be an addition to Section 16 of Part VIII of Schedule D to the NASD's By-Laws and would set a fee structure for the receipt of quotation and summary transaction information on high yield bonds included in the NASD's Fixed Income Pricing System ("FIPS") via securities information vendors ("Bond Quotation Data Service" or "BQDS").

Notice of the filing of this proposal appeared in the **Federal Register** on September 17, 1993.[1] No comment letters were received. For the reasons discussed below, the Commission has determined to grant approval of the proposal.

II. Background

On March 19, 1993, the Commission approved an NASD proposal to establish and operate FIPS, an electronic facility that collects, processes, and disseminates real-time, firm quotations for 30 to 50 of the most liquid high yield

[1] Securities Exchange Act Release No. 32861 (September 10, 1993), 58 FR 48684.

bonds.[2] FIPS also requires members to report all over-the-counter ("OTC") transactions in high yield bonds. In addition, the system disseminates hourly summary transaction reports on FIPS securities that provide the high and low execution prices and the accumulated trading volume for each FIPS security during the preceding hour. The NASD's service that disseminates combined quotation and summary transaction information in FIPS securities to securities information vendors for retransmission to their terminal subscribers is called the Bond Quotation Data Service or BQDS.

To formulate the FIPS fee structure, the NASD and its subsidiary corporations conducted an analysis of the anticipated revenues and costs of operating FIPS. These revenue and cost assumptions were based upon forecasts and projections of the number of market participants likely to participate in FIPS, the likely demand for quotation and transaction information generated by FIPS, the volume of OTC transactions in high yield bonds, and the "start-up" and recurring costs associated with FIPS, among other things. Concurrent with this proposal, the NASD submitted a separate proposal governing other FIPS fees assessed solely on NASD members.[3]

III. Description

The Bond Quotation Data Service is patterned after the NASD's National Quotation Data Service which provides inside bid/ask and last sale information for securities traded in the Nasdaq Stock Market. Specifically, BQDS provides for a feed of quotation and summary transaction information in FIPS securities for access by market data vendors for dissemination to their terminal subscribers. The level of BQDS charges varies depending upon whether the subscriber receives "Full BQDS information" or "Limited BQDS information." "Full BQDS information" includes the bids and offers of all FIPS participants registered in each FIPS security, the inside bid/ask quotation for each FIPS security, and hourly summary transaction information on FIPS securities. "Limited BQDS information" includes the inside bid/ask quotation for each FIPS security and hourly summary transaction information on FIPS securities. In particular, the charge to be paid by a subscriber for each interrogation or display device receiving Full BQDS information is $50 per month. The charge for Limited BQDS information is $5 per month per device.

The NASD will periodically review the FIPS fee structure, including BQDS fees, in light of the utilization of the system, the costs of past and future enhancements to the system, the costs of operating the system, the volume of OTC transactions in high yield bonds, and the demand for FIPS quotation and transaction information, among other things. These reviews will ensure that the BQDS fees are properly related to the costs associated with operating FIPS.

IV. Discussion

The Commission believes that the proposed rule change is consistent with section 15A(b)(5) of the Act. Section 15A(b)(5) requires that the rules of a national securities association provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the association operates or controls. Specifically, the BQDS fee structure and the schedule for other FIPS fees reflect a complete analysis by the NASD to ensure that the fees assessed by the NASD in connection with the use and operation of FIPS are properly related to the development and operational costs of FIPS. Moreover, the NASD will periodically review the BQDS fee structure to ensure that the fees are reasonable and equitably allocated.

V. Conclusion

In view of the above, the Commission has concluded that the proposed rule change is consistent with section 15A(b)(5) of the Act and that it is appropriate to approve the fee structure for the receipt of quotation and summary transaction information on high yield bonds included in FIPS via the BQDS.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change be, and is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-27203 Filed 11-4-93; 8:45 am]

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[2] See Securities Exchange Act Release No. 32019 (March 19, 1993), 57 FR 16428 (order approving File No. SR-NASD-92-45) ("FIPS Approval Order").

[3] Securities Exchange Act Release No. 32843 (September 3, 1993), 58 FR 47921.

[4] 17 CFR 200.30-3(a)(12) (1989).

[Release No. 34-33119; File No. SR-NASD-93-45]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change Relating to the Corporate Financing Rule Under Article III, Section 44 of the Rules of Fair Practice

October 29, 1993.

On September 20, 1993, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission")[1] a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[2], and Rule 19b-4 thereunder.[3] The proposal amends Article III, Section 44 of the NASD Rules of Fair Practice to: (1) Adopt new subsection (c)(6)(B)(vi)(7) to prohibit underwriters and related persons from accepting as underwriting compensation options, warrants or convertible securities containing anti-dilution provisions with disproportionate rights, privileges and economic benefits not provided to investors purchasing the issuer's securities in the public offering; and (2) adopt new subsection (c)(6)(B)(vi)(8) to prohibit underwriters and related persons from accepting as underwriting compensation options, warrants or convertible securities containing provisions for the receipt or accrual of cash dividends before exercise or conversion of the securities.

Notice of the proposed rule change, together with the substance of the proposal as amended, was provided by issuance of a Commission release (Securities Exchange Act Release No. 32940, September 22, 1993) and by publication in the **Federal Register** (58 FR 50604, September 28, 1993). No comment letters were received. This order approves the rule change, as amended.

The NASD is proposing to amend its Corporate Financing Rule ("Rule"), contained in Article III, Section 44 of the Rules of Fair Practice[4] to define as unfair and unreasonable the receipt by the underwriter and related persons of

[1] The NASD amended the proposed rule change subsequent to its original filing on August 17, 1993. Amendment No. 1 was a minor technical amendment, the text of which may be examined in the Commission's Public Reference Room. See Letter from Suzanne E. Rothwell, Associate General Counsel, NASD, to Selwyn J. Notelovitz, Branch Chief, Over-the-Counter Regulation, SEC (September 20, 1993).

[2] 15 U.S.C. 78s(b)(1) (1988).

[3] 17 CFR 240.19b-4 (1993).

[4] NASD Manual, Rules of Fair Practice, Art. III, Sec. 44, (CCH) ¶ 2200D.

any underwriting compensation consisting of any option, warrant or convertible security that contains anti-dilution terms designed to provide the underwriter and related persons with disproportionate rights, privileges and economic benefits which are not provided to the purchasers of the securities offered to the public. The NASD also is proposing to amend the Rule to define as unfair and unreasonable the receipt by the underwriter and related persons of underwriting compensation consisting of any option, warrant or convertible security which contains terms which provide for the receipt or accrual of cash dividends prior to the exercise or conversion of the security.

The Rule prohibits an NASD member or associated person from participating in any manner in any public offering of securities in which the underwriting or other terms or arrangements in connection with or related to the distribution of the securities are unfair or unreasonable. Subsection (c)(6)(B) of the Rule codifies the presumption that certain arrangements are unfair and unreasonable and subsection (c)(6)(B)(vi) sets forth unreasonable arrangements applicable to options, warrants or convertible securities received by the underwriter and related persons as underwriting compensation.

The NASD stated in its rule filing that it reviewed anti-dilution terms contained in the contracts of underwriters and related persons for warrants received as underwriting compensation and found that underwriters and related persons sometimes negotiate to receive protection from dilution in their warrant contracts through certain "disproportionate" rights that provide them with a larger number of shares upon exercise or lower exercise price than that which is available to shareholders of the offering when events occur that do not affect all shareholders, such as additional issuances by the company, including issuances under stock option plans or the conversion of existing convertible securities. The NASD stated that its review found different variations of how adjustments to the exercise price and number of shares occur in response to such issuances of securities. Such variations included formulas which "weight" the effect of changes in the company's capitalization and also formulas which "rachet" the adjustment without regard to the actual dilutive effect of the new issuance of securities. The NASD stated that it identified another arrangement related to the warrants of underwriters and related persons which provided for the receipt or accrual of cash dividends prior to the member's exercise of its warrants for the underlying securities. The NASD determined that all variations of such disproportionate anti-dilution rights are unfair and unreasonable when not also provided to investors in the public offering.[5]

The Commission finds the amendments to Article III, Section 44 of the NASD Rules of Fair Practice to be consistent with the provisions of section 15A(b)(6) of the Act.[6] Section 15A(b)(6) of the Act provides in pertinent part that the rules of the NASD be designed to protect the public interest. The rule filing should encourage a commonality of interest among the underwriter, issuer and public investors by prohibiting arrangements that provide "disproportionate" anti-dilution rights to underwriters and related persons, but not to public investors.

The Commission does not believe that the rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change, SR-NASD-93-45 be, and hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

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BILLING CODE 8010-01-M

[5] The NASD noted that the receipt of such disproportionate benefits by underwriters and related persons, when such benefits are not received by other purchasers of the public securities, would result in the underwriter and related persons receiving securities as underwriting compensation in excess of 10 percent of the securities sold to the public in the offering in violation of the Stock Numerical Limitation Rule contained in subsection (c)(6)(B)(ix) of the Rule.

In comparison, the NASD identified certain anti-dilution provisions as not unfair and unreasonable under the Corporate Financing Rule. These provisions contain proportionate benefits that provide anti-dilution adjustments to the exercise price and number of securities in response to events affecting all shareholders, such as, among others, stock dividends, combinations, reclassification, and recapitalizations. These provisions entitle the underwriter to participate in the corporate event as if it were a shareholder of the underlying security prior to the event. The benefits received under these provisions, therefore, only result from treating the warrants, options and convertible securities, as if exercised or converted, to determine any adjustments. In this case, regulatory issues are not raised under the Stock Numerical Limitation Rule because the increase in the number of securities issued to the underwriter and related persons in exercise of the warrant maintains the same percentage relationship to the amount of securities sold in the offering to public investors.

[6] 15 U.S.C. 78o-3.

[7] 17 CFR 200.30-3(a)(12).

[Release No. 34-33121; File No. SR-NYSE-92-15]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 1 to Proposed Rule Change Relating to Its Allocation Policy and Procedures.

October 29, 1993.

I. Introduction

On June 18, 1992, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] a proposed rule change to amend its Allocation Policy and Procedures. On September 22, 1993, the NYSE submitted to the Commission Amendment No. 1 to the proposed rule change.[3] The Exchange has requested that the Commission approve this proposed rule change on a one-year pilot basis.[4]

The proposed rule change was published for comment in Securities Exchange Act Release No. 31427 (November 10, 1992), 57 FR 54433 (November 18, 1992). No comments were received on the proposal. This order approves the proposed rule change, including Amendment No. 1 on an accelerated basis.

II. Description of the Proposal

The NYSE Allocation Policy and Procedures ("Allocation Policy" or "Policy") governs the allocation of equity securities to NYSE specialist units.[5] The NYSE proposes to amend its

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b-4 (1991).

[3] See letter from James E. Buck, Senior Vice President and Secretary, NYSE, to Diana Luka-Hopson, Branch Chief, Commission, dated September 21, 1993. Amendment No. 1 requested approval of the proposed rule change on a one-year pilot basis. In addition, Amendment No. 1 revised the proposal to state, among other things, that the Specialist Performance Evaluation Questionnaire will be given no more than one-third weight by the Exchange's Allocation Committee when it makes stock allocation decisions, and that specialist performance is the most significant criterion in making allocation decisions.

[4] See Amendment No. 1, *supra* note 3.

[5] The NYSE Allocation Policy applies to the allocation of equity securities under the following circumstances: (1) When a common stock is to be initially listed on the NYSE; (2) when a security is to be reallocated as a result of disciplinary or other proceedings under NYSE Rules 103A, 475 and 476; or (3) when a specialist unit voluntarily surrenders its registration in a security as a result of possible disciplinary or performance improvement action. See NYSE Allocation Policy and Procedures.

Allocation Policy on a one-year pilot basis to revise, among other things, the allocation criteria, the composition of the Allocation Committee ("Committee"][6] and Allocation Panel ("Panel"),[7] and the Committee's disclosure policy.

The revised Allocation Policy would emphasize specialist performance as the most significant criterion in allocation decisions.[8] The proposal would specify that the Committee will base its allocation decisions on the following: (1) Specialist Performance Evaluation Questionnaire ("SPEQ");[9] (2) objective performance measures; and (3) the Committee's expert professional judgment in considering the SPEQ objective measures and other criteria.

The NYSE proposes several clarifying amendments to its allocation criteria. First, the NYSE proposes to amend the allocation criteria to limit, to no more than one-third, the weight that the SPEQ may be given in the allocation decision making process. Currently, there is no limit on the weight that may be afforded to SPEQ scores in this process. The NYSE also proposes amendments to its objective measures of specialist performance. The NYSE's current objective performance measures include: Timeliness of regular openings, promptness in seeking floor official approval of a non-regulatory delayed opening, timeliness of DOT turnaround and response to administrative messages. The NYSE proposes to amend the Allocation Policy to state explicitly that its objective measures of performance also include a specialist's TTV rate,[10] stabilization rate[11] and such other measures as may be adopted (and which are approved by the Commission pursuant to section 19(b) of the Act).[12]

Finally, the NYSE proposes to amend its Allocation Policy to specify that in exercising its professional judgment, the Allocation Committee might consider, for example, such factors as listing company input, allocations received by the unit, capital available for market making, listed company and member firm contacts,[13] and disciplinary actions against the specialist unit.

The NYSE proposes to require that SPEQ performance data be presented to the Allocation Committee in four tiers, with units listed alphabetically within each comparable group.[14] The SPEQ uses a relative scoring methodology to determine each unit's performance. Each unit's SPEQ scores, both overall and for each of the five specialist functions evaluated,[15] are compared to the scores of all other units to determine its overall rank and its functional ranks. The Exchange also applies a statistical test to the scores to determine whether they are significantly different from the scores of other units. The Exchange states that this is how a unit's range of ranks is determined for each function and overall. The Exchange believes that the range of ranks identifies those units whose evaluations are significantly different. The Exchange proposes, based upon ranks and ranges of ranks, to group specialist unit into four tiers for the purpose of presentation to the Allocation Committee. The Exchange states that ideally, the tiers would each have an equal number of statistically similar units although, in practice, this may not be the case.[16] The Exchange believes that a specialist unit that is closely associated to other units by its SPEQ scores should be given an equal opportunity, within that group, to compete for stock allocations.

Pertaining to spin-offs, listings of related companies and relistings of securities, the NYSE proposes to amend the Allocation Policy to state that the Exchange would honor the request of a listing company that it not be allocated automatically to its former specialist unit, or the specialist in the parent or related company. The proposal would allow all such listings to be open to all units for allocation. Furthermore, the Exchange proposes to amend the Policy to delete the reference to certain specific aspects of trading foreign issues by its specialists on the Exchange Floor.

The NYSE proposes to revise the composition of the Allocation Committee to eliminate specialist representation on the Committee. Currently, one specialist representative serves on the nine member Allocation Committee.[17] The Exchange believes that the expertise currently brought to the Allocation Committee by specialists can be obtained from other Committee members, and that the proposed amendment would eliminate any perceived advantage to the specialist on the Allocation Committee. In addition, the proposal would increase the number of floor brokers on the Committee to seven.[18] The Exchange believes that the Allocation Panel should consist of a core group of experienced, senior professionals and proposes to select a significant number of floor members on the Panel from among the Exchange's

[6] The NYSE Allocation Committee has sole responsibility for the allocation of securities to specialist units under the allocation policy pursuant to Board-delegated authority, and is overseen by the Quality of Markets Committee of the Board of Directors ("Board"). The Allocation Committee renders decisions based on the allocation criteria specified in the Allocation Policy.

[7] See *infra* note 17.

[8] See Amendment No. 1, *supra* note 3.

[9] The SPEQ is a quarterly survey on specialist performance completed by eligible floor brokers (*i.e.*, any floor broker with at least one year of experience). The SPEQ consists of 21 questions and requires floor brokers to rate, and provide written comments on, the performance of specialist units with whom they deal frequently.

[10] TTV percentage is computed by totaling all purchases and sales by the specialist and determining what percentage this share volume is of the security's twice total volume.

[11] The stabilization rate represents the percentage of specialist transactions which were stabilizing (buying as the price declined, selling as it rose).

[12] The NYSE proposes to delete the objective performance measure pertaining to the Opening Automated Report Service ("OARS") contained in the Policy. Currently, the Policy includes the timeliness of OARS report transmittal as one of the objective performance measures. The Exchange argues that this performance measure has become obsolete since it was removed from NYSE Rule 103A, Specialist Stock Reallocation, in 1990. See Securities Exchange Act Release No. 28215 (July 17, 1990), 55 FR 30060 (July 24, 1990) (order approving File No. SR-NYSE-90-24).

[13] The NYSE proposes to revise the allocation application to call for information about a specialist unit's contacts during the prior 6 and 12 month periods with listed companies and NYSE member organizations. NYSE Rule 106 governs specialists' contact with listed companies and member organizations.

[14] Currently, SPEQ data is presented to the Allocation Committee with individual ranks and ranges of ranks.

[15] The five functions evaluated by the SPEQ include the specialist's: (1) Dealer activities; (2) service; (3) competitiveness; (4) communications; and (5) administrative activities. Telephone conversation between Donald Siemer, Market Surveillance, NYSE, and Louis A. Randazzo, Attorney, Commission, on October 5, 1993.

[16] The Exchange cites an example of a situation in which the tiers could not contain an equal number of statistically similar units. According to the Exchange, in a universe of 40 specialist units, the top 10 units would be in tier one. However, if units 11 through 13 have the same range of ranks as unit 10, they would also be included in tier one. Units 14 through 20 would then constitute tier two. If units 21 and 22 were statistically comparable to unit 20, they would be entitled to positions in tier two. See Amendment No. 1, *supra* note 3.

[17] The members of the Committee currently are drawn from an Allocation Panel consisting of 36 members. Panel members are selected through an annual appointment process. The Exchange proposes to replace the eight specialists on the Panel with floor brokers. The NYSE states that for the Committee to act, a quorum of seven members, including one Governor and one allied member, would be required to be present. In addition, the Exchange states that it allows former Committee Chairmen to act as substitutes on the Committee.

[18] Currently, in addition to one specialist, the Committee is composed of six floor brokers and two allied members. The proposal will amend the Committee's composition to include seven floor brokers and two allied members. The Exchange defines an allied member as a general partner in a member firm, or an employee who controls a member firm, who is not a member of the Exchange and who has become an allied member as provided in the rules of the Exchange, or an employee of a member corporation who is not a member of the Exchange, who has become an allied member as provided in the rules of the Exchange, and who is either: a principal executive officer of such corporation, or a person who controls such corporation. See Constitution of the New York Stock Exchange, Inc., Article I, Section 3(c).

Senior Floor Officials, Floor Governors and former Allocation Committee Chairmen.

The Exchange also proposes to amend the Allocation Policy to require that the list of Committee members be kept confidential and to prohibit Exchange members and investment bankers from initiating contact with Committee members regarding pending allocations.[19] The NYSE proposes to amend the Allocation Policy to permit all current Committee members, including outgoing members, to vote for an incoming Committee Chairman.[20] The Exchange believes that outgoing members have gained valuable experience with candidates with whom they have been serving. The Exchange suggests that these individuals' input would broaden the scope of the election.

The Exchange proposes to amend the Allocation Policy to discontinue the practice of distributing a summary of reasons for each allocation decision to Exchange floor members. The Exchange will, however, continue to publish allocation decisions for its membership and listing companies. Finally, the Exchange proposes to amend the Policy to standardize the agenda used to educate Committee Chairmen and members. The Exchange argues that while the current approach to education is working well, it wants to standardize the training efforts to enhance consistency.

The NYSE believes that the proposal is consistent with section 6(b)(5) of the Act, which provides, in pertinent part, that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest. The NYSE believes that the proposal is consistent with these objectives in that the amendments enable the Exchange to further enhance the process by which stocks are allocated to ensure fairness and equal opportunity in the allocation process.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, with the requirements of section 6(b)(5) of the Act.[21] Section 6(b)(5) requires that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and practices, to remove impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest. Further, the Commission finds that the proposal is consistent with section 11(b) of the Act[22] and Rule 11b–1 thereunder,[23] which allow exchanges to promulgate rules relating to specialists in order to maintain fair and orderly markets. For the reasons set forth below, the Commission believes that the amended Allocation Policy should enhance the Exchange's allocation process, encourage improved specialist performance and, thereby, protect investors and the public interest.

Specialists play a crucial role in providing stability, liquidity and continuity to the trading of securities. Among the obligations imposed upon specialists by the Exchange, and by the Act and the rules thereunder, is the maintenance of fair and orderly markets in their designated securities.[24] To ensure that specialists fulfill these obligations, it is important that the Exchange develop and maintain stock allocation procedures and policies that provide specialists with an initiative to strive for optimal performance. The Commission fully supports and encourages the NYSE's continuing effort to develop meaningful and effective Allocation Policies that encourage improved specialist performance and market quality.

The Commission believes that the proposed revisions to the NYSE's Allocation Policy should refine the Exchange's allocation process and, thereby, encourage improved specialist performance. As noted above, the NYSE's Allocation Policy emphasizes that the most significant allocation criterion is specialist performance. In the Commission's view, performance-based stock allocations not only help to ensure that stocks are allocated to specialists who will make the best markets, but will provide an incentive for specialists to improve their performance or maintain superior performance.

The Commission believes that the use of SPEQ ratings, objective performance measures, and the Committee's professional judgment under the revised Allocation Policy should enable the Allocation Committee to review specialist performance in a more precise and comprehensive fashion. Specifically, the Commission believes that it is appropriate to limit the weight that the SPEQ may be given in allocation decisions to one-third and to increase the emphasis given to objective measures of performance. Although the SPEQ remains a useful tool to measure performance, the Commission has long believed that objective indications of performance should play an important role in allocation decisions. In particular, the Commission believes that objective performance measures can identify poor market making performance that otherwise may not be reflected in a unit's SPEQ survey results.[25]

The Commission believes that the NYSE's proposal to require that SPEQ performance data be presented to the Allocation Committee in four tiers, with units listed alphabetically in each comparable group, is a reasonable means of ranking units for comparison. In this regard, the Commission recognizes that a unit might not have SPEQ scores which, from a statistical perspective, are significantly different from the next higher or lower unit. The presentation of the SPEQ results in four tiers that differ significantly should provide the Allocation Committee with appropriate groupings of specialist units for its use in allocation decisions. This may help the Allocation Committee in its evaluation of applicants for a new listing.

The Commission believes that the Exchange's proposal to amend the Allocation Policy to state that in the case of spin-offs, listings of related companies and relistings of securities, the NYSE will honor a listing company's request that it not be allocated automatically to its former specialist unit or the specialist in the parent or related company, should provide an opportunity for the listed company to provide input into the allocation of an affiliated listing. However, a listing company's preference should not be allowed to take significance over or negate specialist performance. A listing company's preference is a minor, supplemental factor and only should be used to distinguish between the best qualified

[19] Committee members would still be permitted to initiate contact with any specialist if they felt it would be helpful to their decision making.

[20] Currently, only members of the Committee serving at the time of a Chairman's appointment are permitted to elect an incoming Chairman.

[21] 15 U.S.C. 78f(b)(5) (1988).

[22] 15 U.S.C. 78k(b) (1988).

[23] 17 CFR 240.11b–1 (1992).

[24] Rule 11b–1, 17 CFR 240.11b–1 (1991); NYSE Rule 104.

[25] The Commission believes that it is appropriate to delete the objective performance measure pertaining to the OARS contained in the Policy. Because this performance measure was deleted from NYSE Rule 103A in 1998, deleting the reference to the OARS would update and remove an obsolete performance measure from the Allocation Policy.

units based on performance related criteria.[26] In this regard, the listing company's request would only open the allocation to all units.

The Commission believes that the Exchange's proposal to delete the reference to specific aspects of trading foreign issues on the Exchange floor should provide the NYSE with additional flexibility in allocating foreign issues. Again, the foreign listing considerations in the Allocation Policy are supplemental in that specialist performance remains the key factor in allocation decisions.

The Commission believes that the NYSE's proposal to eliminate specialist representation on the Allocation Committee should eliminate the appearance of a conflict of interest on the Committee and, thereby, enhance confidence in the allocation process. The Commission concurs with the NYSE's conclusion that floor brokers and allied members are in a better position to judge the relative strengths and weaknesses of specialist units. The Commission also agrees that an effort should be made to appoint individuals that have not yet served on the Committee before reappointing past Committee members. This should ensure that a broader segment of the trading floor community will have an opportunity to serve on the Committee. Accordingly, the Commission believes that the revised mix of Committee members is appropriate and consistent with the Act.

The Commission believes that the NYSE's proposal to require that the list of Allocation Committee members be kept confidential and prohibit members and investment bankers from initiating contact with Committee members regarding pending allocations should minimize potential conflicts in allocation decisions. Under the revised Policy, Allocation Committee members still would be permitted to initiate contact with any specialist if they believe it would be beneficial when making an allocation decision. The Commission believes that this revision to the Allocation Policy should help to ensure that specialist performance, rather than a subjective recommendation, is the most significant criterion in allocation decisions.

The Commission believes that the Exchange's proposal to permit all current Allocation Committee members, including outgoing members, to vote for an incoming Committee Chairman is reasonable in that outgoing Committee members have gained valuable experience with candidates with whom they have been serving. Therefore, the Commission believes that outgoing members' input should broaden the scope of the election of the NYSE's Allocation Committee Chairman, and help to ensure the selection of the best qualified Chairman of the Committee.[27]

The Commission believes that the proposed amendments to the allocation application to require information about a specialist unit's contacts with listed companies and NYSE member organizations should help to facilitate compliance with NYSE Rule 106. NYSE Rule 106(c) requires each specialist to report to the Exchange semi-annually, a record of their contacts with senior officials of their listed companies, their off-floor contacts with representatives of each of the 15 largest Exchange member organizations, their off-floor contacts with each other member organization that is a significant customer of the specialist unit, and their off-floor contacts with any other member organization that requests such contact. Because the revised application would specify the Exchange's current specialist contact requirement, the proposal should assist specialists in their responsibilities under the rules of the Exchange.

Finally, the Commission believes that it is appropriate for the NYSE to implement the revised Allocation Policy on a one year pilot basis. This pilot period will provide the Exchange and the Commission with an opportunity to study the effects of the revised policy on the NYSE's allocation process. During the pilot period, the Commission expects the NYSE to monitor carefully the effects of the revised policy and report its finding to the Commission. Specifically, the Commission requests that the NYSE report on the following matters: (1) The number of allocations reviewed by the Committee and the number of applicants for each allocation; (2) SPEQ performance data as presented to the Allocation Committee in four tiers, with the addition of each specialist's individual rank and range of ranks; (3) results of objective performance measures for each allocation applicant; (4) a description of factors used by the Committee in exercising its professional judgment in each allocation decision (*e.g.*, disciplinary actions) and (5) the Committee's allocation decisions.[28] The Commission requests that the NYSE submit its report on these matters by August 1, 1994. Any requests to modify this pilot, to extend its effectiveness or to seek permanent approval of the pilot procedures also should be submitted to the Commission by August 1, 1994.

The Commission finds good cause for accelerated approval of Amendment No. 1 to the proposed rule change prior to the thirtieth day after publication of notice of filing thereof. The NYSE's original proposal was published in the **Federal Register** for the full statutory period and no comments were received.[29] Amendment No. 1 is a single modification to the proposal that refines certain details of the Allocation Policy but leaves its overall structure unchanged.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 1. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–92–15 and should be submitted by November 26, 1993.

It is therefore ordered, pursuant to section 19 (b)(2) of the Act,[30] that the proposed rule change, including Amendment No. 1 on an accelerated basis, (SR–NYSE–92–15) is approved for a one year period ending October 28, 1994.

[26] See Securities Exchange Act Release No. 27803 (March 14, 1990), 55 FR 10740 (March 22, 1990) (order approving File No. SR–NYSE–88–32).

[27] The Commission believes that the NYSE's proposal to standardize the agenda used to educate Allocation Committee Chairmen and members should encourage Committee Chairmen and members to maintain quality performance in their allocation responsibilities.

[28] The Commission notes that this request for information is not exclusive and that the NYSE should add any additional data and analysis to the report in order to assess the effectiveness of the revised Allocation Policy.

[29] See Securities Exchange Act Release No. 31427 (November 10, 1992), 57 FR 54433 (November 18, 1992).

[30] 15 U.S.C. 78s(b)(2) (1988).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[31]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-27201 Filed 11-4-93; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-19825; 811-5370]

EBI Series Trust; Application

October 29, 1993.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: EBI Series Trust.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on October 18, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 24, 1993, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 1315 Peachtree Street, NE., Atlanta, Georgia 30309.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Law Clerk, at (202) 272-3809, or Robert A. Robertson, Branch Chief, at (202) 272-3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end management investment company that was organized as a business trust under the laws of Massachusetts. On October 21, 1987, applicant registered under the Act as an investment company, and filed a registration statement to register its shares under the Securities Act of 1933. The registration statement was declared effective and applicant's initial public offering commenced on February 26, 1988.

2. On January 20, 1993, and April 20, 1993, applicant's board of trustees approved an agreement and plan of reorganization (the "Plan") between applicant and EBI Flex Fund, a new series of The EBI Funds, Inc., a registered open-end management investment company. The board of trustees made the findings required by rule 17a-8 under the Act.[1]

3. On or about May 19, 1993, applicant distributed proxy materials to its shareholders. At a meeting held on June 8, 1993, applicant's shareholders approved the reorganization.

4. Pursuant to the Plan, on July 1, 1993, applicant was merged into The EBI Funds, Inc. Prior to the merger, The EBI Funds, Inc. had no assets and no shareholders. Applicant's net assets and number of shares outstanding immediately prior to the merger were equal to the net assets and number of shares outstanding of The EBI Funds, Inc. immediately after the merger. The merger was in economic terms a change in organizational structure, not a merger of two operating funds.

5. Applicant bore the cost of the proxy solicitation, estimated to be approximately $23,000. Expenses relating to the reorganization were borne by applicant's adviser and subadviser, INVESCO Services, Inc. and INVESCO Capital Management, Inc. No brokerage commissions were paid in connection with the Plan.

6. There are no securityholders to whom distributions in complete liquidation of their interests have not been made. Applicant has no debts or other liabilities that remain outstanding. Applicant is not a party to any litigation or administrative proceeding.

7. Following applicant's reorganization as a portfolio of The EBI Funds, Inc., applicant's registration as a Massachusetts business trust was terminated by the Office of the Secretary of State of Massachusetts.

8. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-27205 Filed 11-4-93; 8:45 am]

BILLING CODE 8010-01-M

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[31] 17 CFR 200.30-3(a)(12) (1991).

[1] Rule 17a-8 provides an exemption from section 17(a) for certain reorganizations among registered investment companies that may be affiliated persons solely by reason of having a common investment adviser, common directors, and/or common officers.

[Release No. 35-25915]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

October 29, 1993.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by November 22, 1993, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

American Electric Power Company, Inc. (70-5943)

American Electric Power Company, Inc. ("AEP"), 1 Riverside Plaza, Columbus, Ohio 43215, a registered holding company, has filed a post-effective amendment to its declaration under sections 6(a) and 7 of the Act and Rule 50(a)(5) thereunder.

By orders dated January 3, 1986 (HCAR No. 23980), December 18, 1987 (HCAR No. 24534) and December 27, 1990 (HCAR No. 25233), the Commission authorized AEP to issue and sell, through December 31, 1993, up

to 44 million shares of its authorized but unissued shares of common stock, $6.50 par value ("Common Stock"), pursuant to its Dividend Reinvestment and Stock Purchase Plan ("Plan"). Through September 30, 1993, a total of 40,938,533 shares of Common Stock had been issued and sold, leaving a balance of 3,061,467 shares of Common Stock ("Remaining Shares").

AEP now proposes to extend the time period during which it may issue and sell the Remaining Shares pursuant to the Plan, from December 31, 1993 to December 31, 1996.

American Electric Power Company, Inc. (70–6126)

American Electric Power Company, Inc. ("(AEP"), 1 Riverside Plaza, Columbus, Ohio 43215, a registered holding company, has filed a post-effective amendment to its application-declaration under sections 6(a) and 7 of the Act and Rule 50(a)(5) thereunder.

By orders dated April 25, 1978, April 27, 1979, June 24, 1980, June 30, 1981, June 28, 1982, March 8, 1988 and December 12, 1990 (HCAR Nos. 20516, 21022, 21639, 22112, 22549, 24594 and 25210, respectively), AEP was authorized to issue and sell, from time-to-time through December 31, 1993, up to 3.8 million shares of its authorized but unissued common stock, $6.50 par value, pursuant to the American Electric Power System Employees Savings Plan ("Savings Plan"). AEP now proposes to extend until December 31, 1996 the time in which it may issue and sell the 3.8 million shares of its common under the Savings Plan.

New England Electric System (70–7338)

New England Electric System ("NEES"), 25 Research Drive, Westborough, Massachusetts 01582–0001, a registered holding company, has filed a post-effective amendment to its application-declaration under sections 6(a), 7, 9(a), 10, and 12(c) of the Act and Rules 42 and 50(a)(5) thereunder.

By orders dated August 1, 1977, June 7, 1989, December 22, 1981, September 28, 1982, November 19, 1985, March 10, 1987 and February 22, 1991 (HCAR Nos. 20121, 21091, 22333, 22649, 23913, 24337 and 25261, respectively), NEES was authorized to issue and sell, through December 31, 1993, up to an aggregate of 10,693,536 shares of its authorized but unissued common stock, $1.00 par value, pursuant to the NEES System Dividend Reinvestment and Common Share Purchase Plan ("Plan"). NEES has issued 9,093,835 of such shares through September 30, 1993 under the Plan. The Plan also provides that NEES may elect to purchase shares of its common stock on the open market and resell those shares to the Plan at the market price.

NEES now proposes to renew its authority through December 31, 1996 to issue and sell up to 10,693,536 shares of its authorized but unissued common stock pursuant to its Plan, such that, together with any other shares of common stock issued and sold under the Plan, the aggregate does not exceed 10,693,536 shares of common stock. In addition to the unissued shares of common stock, NEES may elect to purchase shares of its common stock on the open market and sell these shares to the Plan at the market price. In all respects, the terms and conditions associated with the issuance, sale and acquisition of the common shares will remain as previously authorized.

Central and South West Corporation, et al. (70–7912)

Central and South West Corporation ("CSW"), 1616 Woodall Rodgers Freeway, Dallas, Texas 75202, a registered holding company, and Transok, Inc. ("Transok"), 2 West Sixth Street, Tulsa, Oklahoma 74101, its nonutility subsidiary company, have filed a post-effective amendment to their application-declaration under sections 6(a), 7, 9(a), 10, 12(b) and 12(c) of the Act and Rules 42, 43, 45 and 50(a)(5) thereunder.

By order dated September 26, 1991 (HCAR No. 25385), Transok was authorized to incur short-term debt ("Debt") in connection with the acquisition of the natural gas gathering, transmission and marketing business of TEX/CON Oil and Gas Company. By subsequent order dated December 27, 1991 (HCAR No. 25447) ("Order"), Transok was authorized to issue and sell, and CSW to acquire, its common stock and/or CSW could make capital contributions to Transok in aggregate principal amounts of up to $150 million at any time prior to December 31, 1992, in order to repay a portion of the Debt and to increase Transok's equity base. Additionally, CSW was authorized to finance the equity investments by using internally generated funds and/or the proceeds from the sale of its commercial paper.

On December 31, 1991, CSW contributed $85 million to the capital of Transok. Thereafter, by order dated November 24, 1992 (HCAR No. 25684), the Commission extended all previously granted authority contained in the Order, through December 31, 1993, except that the aggregate amount of common stock that CSW could acquire from Transok and/or the amount of capital contributions that CSW could make to Transok would no exceed $65 million. As of October 1, 1993, Transok had outstanding Debt in the amount of $18,080,612.

CSW and Transok now request the Commission to extend all previously granted authority as contained in the Order, through December 31, 1994, to make equity investments in Transok by acquiring its common stock and/or making capital contributions in an amount up to $65 million, which is the amount remaining to be invested under the Order. The proceeds from any additional equity investment will be used to repay a portion of Transok's Debt, as contemplated by the Order.

National Fuel Gas Company, et al. (70–8291)

National Fuel Gas Company ("National"), 30 Rockefeller Plaza, Suite 4545, New York, New York 10012, a public utility holding company, its non-utility subsidiary company, Empire Exploration, Inc. ("Empire"), 10 Lafayette Square, Buffalo, New York 14203, and Empire's proposed non-utility subsidiary company, KEX, Inc. ("KEX"), Pembroke Building, 421 East Second Street, Jamestown, New York 14701, have filed an application-declaration under sections 6(a), 7, 9(a), and 10 of the Act and Rules 43 and 50(a)(5) thereunder.

National and Empire propose to acquire substantially all the assets of Kidder Exploration, Inc. ("Kidder"), including all of the common stock and the assets of its wholly owned subsidiary KEX, in exchange for registered shares of National's common voting stock, $1 par value ("Shares"). Under a proposed Stock for Assets Exchange Agreement ("Agreement"), among National, Empire and Kidder, the exchange is structured in a manner intended to qualify the exchange for non-recognition of gain or loss under Section 368 of the Internal Revenue Code. Kidder and KEX are natural gas production companies engaged in the business of exploring for, developing and producing natural gas and related hydrocarbon reserves in Western New York State and Northwestern Pennsylvania and West Virginia.

Under the Agreement, Empire will exchange approximately 101,083 Shares for: (1) All the right, title and interest of Kidder in 52 gas and oil wells and related natural gas and oil reserves, including portions of 22 wells controlled by KEX, along with all the right, title and interest of Kidder and KEX in all leases and partnership interests associated with the wells. Also included in the exchange are pipelines and gathering lines, certain undrilled or

undeveloped acreage, appurtenances, rights of way, easements, gas contracts, overriding royalties, together with all of Kidder and KEX' right, title and interest in and to oil, gas and other liquid or liquefiable hydrocarbons produced from pooled lands or otherwise allocable to such property; (2) all of the issued and outstanding common stock of KEX; and (3) substantially all other assets related to Kidder's gas and oil production business.

In order to effectuate the exchange National will issue 101,083 Shares to Empire, adjusted on the date of closing to reflect final accounting entries, such that the market value of the exchanged Shares will be equal in value to the value of the assets as calculated in the Agreement. Empire shall, in turn, pay National the issue date market value of the Shares. Empire will then exchange the Shares for the assets.

Following the exchange, Kidder represents that it will be liquidated and its common stock cancelled. As a result of the exchange, KEX will become a subsidiary of Empire. It is proposed that KEX be dissolved and merged into Empire within two years of the consummation of the Agreement and that the KEX common stock be canceled at that time.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-27202 Filed 11-4-93; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2661; Amendment #2]

Declaration of Disaster Loan Area; Iowa

The above-numbered Declaration is hereby amended to establish the incident period for this disaster as beginning on April 13, 1993 and continuing through October 1, 1993.

All other information remains the same, i.e., the termination date for filing applications for economic injury is April 11, 1994.

The economic injury number for Iowa is 793100.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: October 29, 1993.

Alfred E. Judd,

Acting Assistant Administrator for Disaster Assistance.

[FR Doc. 93-27251 Filed 11-4-93; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2662, Amendment #9]

Declaration of Disaster Loan Area, IL

The above-numbered Declaration is hereby amended to give notice that the incident period for this disaster is closed effective October 22, 1993 for the following Illinois counties: Mason, Cass, Alexander, Calhoun, Greene, Jackson, Jersey, Madison, Monroe, Morgan, Randolph, Scott, St. Clair, and Union.

All other information remains the same, i.e., the termination date for filing applications for physical damage is November 15, 1993 and for economic injury the deadline is April 11, 1994.

The economic injury number for Illinois is 793200.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: October 29, 1993.

Alfred E. Judd,

Acting Assistant Administrator for Disaster Assistance.

[FR Doc. 93-27250 Filed 11-4-93; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2669; Amendment #10]

Declaration of Disaster Loan Area; Kansas

The above-numbered Declaration is hereby amended to establish the incident period for this disaster as beginning on June 28, 1993 and continuing through October 5, 1993.

All other information remains the same, i.e, the termination date for filing applications for physical damage is November 15, 1993, and for economic injury the deadline is April 25, 1994.

The economic injury number for Kansas is 793500.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: October 29, 1993.

Alfred E. Judd,

Acting Assistant Administrator for Disaster Assistance.

[FR Doc. 93-27249 Filed 11-4-93; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2663; Amendment #9]

Declaration of Disaster Loan Area; Missouri

The above-numbered Declaration is hereby amended in accordance with Notices from the Federal Emergency Management Agency dated October 6 and 25, 1993 to include Dade County, Missouri as a disaster area as a result of damages caused by severe storms and flooding, and to establish the incident period for this disaster as beginning on June 10, 1993 and continuing through October 25, 1993.

All counties contiguous to the above-named primary county have been previously declared.

All other information remains the same, i.e., the termination date for filing applications for physical damage is November 15, 1993 and for economic injury the deadline is April 11, 1994.

The economic injury number for Missouri is 793300.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: October 29, 1993.

Alfred E. Judd,

Acting Assistant Administrator for Disaster Assistance.

[FR Doc. 93-27248 Filed 11-4-93; 8:45 am]

BILLING CODE 8025-01-M

[License No. 04/04-0047]

Surrender of License; Heritage Capital Corp.

Notice is hereby given that Heritage Capital Corporation (Heritage), 2000 Two First Union Center, Charlotte, North Carolina 28282 has surrendered its License to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (Act). Heritage was licensed by the Small Business Administration on October 21, 1961.

Under the authority vested by the Act and pursuant to the Regulations promulgated thereunder, the surrender of the license was accepted on October 18, 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 28, 1993.

Charles R. Hertzberg,

Associate Administrator for Investment.

[FR Doc. 93-27247 Filed 11-4-93; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ended October 29, 1993

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: 49225

Air Transport Association
Subject: TC23 Reso/P 0618 dated October 22, 1993 Middle East-TC3 Expedited Resos r-1 to r-8, TC23 Reso/P 0619 dated October 22, 1993 Middle East-TC3 Expedited Resos r-9 to r-16, TC23 Reso/P 0620 dated October 22, 1993 Europe-Southwest Pacific Expedited Resos r-17 to r-19
Proposed Effective Date: November 30/December 1, 1993

Docket Number: 49226
Date filed: October 26, 1993
Parties: Members of the International Air Transport Association
Subject: TC12 Reso/P 1537 dated October 22, 1993 North Atlantic-Israel resos r-1 to r-15
Proposed Effective Date: January 1, 1994

Phyllis T. Kaylor,
Chief, Documentary Services Division.
[FR Doc. 93-27240 Filed 11-4-93; 8:45 am]
BILLING CODE 4910-62-P

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended October 29, 1993

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 *et. seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 49231
Date filed: October 29, 1993
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: November 29, 1993
Description: Application of Astral Aviation, Inc., pursuant to section 401 of the Act and subpart Q of the Regulations, applies for a certificate of public convenience and necessity authorizing it to provide scheduled interstate and overseas air transportation of persons, property and mail. Since Astral Aviation will operate its services under the "Skyway" servicemark, the rights to which are owned by its parent company, Midwest Express Airlines, Astral asks that its certificate of public convenience and necessity be issued in the following form: "Astral Aviation, Inc. d/b/a Skyway Airlines."

Phyllis T. Kaylor,
Chief, Documentary Services Division.
[FR Doc. 93-27239 Filed 11-4-93; 8:45 am]
BILLING CODE 4910-62-P

Federal Aviation Administration

Advisory Circular: Type Certification of Automobile Gasoline in Part 23 Airplanes With Reciprocating Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of proposed advisory circular (AC) and request for comments.

SUMMARY: This notice announces the availability of and request for comments on a proposed AC, which provides information and guidance concerning the type certification of automobile gasoline in part 23 airplanes with reciprocating engines.

DATES: Comments must be received on or before January 4, 1994.

ADDRESSES: Send all comments on the proposed AC to: Federal Aviation Administration, Small Airplane Directorate, Aircraft Certification Service, Standards Office (ACE-110), 601 East 12th Street, Kansas City Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Julea Bell, Standards Staff (ACE-110), Small Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration telephone number (816) 426-6941.

SUPPLEMENTARY INFORMATION: Any person may obtain a copy of this proposed AC by contacting the person named above under **FOR FURTHER INFORMATION CONTACT.**

Comments Invited

We invite interested parties to submit comments on the proposed AC. Commenters must identify AC 23.1521-1B and submit comments to the address specified above. The FAA will consider all communications received on or before the closing date before issuing the final AC. The proposed AC and comments received may be inspected at the Standards Office (ACE-110), suite 900, 1201 Walnut, Kansas City, Missouri, between the hours of 7:30 a.m. and 4 p.m. weekdays, except Federal holidays.

Background

On December 14, 1992, the FAA approved the use of methyl-tertiary-butyl-ether (MTBE) in automobile gasoline for previously issued automobile gasoline supplemental type certficates (STC's). This revision incorporates this decision. The revision also clarifies that automobile gasoline with oxygenates may be tested and approved by an STC. Accordingly, the FAA is proposing and requesting comments on AC 23.1521-1B, which will provide information and guidance concerning compliance with part 3 of the Civil Air Regulations (CAR) and part 23 of the Federal Aviation Regulations (FAR), for approval to use automobile gasoline (including oxygenates) in part 23 airplanes.

Issued in Kansas City, Missouri, October 22, 1993.

Barry D. Clements,
Manager, Small Airplane Directorate, Aircraft Certification Service.
[FR Doc. 93-27266 Filed 11-4-93; 8:45 am]
BILLING CODE 4910-13-M

Noise Exposure Map Notice; Receipt of Noise Compatibility Program and Request for Review, Standiford Field Airport, Louisville, KY

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

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by Regional Airport Authority of Louisville and Jefferson County for Standiford Field Airport under the provisions of title I of the Aviation Safety and Noise Abatement Act of 1979 (Public Law 96-193) and 14 CFR part 150 are in compliance with applicable requirements. The FAA also announces that it is reviewing a proposed noise compatibility program that was submitted for Standiford Field Airport under part 150 in conjunction with the noise exposure map, and that this program will be approved or disapproved on or before April 10, 1994.

EFFECTIVE DATE: The effective date of the FAA's determination on the noise exposure maps and of the start of its review of the associated noise compatibility program is October 13, 1993. The public comment period ends December 11, 1993.

FOR FURTHER INFORMATION CONTACT: Cynthia K. Wills, Airports District Office, 2851 Directors Cove, suite #3, Memphis, TN 38131-0301, 901-544-3495. Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for Standiford Field Airport are in compliance with applicable requirements of part 150, effective October 13, 1993. Further, FAA is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before April 10, 1994. This notice also announces the availability of this program for public review and comment.

Under section 103 of title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA noise exposure maps which uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) part 150, promulgated pursuant to title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

Regional Airport Authority of Louisville and Jefferson County submitted to the FAA on September 28, 1993, noise exposure maps, descriptions and other documentation which were produced during Standiford Field Airport Noise Compatibility Study, initiated in early 1992. It was requested that the FAA review this material as the noise exposure maps, as described in section 103(a)(1) of the Act, and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under section 104(b) of the Act.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by Regional Airport Authority of Louisville and Jefferson County. The specific maps under consideration are Standiford Field Airport Existing Noise Exposure Map and Future (1997) Noise Exposure Maps submission. The FAA has determined that these maps for Standiford Field Airport are in compliance with applicable requirements. This determination is effective on October 13, 1993. FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in appendix A of FAR part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to nose exposure contours depicted on a noise exposure map submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under, section 103 of the Act. The FAA has relied on the certification by the airport operator, under § 150.21 of FAR part 150, that the statutorily required consultation has been accomplished.

The FAA has formally received the noise compatibility program for Standiford Field Airport, also effective on October 13, 1993. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before April 10, 1994.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR part 150, § 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, 800 Independence Avenue SW., room 617, Washington, DC 20591

Federal Aviation Administration, Airports District Office, 2851 Directors Cove., suite #3, Memphis, TN 38131–0301

Mr. Robert S. Michael, General Manager, Regional Airport Authority of Louisville and Jefferson County, P.O. Box 9129, Louisville, Kentucky 40209–9129

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Memphis Airports District Office, October 13, 1993.

Billy J. Langley,

Manager, Memphis Airports District Office.

[FR Doc. 93–27267 Filed 11–4–93; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement: Desha County, AR; Bolivar County, MS

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed bridge/highway project in Desha County, Arkansas and Bolivar County, Mississippi.

FOR FURTHER INFORMATION CONTACT: Wendall Meyer, Environmental and Design Specialist, Federal Highway Administration, 3128 Federal Office Building, Little Rock, Arkansas 72201–3298, Telephone: (501) 324–6430; or Reid Beckel, Consultant Coordinator, Chief Engineer, Arkansas State Highway and Transportation Department, Post Office Box 2261, Little Rock, Arkansas 72203, Telephone: (501) 569–2163.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Arkansas State Highway and Transportation Department and

Mississippi State Highway Department, will prepare an environmental impact statement (EIS) on a proposal to build a new bridge/highway across the Mississippi River between Desha County, Arkansas and Bolivar County, Mississippi. A Phase I feasibility study determined that a bridge at this location would have a positive economic impact on this area of the lower Mississippi River delta region by providing regional mobility, promoting development, and providing both short and long term economic stimulus.

The proposed action, including new roadway segments, would extend from a western terminus at U.S. 65 in the vicinity of Dumas, Arkansas to an eastern terminus on State Highway 8 between Rosedale and Cleveland Mississippi. The total project distance is approximately 42.65 km (26.5 miles).

Alternatives under consideration include (1) the "Do-Nothing" Alternative, (2) the recommended alternative (Big Island crossing) from the Phase I feasibility study, and (3) developing an "off Big Island" alternative. Incorporated into and studied with the various build alternatives will be to design the bridge to accommodate future rail transportation.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies and to private organizations, including conservation groups and groups of individuals who have expressed interest in the project. Public involvement sessions will be held in the areas to be affected. In addition, an appropriate public hearing(s) will be held. Public notice will be given of the time and place of the public involvement sessions and the public hearing(s). The draft EIS will be available for public and agency review and comment prior to the public hearing. A formal scoping meeting was held on July 22, 1993.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

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

Issued on: October 28, 1993.

Wendall L. Meyer,

Environmental and Design Specialist, Federal Highway Administration, Little Rock, Arkansas.

[FR Doc. 93-27182 Filed 11-4-93; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement; City of Lawrence, KS

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway project in Douglas County, Kansas.

FOR FURTHER INFORMATION CONTACT: Johnny R. Dahl, Operations Engineer, FHWA, 3300 South Topeka Boulevard, suite 1, Topeka, Kansas 66611-2237, Telephone: (913) 267-7284. Warren Sick, P.E., Chief of Bureau of Design, Kansas Department of Transportation, Docking State Office Building, Topeka, Kansas 66612, Telephone: (913) 296-3525. George J. Williams, Director of the Department of Public Works, City of Lawrence, Box 708, Lawrence, Kansas 66044, Telephone: (913) 832-3124.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Kansas Department of Transportation, Douglas County, and the City of Lawrence, will prepare an Environmental Impact Statement for a proposed highway project known as the Lawrence Eastern Parkway. If constructed, the proposed project would be primarily on new location, and consist of a controlled-access two-lane undivided arterial roadway for a distance of approximately 4.8 kilometers (3.0 miles).

Sufficient right-of-way will be acquired to provide two additional lanes if needed in the future. The study corridor is bounded on the west by the Central Business District, on the north by the Kansas River, and the eastern edge being approximately Noria Road. The southern boundary runs along K-10 from Noria Road to the western area of Farmland Industries Plant, then turns north to the Atchison, Topeka and Santa Fe (AT&SF) Railroad, and follows the railroad northwesterly to the Central Business District near Seventh Street.

The project is intended to provide relief for projected traffic demands in the east Lawrence area by providing an alternate route to and from the central business district. The proposed roadway will provide access to other area highways and transportation modes. Several alternatives will be considered including the no build, using alternative travel modes, upgrading the existing transportation system, and constructing a two-lane limited access highway in a new location. Design variations of grade and alignment will be incorporated into and studied with the various build alternatives.

As part of the formal scoping process for the corridor study an interagency scoping meeting and a general public meeting will be held at the City of Lawrence Commission Chambers, Lawrence City Hall, Six East Sixth Street, Lawrence, Kansas. Letters describing the proposed action and solicitation of comments will be sent to appropriate Federal, State, and local agencies. Letters will also be sent to the private organizations and citizens who have previously expressed or are known to have interest in this proposal.

Public hearing(s) or opportunities for public hearing(s) will be solicited during the development of the Environmental Impact Statement. Public notice will be given for the time and place of the hearing(s) and where the Draft Environmental Impact Statement will be available for review and comment.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments and questions concerning this proposed action and the EIS should be directed to the FHWA, the City of Lawrence, or the Kansas Department of Transportation at the addresses provided above.

Issued on: October 26, 1993.

Johnny R. Dahl,

Operations Engineer, Kansas Division, Federal Highway Administration, Topeka, Kansas.

[FR Doc. 93-27172 Filed 11-4-93; 8:45 am]

BILLING CODE 4910-22-M

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with title 49, Code of Federal Regulations, §§ 211.9 and 211.41 notice is hereby given that the Federal Railroad Administration (FRA) received from Burlington Northern Railroad (BN) a request for exemptions from or waivers of compliance with a requirement of the Federal rail safety standards. The petition is described below, including the regulatory provisions involved, and the nature of the relief being requested.

Burlington Northern Railroad Waiver Petition, Docket Number RST-93-4

This notice covers the request of the BN to be relieved of compliance with § 213.57(b) of the Federal track safety standards (49 CFR part 213). That section refers to maximum allowable train operating speeds on non-tangent track as a function of existing curvature and superelevation and, further, introduces the concept of unbalanced superelevation in particular modes of train operation. The idea of trains negotiating curved track at speeds producing either positive or negative unbalance was discussed previously in the **Federal Register** (52 FR 38035 on October 13, 1987). Currently, § 213.57(b) permits a maximum of three inches to be used as the underbalance term in the formulation of curve/speed tables by track maintenance engineers defining intermediate train speeds and curved track superelevations for any route between two points.

BN petitioned for permission to substitute the value of four inches instead of three inches in determining maximum train speeds on several hundred route-miles of track owned by the railroad and used under contract by the National Railroad Passenger Corporation (Amtrak) in the provision of transcontinental passenger train service. BN stated that it is doing this to assist Amtrak in improving operating efficiency. BN is a freight-hauling railroad exclusively and, in the past, determined that it was in the railroad's best interest to operate freight trains at curving speeds developing not more than one and one-half inches of underbalance, a value well within the bound prescribed by the track standards. BN cites Amtrak's multi-year experience in operating passenger trains successfully in the Northeast Corridor at four inches of underbalance as justification for extension of the practice to those of its lines over which Amtrak trains operate.

Interested parties may submit written views, data, or comments on this petition. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning this proceeding should identify the appropriate docket number (i.e., Waiver Petition Docket No. RST-93-4) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Communications received before December 16, 1993 will be considered by FRA before final action is taken. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.-5 p.m.) in room 8201, Nassif Building, 400 Seventh Street SW., Washington, DC 20590.

Issued in Washington, DC on November 1, 1993.

Phil Olekszyk,

Deputy Associate Administrator for Safety.

[FR Doc. 93-27216 Filed 11-4-93; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

November 1, 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: 1545-0216.

Form Number: IRS Form 5713, Schedules A, B, and C.

Type of Review: Extension.

Title: International Boycott Report.

Description: Form 5713 and related Schedules A, B, and C are used by any entity that has operations in a "boycotting" it loses a portion of the foreign tax credit, deferral, foreign sales corporation (FSC) and domestic international sales corporation (IC-DISC) benefits. The IRS uses Form 5713 to determine if any of the above benefits should be lost. The information is also used as the basis for a report to the Congress.

Respondents: Individuals and households, business or other for-profit, small businesses or organizations.

Estimated Number of Respondents/Recordkeepers: 3,875.

Estimated Burden Hours Per Respondent/Recordkeeper:

Form/sched.	Recordkeeping	Learning about the law or the form	Preparing and sending the form to the IRS
5713	21 hr. 31 min	1 hr. 5 min	3 hr. 30 min.
Schedule A	3 hr. 7 min	42 min	47 min.
Schedule B	3 hr. 21 min	1 hr. 35 min	1 hr. 43 min.
Schedule C	4 hr. 32 min	2 hr. 59 min	3 hr. 11 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 99,026 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. 93-27319 Filed 11-4-93; 8:45 am]

BILLING CODE 4830-01-P

Public Information Collection Requirements Submitted to OMB for Review

November 1, 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 8845.

Type of Review: New collection.

Title: Indian Employment Credit.

Description: Employers in a trade or business can get a credit for hiring American Indians or their spouses to work within an Indian reservation. They get a credit of 20% of the increase in the wages and their health insurance costs over the comparable amounts paid or incurred during calendar year 1993.

Respondents: Businesses or other for-profit, small businesses or organizations.

Estimated Number of Respondents/Recordkeepers: 500.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping: 5 hrs., 59 min.

Learning about the law or the form: 42 min.

Preparing and sending the form to the IRS: 50 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 3,755 hours.

OMB Number: 1545–0913.

Regulation ID Number: FI–165–84 NPRM.

Type of Review: Extension.

Title: Below-Market Loans.

Description: Section 7872 of the Internal Revenue Code recharacterizes a below-market loan as a market rate loan and an additional transfer by the lender to the borrower equal to the amount of imputed interested. The regulation requires both the lender and the borrower to attach a statement to their respective income tax returns for years in which they have either imputed income or claim imputed deductions under section 7872.

Respondents: Individuals or households, businesses or other for-profit, small businesses or organizations.

Estimated Number of Respondents: 1,631,202.

Estimated Burden Hours Per Respondent: 15 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 481,722 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. 93–27320 Filed 11–4–93; 8:45 am

BILLING CODE 4830–01–P

Sunshine Act Meetings

Federal Register
Vol. 58, No. 213
Friday, November 5, 1993

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL COMMUNICATIONS COMMISSION

FCC To Hold Open Commission Meeting Wednesday, November 10, 1993

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Wednesday, November 10, 1993, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, DC.[1]

Item No., Bureau, and Subject

1—Office of Engineering and Technology—Title: Amendment of the Commission's Rules Regarding Compatibility between Cable Systems and Consumer Electronics Equipment (ET Docket No. 93-7). Summary: The Commission will consider adoption of a *Notice of Proposed Rulemaking* concerning compatibility between cable systems and consumer electronics equipment.

2—Common Carrier—Title: Rules and Policies Regarding Calling Number Identification Service—Caller ID (CC Docket No. 91-281). Summary: The Commission will consider adoption of a *Report and Order and Further Notice of Proposed Rulemaking* establishing federal policies for interstate Caller ID and proposing restrictions on the unauthorized use or resale of calling party information.

3—Common Carrier—Title: Policies and Rules Concerning Toll Fraud. Summary: The Commission will consider adoption of a *Notice of Proposed Rulemaking* regarding Policies and Rules concerning Toll Fraud.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Steve Svab, Office of Public Affairs, telephone number (202) 632-5050.

Federal Communications Commission.

LaVera F. Marshall,

Acting Secretary.

[FR Doc. 93-27453 Filed 11-3-93; 3:15 pm]

BILLING CODE 6712-01-M

[1] The summaries listed in this notice are intended for the use of the public attending open Commission meetings. Information not summarized may also be considered at such meetings. Consequently these summaries should not be interpreted to limit the Commission's authority to consider any relevant information.

FEDERAL ELECTION COMMISSION

"FEDERAL REGISTER" NUMBER: 93-26722.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, November 4, 1993 at 10 a.m. Meeting open to the public.

The following items were added to the Agenda pursuant to 11 CFR § 2.7(d):

Ratification of Commission Regulations and Forms.

FEC Policy Statement on Continuing Effect of Advisory Opinions.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Press Officer, Telephone: (202) 219-4155.

Delores Hardy,

Administrative Assistant.

[FR Doc. 93-27462 Filed 11-3-93; 3:51 pm]

BILLING CODE 6715-01-M

Corrections

Federal Register
Vol. 58, No. 213
Friday, November 5, 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 THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 7001

[AK-932-4210-06; AA-8037]

Partial Revocation of Executive Order No. 3406, Dated February 13, 1921; Alaska

Correction

In rule document 93-24864 beginning on page 52683 in the issue of Tuesday, October 12, 1993 make the following correction:

On page 52683, in the third column, under **Copper River Meridian**, in section (a), in the second flush paragraph, in the fourth line "10°16'W.;" should read "10°06'W.;".

BILLING CODE 1505-01-D

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Privacy Act of 1974; System of Records

Correction

In notice document 93-26293 beginning on page 57631 in the issue of Tuesday, October 26, 1993, make the following correction:

On page 57631, in the third column, the ACTION line should read "Notice of revised system of records".

BILLING CODE 1505-01-D

federal register

Friday
November 5, 1993

Part II

Department of Housing and Urban Development

Office of the Assistant Secretary for Administration

Catalog of HUD Directives; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Administration

[Docket No. N-93-3678; FR-3596-N-01]

Catalog of HUD Directives

AGENCY: Office of the Assistant Secretary for Administration, HUD.

ACTION: Notice.

SUMMARY: This Notice is the first in a series, to be published quarterly, wherein HUD provides a comprehensive listing of its current directives in catalog format. Directives are documents which convey official Departmental policies by which the agency administers its programs. The purpose of this Notice is to improve access to HUD policy information by client organizations and the public, and inform them as to how they may obtain the information at no cost.

DATES: November 5, 1993.

FOR FURTHER INFORMATION CONTACT: For general information about this Notice, contact B. Steven Shifler, Chief, Printing Branch, Room B-100, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410. (Telephone 202-708-4310. This is not a toll-free number.) (TDD 1-800-877-8339.)

SUPPLEMENTARY INFORMATION: The catalog appended to this Notice provides: a set of Definitions; a numerical list of Subject Categories (handbooks are numbered based on subject categories); and an Inventory of Current HUD Directives (column 1 is a numerical listing by catalog item number; column 2 is a numerical listing by directive number).

A total of 15 different directives (one copy each) may be ordered at one time. To order directives, cite the catalog item number for each directive requested and provide the name and address of the person and/or organization to whom the order is to be mailed. Orders can be placed: by telephone: (800) 767-7468; TDD (800) 877-8339; (These are toll-free numbers.) in writing: U. S. Department of Housing and Urban Development, Attention: Directives Distribution Section, Room B-100, 451 Seventh Street, SW., Washington, DC 20410; or by facsimile: (202) 708-2313. Orders will be mailed within 48 hours of receipt of the request.

Accordingly, a catalog of current HUD directives is provided in the Appendix that follows this Notice.

Dated: October 20, 1993.

Marilynn A. Davis,

Assistant Secretary for Administration.

BILLING CODE 4210-01-P

Catalog of HUD Directives

- Handbooks
- Notices
- Mortgagee, Ethics, Labor Relations Letters

September 1993

BILLING CODE 4210-01-C

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Introduction

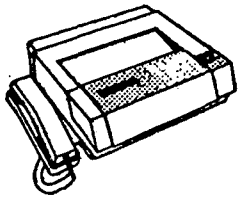
HUD directives communicate official policy and procedures to HUD staff and program participants. This Catalog was created to improve access to HUD Directives. Directives include handbooks, notices, interim notices, and special directives such as Mortgagee, Ethics, and Title 1 letters.

This Catalog lists all *current* directives in numerical order by directive type. Additionally, the item number, issue date, and title of each directive is also given. Updated Catalogs will be printed quarterly.

HOW TO ORDER

(800) 767-7468

(800) 877-8339 TDD
Federal Information Relay Service



(202) 708-2313

U.S. Department of Housing
and Urban Development
Directives Distribution Section
Room B-100
451 Seventh Street, S.W.
Washington, D.C. 20410

(see order form in back of catalog)

Definitions

1. *Item Number.* The number to be used when ordering directives from this catalog.

2. *Directive Number.* This number refers to the numerical, or alpha-numerical designation assigned to a specific directive. Handbooks have three or four digit numbers followed by a decimal number of up to two digits. "REV" or "R" denotes a completely revised version of the handbook. If a number is shown with the symbol, it indicates how many times a handbook has been revised (e.g., 2140.05 R04 = the fourth revision of handbook 2140.05).

3. *Issue Date (handbooks).* This is the date of the most recently approved change to a handbook. If no changes have been issued, the issue date is the date the original handbook was approved for printing and distribution.

4. *Issue Date (other directives).* The date the directive was approved for printing and distribution.

5. *Title.* The title of the directive. Very long titles may be abbreviated.

6. *Directive Types.*

Handbooks communicate information of a permanent nature (including clarification of policies, instructions, guidance, procedures, forms, and reports) for HUD staff and/or program participants.

Notices give temporary instructions involving HUD programs or amend instructions until a handbook revision or change is issued. Notices carry an expiration date not to exceed one year.

Interim Notices are expedited Notices. Interim Notices carry an expiration date not to exceed 120 days.

Special Directives meet needs that cannot be addressed by Handbooks (H) or Notices (N): ML—Mortgagee Letter, TI—Title I Letter, LR—Labor Relations Letter, DE—Direct Endorsement Letter.

7. *Subject Categories.* This is a listing of handbook subjects and corresponding numbers. For example, handbooks dealing with Procurement are numbered between 2210 and 2214.

Subject Categories for HUD Directives

0000–0099 Document Systems
- 0000–0009 Directives System
- 0010–0019 Federal Register System
- 0020–0029 Distribution System
- 0030–0049 Reserved
- 0050–0069 Publications System
- 0070–0099 Reserved

0100–0199 Reserved

0200–0999 Personnel Management
- 0200–0299 General Personnel Provisions
- 0300–0399 Employment
- 0400–0499 Employee Performance and Utilization
- 0500–0599 Position Classification, Pay, and Allowances
- 0600–0699 Attendance and Leave
- 0700–0799 Personnel Relations and Services
- 0800–0899 Insurance and Annuities
- 0900–0999 Special Personnel Programs

1000–1099 Basic Laws
- 1000–1049 Reserved
- 1050–1099 Federal Regulations

1100–1199 Departmental Organization
- 1100–1104 General Organization of the Department
- 1105–1109 Organizational Policies, Procedures, and Standards

Subject Categories for HUD Directives—Continued

- 1110–1114 Committee Management
- 1115–1169 Headquarters Organization
- 1170–1199 Field Organization

1200–1299 Delegations of Authority

1300–1399 General Policies and Guidelines
- 1300–1329 General
- 1330–1339 International Programs
- 1340–1349 Labor Standards
- 1350–1369 Reserved
- 1370–1379 Relocation
- 1380–1389 Economic and Market Analysis
- 1390–1399 Environmental Policy and Standards

1400–1449 Field Office Operations

1450–1499 Reserved

1500–1549 Legal

1550–1599 Reserved

1600–1649 External Relations

1650–1749 Reserved

1750–1799 Security Program

1800–1849 Budget Administration

1850–1899 Statistical Tables

1900–1999 Financial Systems and Services
- 1900–1983 Reserved
- 1984–1999 Mortgage Insurance Accounting System

2000–2029 Audits

2030–2099 Reserved

2100–2199 Management Systems
- 2100–2139 General
- 2140–2149 Staff Resources Management
- 2150–2159 Evaluation
- 2160–2169 Data and Reports Management
- 2170–2179 Staff Resources Management
- 2180–2189 Chief Financial Officer
- 2190–2199 Management Improvement Systems

2200–2359 Administrative Functions
- 2200–2209 General
- 2210–2214 Procurement
- 2215–2219 Space Management
- 2220–2229 Records Management
- 2230–2239 Personal Property Management
- 2240–2244 Communications Management
- 2245–2249 Supply and Equipment Management
- 2250–2259 Printing Management
- 2260–2269 Library Services
- 2270–2279 Audio-Visual Services
- 2280–2299 Reserved
- 2300–2319 Travel and Transportation
- 2320–2359 Reserved

2360–2424 Information Systems
- 2360–2389 Reserved
- 2390–2399 Office Systems

Subject Categories for HUD Directives—Continued

- 2400–2424 Data and Information Systems

2425–3099 Reserved

3100–3199 Reserved

3200–3249 Emergency Planning and Operations

3250–3599 Reserved

3600–3649 Research and Demonstration

3650–3999 Reserved

4000–5499 Housing Programs (See also 5600–5999 and 7390–7999)
- 4000–4199 Home Mortgage Insurance
- 4200–4299 Home Mortgage—Special Programs
- 4300–4349 Property Disposition Programs
- 4350–4399 Insured Project Servicing
- 4400–4499 Project Mortgage Insurance
- 4500–4599 Project Mortgage—Special Programs
- 4600–4649 Health Facilities Programs
- 4650–4699 Reserved
- 4700–4749 Property Improvement and Mobile Home Loan Programs
- 4750–4799 Reserved
- 4800–4849 Land Development (Title X) Programs
- 4850–4899 Reserved
- 4900–4999 Minimum Property Standards
- 5000–5499 Reserved

5500–5549 Mortgage-Backed Securities Program

5550–5599 Consumer Affairs Programs

5600–5999 Housing Programs (See also 4000–5499 and 7390–7999)
- 5600–5649 Elderly Housing Programs
- 5650–5699 Handicapped Housing Programs
- 5700–5749 Indian Housing Programs
- 5750–5799 Interstate Land Sales Program
- 5800–5849 Mobile Home Standards Program
- 5850–5899 Real Property Practices Programs
- 5900–5999 Reserved

6000–7389 Community Development Programs (See also 3100–3199)
- 6000–6149 Community Planning and Development—General
- 6150–6199 Reserved
- 6200–6269 Community Resources Programs
- 6270–6299 Reserved
- 6300–6399 Reserved
- 6400–6449 Urban Homesteading Program
- 6450–6499 Reserved
- 6500–6549 Community Development Block Grant Programs
- 6550–6599 Urban Development Action Grant Programs

Subject Categories for HUD Directives—Continued

6600–7024 Reserved
7025–7099 Enterprise Zones
7100–7149 Reserved
7150–7199 Reserved
7200–7229 Urban Renewal Programs
7230–7249 Reserved
7250–7299 Reserved
7300–7324 Reserved
7325–7349 Reserved
7350–7359 Reserved

Subject Categories for HUD Directives—Continued

7360–7374 Reserved
7375–7379 Rehabilitation Financing Programs
7380–7389 Reserved
7390–7999 Housing Programs (See also 4000–5499 and 5600–5999)
7390–7399 Certified Area Programs
7400–7689 Low-Income Public and Indian Housing Programs

Subject Categories for HUD Directives—Continued

7690–7699 Alaska Housing Programs
7700–7799 Elderly Housing Loan Programs
7800–7849 College Housing Programs
7850–7999 Reserved
8000–8099 Fair Housing and Equal Opportunity Programs
8100–9999 Reserved

INVENTORY OF CURRENT HUD DIRECTIVES

Item No.	Directive No.	Issue date	Directive title
			Handbooks
00001	0000.02 R01	02/26/93	HUD DIRECTIVES SYSTEM.
00002	0010.01 R01	02/15/80	RULEMAKING PROCESS: FORMULATION, DRAFTING, CLEARANCE, & PUBLICATION OF FEDERAL REGISTER DOCUMENTS.
00003	0335.01 R02	09/01/86	MERIT STAFFING POLICY.
00004	0430.05 R01	08/01/85	SENIOR EXECUTIVE SERVICE.
00005	0600.01 R03	08/01/86	HOURS OF DUTY, ABSENCE AND LEAVE.
00006	0600.03	06/29/89	VOLUNTARY LEAVE TRANSFER PROGRAM.
00007	0713.01A	09/04/70	SUMMARY OF ATTACHED EQUAL EMPLOYMENT OPPORTUNITY POLICY AND PROCEDURES.
00008	0713.02	08/01/73	POLICY AND PLANNING FOR AFFIRMATIVE ACTION IN EMPLOYMENT OPPORTUNITY.
00009	0732.03	01/02/73	PERSONNEL SECURITY PROGRAM.
00010	0752.02 R02	01/17/84	PERSONNEL ACTIONS TAKEN FOR UNACCEPTABLE PERFORMANCE AND MISCONDUCT.
00011	0771.02 R02	04/30/84	ADMINISTRATIVE GRIEVANCES.
00012	0791.01 R02	06/28/91	EMPLOYEE SAFETY AND HEALTH.
00013	0792.02 R02	10/15/90	EMPLOYEE ASSISTANCE PROGRAM (EAP).
00014	1060.02 R05	11/16/92	TITLE I PROPERTY IMPROVEMENT AND MANUFACTURED HOME LOAN REGULATIONS, 24 CFR PARTS 201 AND 202.
00015	1100.03 R05	01/01/87	ORGANIZATION OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.
00016	1105.01 R02	07/25/80	DEPARTMENTAL ORGANIZATION POLICIES, STANDARDS, AND PROCEDURES HANDBOOK.
00017	1300.13 R01	12/03/91	DEBARMENT, SUSPENSION, AND INELIGIBILITY OF PARTICIPANTS AND CONTRACTORS.
00018	1300.19	06/30/83	GRANTS AND AGREEMENTS WITH INSTITUTIONS—OMB CIRCULAR A–110.
00019	1300.20	06/30/83	COST PRINCIPLES FOR NON-PROFIT ORGANIZATIONS, OMB CIRCULAR A–122.
00020	1325.01	03/01/84	PRIVACY ACT HANDBOOK.
00021	1327/01 R01	06/03/91	FREEDM OF INFORMATION ACT.
00022	1344.01 R01	12/01/86	FEDERAL LABOR STANDARDS COMPLIANCE IN HOUSING AND COMMUNITY DEVELOPMENT PROGRAMS.
00023	1345.01 R02	03/26/90	SECRETARY'S COMMITTEE ON PROGRAM INTEGRITY.
00024	1374.00	03/11/92	TENANT ASSISTANCE, RELOCATION AND REAL PROPERTY ACQUISITION-HUD CPD STAFF RESPONSIBILITIES, DATED 2/92.
00025	1378.00	10/26/92	TENANT ASSISTANCE, RELOCATION AND REAL PROPERTY ACQUISITION.
00026	1390.02	06/01/85	ENVIRONMENTAL ASSESSMENT GUIDE FOR HOUSING PROJECTS.
00027	1390.04	08/01/84	GUIDE TO HUD ENVIRONMENTAL CRITERIA AND STANDARDS.
00028	1530.01 R04	05/08/81	LITIGATION HANDBOOK.
00029	1620.01	01/06/81	THE PUBLIC AFFAIRS FUNCTION IN THE DEPARTMENTAL FIELD.
00030	1750.01 R04	04/18/91	NATIONAL SECURITY INFORMATION.
00031	1750.02 R	11/30/73	MARKING AND SAFEGUARDING INFORMATION DESIGNATED FOR OFFICIAL USE ONLY.
00032	1800.01 R02	07/23/85	REPROGRAMMING AND INITIATION OF NEW PROGRAMS.
00033	1800.02 R02	01/14/88	RESTRICTIONS ON DISCLOSURE OF BUDGET ESTIMATES AND RELATED DATA.
00034	1830.01 R01	09/01/85	ADMINISTRATIVE CONTROL OF FUNDS FOR CPD.
00035	1830.02 R03	08/08/84	ADMINISTRATIVE CONTROL OF FUNDS.
00036	1830.03 R03	05/21/93	APPORTIONMENT AND ALLOTMENT PROCEDURES.
00037	1830.04 R02	07/31/86	PROCEDURES FOR PROCESSING PROGRAM FUND ASSIGNMENTS.
00038	1830.06	12/01/91	USER FEES.
00039	1840.01 R02	12/24/92	DEPARTMENTAL MANAGEMENT CONTROL PROGRAM.
00040	1900.06	12/31/75	PROCESSING OF REQUISITIONS AND ANALYSIS REPORTS SUBMITTED BY HUD GRANTEES.
00041	1900.17 R01	09/11/86	REQUISITIONING PROCEDURES FOR GRANTS AND COOPERATIVE AGREEMENTS—RECIPIENT ORGANIZATIONS.
00042	1900.18 R01	09/11/86	REQUISITIONING PROCEDURES FOR GRANTS AND COOPERATIVE AGREEMENTS—HUD PROCESSING.
00043	1900.20 R02	06/18/91	INCURRING, RECORDING, AND ADJUSTING OBLIGATIONS.

INVENTORY OF CURRENT HUD DIRECTIVES—Continued

Item No.	Directive No.	Issue date	Directive title
00044	1900.22 R01	07/01/85	VOUCHER EXAMINATION AND RELATED FISCAL ACTIVITIES.
00045	1900.23 R	01/30/81	LETTER OF CREDIT PROCEDURES—TREASURY REGIONAL DISBURSING OFFICE SYSTEM (RECIPIENT ORGANIZATIONS).
00046	1900.24 R	01/30/81	LETTER OF CREDIT PROCEDURES—TREASURY REGIONAL DISBURSING OFFICE SYSTEM (HUD).
00047	1900.25 R03	11/13/92	DELINQUENT DEBT COLLECTION HANDBOOK.
00048	1900.29	11/02/89	PROMPT-PAYMENT POLICY.
00049	1905.01	12/20/76	ACCOUNTING PRINCIPLES AND STANDARDS.
00050	1911.01 R03 S01 GNMA	07/31/81	HANDLING AND PROTECTING CASH AND OTHER NEGOTIABLE INSTRUMENTS.
00051	1911/01 R04	05/01/88	HANDLING AND PROTECTING CASH AND OTHER NEGOTIABLE INSTRUMENTS.
00052	1935.02 R01	06/01/86	OFFICIAL RECEPTION AND REPRESENTATION.
00053	1970.33 R02	09/01/88	ACCOUNTING PROCEDURES, PROGRAM ACCOUNTING SYSTEM (PAS).
00054	1971/19 R02	04/15/86	FISCAL YEAR-END CLOSING REQUIREMENTS.
00055	2000.03 R04	02/22/91	OFFICE OF INSPECTOR GENERAL ACTIVITIES.
*00056	2000.04	10/01/91	CONSOLIDATED AUDIT GUIDE FOR AUDITS OF HUD PROGRAMS.
00057	2000.06 R02	04/01/89	AUDITS MANAGEMENT SYSTEM (AMS).
00058	2100.05	08/31/78	FIELD ISSUE RESOLUTION SYSTEM.
00059	2135.01 R02	04/01/92	FORMS MANAGEMENT HANDBOOK.
00060	2140.05 R12	10/01/91	EMPLOYEE TIME REPORTING SYSTEM (ETRS).
00061	2144.01 R03	10/01/91	THE RESOURCE ALLOCATION GUIDELINE SYSTEM (RAGS).
00062	2191.01 R01	02/01/89	THE IDEAS PROGRAM.
00063	2200.02 R03	05/19/89	HEADQUARTERS BUILDING PARKING PLAN.
00064	2210.03 R07	01/11/93	PROCUREMENT POLICIES AND PROCEDURES.
00065	2210.13 R03	09/16/88	GOVERNMENT TECHNICAL REPRESENTATIVE.
00066	2210.16 R04	10/23/92	REGIONAL CONTRACTING.
00067	2210.17 R02	01/23/92	DISCRETIONARY GRANT AND COOPERATIVE AGREEMENT POLICIES AND PROCEDURES.
00068	2210.18 *	12/03/90	COST PRINCIPLES FOR FOR-PROFIT ORGANIZATIONS.
00069	2212.01 R01	03/24/93	GOVERNMENTWIDE COMMERCIAL CREDIT CARD PROGRAM.
00070	2216.01	08/22/88	SPACE MANAGEMENT.
00071	2220.05 R02	08/01/88	PRINTED STATIONERY.
00072	2221.01 R03	02/05/91	DEPARTMENTAL CORRESPONDENCE.
00073	2222.02 R02	07/01/86	MAIL MANAGEMENT.
00074	2223.01 R02	04/06/93	FILES MANAGEMENT.
00075	2224.01	10/19/87	MICROGRAPHICS MANAGEMENT POLICY.
00076	2225.06 R01	04/28/93	HUD RECORDS DISPOSITION SCHEDULES.
00077	2226.01	07/01/91	SINGLE FAMILY MORTGAGE INSURANCE CASE BINDER SUBMISSION, MAINTENANCE AND CONTROL, TRANSFER, AND RETRIEVAL.
00078	2228.01 R03	03/18/93	RECORDS DISPOSITION MANAGEMENT.
00079	2228.02 R02	12/23/92	GENERAL RECORDS SCHEDULE.
00080	2229.01	06/28/89	RECORDS DISPOSITION SCHEDULING FOR AUTOMATED SYSTEMS.
00081	2235.07 R02	06/02/92	PERSONAL PROPERTY MANAGEMENT.
00082	2241.01 R01	08/31/83	TELECOMMUNICATIONS MANAGEMENT.
00083	2255.03 R01	02/01/89	DISTRIBUTION OF HUD PRINTED MATERIALS.
00084	2255.04 R01	05/01/84	PRINTING POLICIES AND PROCEDURES.
00085	2265.02 R01	04/18/88	LIBRARY AND PROGRAM INFORMATION SERVICES.
00086	2300.02 R03	12/12/84	TRAVEL.
00087	2300.04 R03	08/25/89	MOTOR VEHICLE MANAGEMENT.
00088	2400.01 R01	02/22/91	INFORMATION RESOURCES MANAGEMENT (IRM) POLICIES.
00089	2400.03 R02	05/01/88	REPORTS ANALYSIS AND CLEARANCE PROCESS.
00090	2400.13	11/14/91	WORD PROCESSING AND MICROCOMPUTER TECHNOLOGY POLICIES AND PROCEDURES.
00091	2400.15 R03	02/18/92	HUD ADP DOCUMENTATION STANDARDS.
00092	2400.23	06/29/90	ADP SECURITY HANDBOOK.
00093	2400.24	09/03/91	ADP SECURITY PROGRAM.
00094	3200.01 R03	04/29/92	EMERGENCY PLANNING AND OPERATIONS.
00095	3200.02 R03	03/04/93	DISASTER RESPONSE AND ASSISTANCE.
00096	3601.02	08/31/77	MARKET ANALYSIS REPORTS CONTROL HANDBOOK.
00097	4000.02 R02	06/01/91	MORTGAGEES HANDBOOK, APPLICATION THROUGH INSURANCE (SINGLE FAMILY).
00098	4000.04 R01	12/11/92	SINGLE FAMILY DIRECT ENDORSEMENT PROGRAM.
00099	4005.01 R04	09/27/91	INDEX OF HOUSING ISSUANCES.
00100	4010.01	09/10/81	DEFINITIONS, POLICY STATEMENT, AND GENERAL RULINGS.
00101	4020.01	08/17/84	HUD-FHA UNDERWRITING ANALYSIS.
00102	4045.02	09/03/75	PROCEDURAL ACTIONS ACCOMPANYING CHANGES IN THE MAXIMUM FHA INTEREST RATE.
00103	4050.02	06/24/83	SECTION 8 MANAGEMENT INFORMATION SYSTEM (MIS), REPORTING INSTRUCTIONS.
00104	4050.03	11/19/80	COMPUTERIZED UNDERWRITING PROCESSING USER'S HANDBOOK.
00105	4050.04	05/25/83	REPORTING REQUIREMENTS FOR AUTOMATED SYSTEMS FOR PUBLIC HOUSING AGENCIES, INDIAN HOUSING AUTHORITIES AND PRIVATE OWNERS.
00106	4050.05 R01	12/20/91	SECTION 8 MANAGEMENT INFORMATION SYSTEM REPORTING INSTRUCTIONS.

INVENTORY OF CURRENT HUD DIRECTIVES—Continued

Item No.	Directive No.	Issue date	Directive title
00107	4060.01	12/29/86	MORTGAGEE APPROVAL HANDBOOK.
00108	4060.02 R02	09/25/92	MORTGAGEE REVIEW BOARD.
00109	4060.03 R02	07/09/91	FIELD OFFICE GUIDE FOR MORTGAGEE MONITORING.
00110	4065.01	05/22/85	PREVIOUS PARTICIPATION HANDBOOK.
00111	4070.01 R02	08/24/81	THE CONSTRUCTION COMPLAINTS AND SECTION 518(A) AND (B) HANDBOOK.
00112	4075.12 R	09/13/76	CENTRAL WATER AND SEWAGE SYSTEMS (OWNERSHIP AND ORGANIZATION).
00113	4075.15	06/06/74	GUIDE TO USE OF THE FHA SOIL PVC METER.
00114	4080.01	11/18/77	COMPLIANCE HANDBOOK.
00115	4100.02	06/15/73	MORTGAGEES' GUIDE, HOME MORTGAGE INSURANCE, FISCAL INSTRUCTIONS.
00116	4110.01 R01	03/23/92	SINGLE FAMILY REMITTANCE PROCESSING PROCEDURES.
00117	4110.02	11/09/81	MORTGAGEES' GUIDE, HOME MORTGAGE INSURANCE, FISCAL INSTRUCTIONS.
00118	4115.03	09/26/79	MASTER CONDITIONAL COMMITMENT PROCEDURES.
00119	4125.01 R	11/10/75	UNDERWRITING—TECHNICAL DIRECTION FOR HOME MORTGAGE INSURANCE.
00120	4135.01 R02	03/31/81	PROCEDURES FOR APPROVAL OF SINGLE FAMILY PROPOSED CONSTRUCTION APPLICATIONS IN NEW SUBDIVISIONS.
00121	4140.01	12/27/79	LAND PLANNING PRINCIPLES FOR HOME MORTGAGE INSURANCE.
00122	4140.02	04/04/73	LAND PLANNING PROCEDURES AND DATA.
00123	4140.03	06/19/73	LAND PLANNING DATA SHEETS.
00124	4145.01 R02	02/20/92	ARCHITECTURAL PROCESSING AND INSPECTIONS FOR HOME MORTGAGE INSURANCE.
00125	4150.01 R01	03/15/90	VALUATION ANALYSIS FOR HOME MORTGAGE INSURANCE.
00126	4155.01 R04	06/23/92	MORTGAGE CREDIT ANALYSIS FOR MORTGAGE INSURANCE ON ONE-TO-FOUR-FAMILY PROPERTIES.
00127	4165.01 R01	06/15/92	ENDORSEMENT FOR INSURANCE FOR HOME MORTGAGE PROGRAMS (SINGLE FAMILY).
00128	4190.01	04/19/82	SINGLE FAMILY UNDERWRITING REPORTS AND FORMS CATALOG.
00129	4205.01	08/10/76	SINGLE FAMILY COINSURANCE PROGRAM HANDBOOK.
00130	4210.01 R	11/16/79	HOMEOWNERSHIP FOR LOWER-INCOME FAMILIES—SECTION 235(I) BASIC INSTRUCTIONS.
			Handbooks
00131	4210.01	05/30/80	SECTION 235(I) FISCAL INSTRUCTIONS.
00132	4225.01	01/30/73	SECTION 312 REHABILITATION LOANS.
00133	4235.01	08/24/89	HOME EQUITY CONVERSION MORTGAGES.
00134	4240.01	06/28/80	HOME MORTGAGE INSURANCE—5203(H) DISASTER VICTIMS; 5203(I) OUTLYING AREA PROPERTY; 5203(K) MAJOR HOME IMPROVEMENTS.
00135	4240.02 R01	08/09/78	GRADUATED PAYMENT MORTGAGE PROGRAM, SECTION 245.
00136	4240.03	06/21/79	APPLICATION THROUGH INSURANCE (SINGLE FAMILY) SECTION 203(N).
00137	4240.04 R02	12/06/91	203(K) HANDBOOK, REHABILITATION HOME MORTGAGE INSURANCE.
00138	4245.01	02/28/78	SECTIONS 220(D)(A) AND 220(H), REHABILITATION AND NEIGHBORHOOD CONSERVATION HOUSING INSURANCE PROGRAM.
00139	4250.01 R	11/02/78	HOME MORTGAGE INSURANCE FOR LOW AND MODERATE INCOME—SECTION 221(D)(2).
00140	4255.01 R	12/16/77	MORTGAGE INSURANCE FOR SERVICEMEN FOR HOME MORTGAGE INSURANCE, SECTION 222.
00141	4260.01	08/29/75	MISCELLANEOUS TYPE HOME MORTGAGE INSURANCE SECTION 223(A) (E) AND (D).
00142	4265.01	10/01/81	HOME MORTGAGE INSURANCE—CONDOMINIUM UNITS SECTION 234(C).
00143	4270.01 R01	10/03/79	SECTION 240, PURCHASE OF FEE SIMPLE TITLE FROM LESSORS FOR HOME MORTGAGE INSURANCE.
00144	4275.01	11/02/72	SECTION 809, ARMED SERVICES HOUSING CIVILIAN EMPLOYMENT, INFORMATION AND PROCESSING INSTRUCTIONS FOR HOME MORTGAGE INSURANCE.
00145	4280.01	10/05/72	SECTION 810(H), ARMED SERVICES HOUSING FOR HOME MORTGAGE INSURANCE.
00146	4290.01	09/01/72	SECTION 233, MORTGAGES INVOLVING EXPERIMENTAL HOUSING FOR HOME MORTGAGE INSURANCE.
00147	4305.02	09/19/79	PROPERTY DISPOSITION HANDBOOK FISCAL PROCEDURES.
00148	4305.03	07/01/77	ACCOUNTING HANDBOOK FOR ACQUIRED PROPERTIES.
00149	4310.05 R01	08/12/91	PROPERTY DISPOSITION HANDBOOK—ONE TO FOUR FAMILY PROPERTIES.
00150	4310.27 R01	01/20/88	AREA MANAGEMENT BROKER OPERATIONAL HANDBOOK.
00151	4315.01 R01	07/13/92	MULTIFAMILY PROPERTY DISPOSITION MANAGEMENT.
00152	4330.01 R03	04/17/92	ADMINISTRATION OF INSURED HOME MORTGAGES.
00153	4330.02 R01	04/09/93	MORTGAGE ASSIGNMENT AND PROCESSING SECRETARY-HELD SERVICING.
00154	4330.02 R02	03/20/91	MORTGAGE ASSIGNMENT PROCESSING AND SECRETARY-HELD SERVICING HANDBOOK.
00155	4330.04	11/10/92	FHA SINGLE FAMILY INSURANCE CLAIMS.
00156	4335.02 R0	9/26/86	MORTGAGE SERVICING HANDBOOK—SECRETARY HELD HOME MORTGAGES.
00157	4345.02 R	02/14/77	OPERATIONS HANDBOOK—PROPERTY DISPOSITION—CRITICAL PATH PROCESSING SYSTEM.
00158	4350.01 R01	03/31/93	INSURED PROJECT SERVICING.
00159	4350.02 R01	06/30/92	LOAN MANAGEMENT SET ASIDE.
00160	4350.03	05/11/93	OCCUPANCY REQUIREMENTS OF SUBSIDIZED MULTIFAMILY HOUSING PROGRAMS.
00161	4350.04	10/07/92	INSURED MULTIFAMILY MORTGAGEE SERVICING AND FIELD OFFICE REMOTE MONITORING.

INVENTORY OF CURRENT HUD DIRECTIVES—Continued

Item No.	Directive No.	Issue date	Directive title
00162	4350.05	04/06/93	SUBSIDY CONTRACT ADMINISTRATION AND FIELD OFFICE MONITORING.
00163	4350.06	04/10/92	PROCESSING PLANS OF ACTION UNDER THE LOW-INCOME HOUSING PRESERVATION AND RESIDENT HOMEOWNERSHIP ACT OF 1990.
00164	4355.01 R01	05/29/92	FLEXIBLE SUBSIDY.
00165	4360.01	06/17/81	HUD-HELD PROJECT SERVICING HANDBOOK.
00166	4370.01 R02	06/01/92	REVIEWING ANNUAL AND MONTHLY FINANCIAL REPORTS.
00167	4370.02 R01	05/22/92	FINANCIAL OPERATIONS AND ACCOUNTING PROCEDURES FOR INSURED MULTIFAMILY PROJECTS.
00168	4370.03	06/30/92	UNIFORM SYSTEM OF ACCOUNTS FOR COOPERATIVE HOUSING CORPORATIONS USING MANUAL AND COMPUTER ACCOUNTING SYSTEMS.
00169	4370.04 R01	06/24/92	BASIC ACCOUNTING DESK REFERENCE FOR HUD LOAN SERVICERS.
00170	4381.05 R01	02/06/91	MANAGEMENT DOCUMENTS, AGENTS, AND FEES.
00171	4400.01	03/09/76	PROJECT MORTGAGE INSURANCE, BASIC SECTION 207 INSTRUCTIONS.
00172	4410.01 R02	03/05/93	PROJECT FISCAL PROCEDURES.
00173	4420.01	10/15/80	PREAPPLICATION FOR PROJECT MORTGAGE INSURANCE.
00174	4425.01 R	01/27/86	APPLICATION FOR FIRM COMMITMENT THROUGH ISSUANCE OF FIRM COMMITMENT FOR PROJECT MORTGAGE INSURANCE.
00175	4430.01	01/27/86	INITIAL CLOSING COMMITMENT HANDBOOK FOR PROJECT MORTGAGE INSURANCE.
00176	4435.01	12/24/80	CONSTRUCTION PERIOD TO FINAL CLOSING FOR PROJECT MORTGAGE INSURANCE.
00177	4435.02	06/11/75	PROJECT SERVICING PROCEDURES PRIOR TO FINAL ENDORSEMENT.
00178	4440.01	05/26/83	FINAL CLOSING COMMITMENT FOR PROJECT MORTGAGE INSURANCE.
00179	4445.01	05/03/88	UNDERWRITING—TECHNICAL DIRECTION FOR PROJECT MORTGAGE INSURANCE.
00180	4450.01 R01	05/12/88	COST ESTIMATION FOR PROJECT MORTGAGE INSURANCE.
00181	4460.01 R01	08/20/91	ARCHITECTURAL ANALYSIS AND INSPECTIONS FOR PROJECT MORTGAGE INSURANCE.
00182	4465.01	02/15/79	VALUATION ANALYSIS FOR PROJECT MORTGAGE INSURANCE ON 5+ RENTAL UNITS RELATING TO HUD POLICIES AND PROCEDURES FOR MULTIFAMILY.
00183	4470.01 R02	09/16/92	MORTGAGE CREDIT ANALYSIS FOR PROJECT MORTGAGE INSURANCE, SECTION 207.
00184	4470.02	08/03/78	COST CERTIFICATION GUIDE FOR MORTGAGORS AND CONTRACTORS OF HUD-INSURED MULTIFAMILY PROJECTS.
00185	4470.04	01/09/81	BASIC ACCOUNTING DESK REFERENCE FOR HUD LOAN SERVICERS.
00186	4480.01	12/16/82	MULTIFAMILY UNDERWRITING REPORTS AND FORMS CATALOG.
00187	4500.01 R02	08/28/92	ALLOWANCES FOR MAKING NONPROFIT PROJECTS OPERATIONAL (AMPO) AND USE OF HOUSING CONSULTANTS.
00188	4510.01	07/11/79	RENTAL AND COOPERATIVE HOUSING FOR LOWER INCOME FAMILIES SECTION 236.
00189	4515.01	04/29/74	MORTGAGE INSURANCE FOR LOWER INCOME FAMILIES REHABILITATION HOUSING SECTION 235(J).
00190	4535.03 R01	06/06/79	SECTION 106(B) NONPROFIT SPONSOR ASSISTANCE LOANS FOR SECTION 202 PROJECTS FOR THE ELDERLY OR HANDICAPPED.
00191	4545.01 R	10/12/76	MOBILE HOME PARK PROGRAM, SECTION 207.
00192	4550.01	06/21/77	BASIC COOPERATIVE HOUSING INSURANCE HANDBOOK.
00193	4550.02	11/29/74	PRE-SALE—MANAGEMENT TYPE COOPERATIVES.
00194	4550.03	05/15/73	EXISTING CONSTRUCTION—COOPERATIVE HOUSING.
00195	4550.04	04/04/73	SUPPLEMENTARY LOAN—COOPERATIVE HOUSING.
00196	4550.05	11/20/74	INVESTOR-SPONSOR AND NONPROFIT SPONSORSHIP OF HOUSING COOPERATIVES.
00197	4550.06	04/02/73	SALES TYPE COOPERATIVE HANDBOOK.
00198	4555.01	08/21/84	RENTAL HOUSING IN URBAN RENEWAL AREAS FOR PROJECT MORTGAGE INSURANCE, SECTION 220.
00199	4560.01 R	06/11/75	SECTION 221(D)(3) MARKET INTEREST RATE FOR PROJECT MORTGAGE INSURANCE.
00200	4560.02	01/12/87	SECTION 221(D)(4) RENTAL HOUSING FOR MODERATE INCOME FAMILIES FOR PROJECT MORTGAGE INSURANCE.
00201	4560.03	05/23/91	MORTGAGE INSURANCE FOR SINGLE ROOM OCCUPANCY (SRO) PROJECTS, SECTION 221(D).
00202	4561.02	06/20/85	MANAGEMENT SERVICING AND DISPOSITION REQUIREMENTS FOR PROJECTS WITH 221(D) COINSURED LOANS.
00203	4565.01	02/17/78	MORTGAGE INSURANCE FOR THE PURCHASE OR REFINANCING OF EXISTING MULTIFAMILY HOUSING PROJECTS, SECTION 223(F).
00204	4566.01 R01	01/05/84	COINSURANCE FOR MORTGAGE LENDERS (SEC 223(F)).
00205	4566.02	05/08/84	MANAGEMENT, SERVICING AND DISPOSITION REQUIREMENTS FOR PROJECTS WITH 223(F) COINSURED LOANS.
00206	4567.01	04/07/93	REFINANCING OF INSURED MULTIFAMILY PROJECTS PURSUANT TO SECTION 223(A)(7).
00207	4570.01 R	01/15/80	SECTION 231 HOUSING FOR THE ELDERLY FOR PROJECT MORTGAGE INSURANCE.
00208	4571.01 R02	04/12/90	SECTION 202 DIRECT LOAN PROGRAM FOR HOUSING FOR THE ELDERLY OR HANDICAPPED.
00209	4571.02	06/03/91	SECTION 811 SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES.
00210	4571.03 R01	04/09/93	SECTION 202 SUPPORTIVE HOUSING FOR THE ELDERLY.

INVENTORY OF CURRENT HUD DIRECTIVES—Continued

Item No.	Directive No.	Issue date	Directive title
00211	4571.05	07/21/92	SUPPORTIVE HOUSING FOR THE ELDERLY, CONDITIONAL COMMITMENT—FINAL CLOSING.
00212	4580.01	08/10/79	MORTGAGE INSURANCE FOR CONDOMINIUM HOUSING INSURED UNDER SECTION 234(D) OF THE NATIONAL HOUSING ACT.
00213	4585.01	05/07/84	SECTION 241, SUPPLEMENTAL LOAN FOR PROJECT MORTGAGE INSURANCE.
00214	4591.01	09/29/89	HOUSING DEVELOPMENT GRANT MONITORING.
00215	460.04	12/04/72	HUD-ASSISTED HOUSING MANAGEMENT GUIDE ON HOUSING FOR THE ELDERLY.
00216	4600.01 R01	09/21/92	SECTION 232 MORTGAGE INSURANCE FOR RESIDENTIAL CARE FACILITIES (NURSING HOMES, INTERMEDIATE CARE FACILITIES, AND BOARD AND CARE HOMES (B&C)).
00217	4600.02	10/09/74	FIRE SAFETY EQUIPMENT LOAN INSURANCE PROGRAM FOR NURSING HOME AND INTERMEDIATE CARE FACILITIES SECTION 232(I).
00218	4615.01	05/07/84	MORTGAGE INSURANCE FOR HOSPITALS.
00219	4615.02	02/07/73	SUPPLEMENTS TO MORTGAGE INSURANCE.
00220	4630.01	04/19/76	GROUP PRACTICE FACILITIES.
00221	4640.01	11/20/85	MONITORING AND TECHNICAL ASSISTANCE HANDBOOK FOR THE CONGREGATE HOUSING SERVICES PROGRAM.
00222	4700.01 R01	09/19/83	TITLE I IMPROVEMENT LOAN OPERATING HANDBOOK.
00223	4700.02	08/07/84	TITLE I LENDER APPROVAL HANDBOOK.
00224	4710.01	03/09/82	TITLE I—MOBILE HOME LOAN OPERATING HANDBOOK.
00225	4730.02	06/09/83	TITLE I FISCAL PROCEDURES.
00226	4740.02 R02	08/28/92	TITLE I AND OTHER DEBT COLLECTION.
00227	4800.01 R01	10/27/83	ADMINISTRATION FOR TITLE X LAND DEVELOPMENT PROJECTS.
00228	4815.01	12/11/72	LAND PLANNING ANALYSIS FOR TITLE X LAND PROJECTS.
00229	4820.01	01/30/73	ENGINEERING ANALYSIS FOR TITLE X LAND DEVELOPMENT PROJECTS.
00230	4825.01	12/21/72	ARCHITECTURAL ANALYSIS AND INSPECTIONS FOR TITLE X LAND DEVELOPMENT PROJECTS.
00231	4830.01	12/27/72	VALUATION ANALYSIS FOR TITLE X LAND DEVELOPMENT PROJECTS.
00232	4840.01	01/30/73	TECHNICAL INSTRUCTIONS FOR MAJOR WATER AND SEWER FACILITIES UNDER SEP MORTGAGE FOR TITLE X LAND DEVELOPMENT PROJECTS.
00233	4905.01 R01	08/27/91	REQUIREMENTS FOR EXISTING HOUSING ONE TO FOUR FAMILY LIVING UNITS.
00234	4910.01	09/08/86	HUD MPS FOR MULTIFAMILY HOUSING.
00235	4930.03	08/31/89	PERMANENT FOUNDATIONS GUIDE FOR MANUFACTURED HOUSING.
00236	4940.02	08/02/73	MINIMUM DESIGN STANDARDS FOR COMMUNITY WATER SUPPLY SYSTEMS.
00237	4940.03 R01	11/25/92	MINIMUM DESIGN STANDARDS FOR COMMUNITY SEWERAGE SYSTEMS.
00238	5500.01 R06	10/01/92	GOVERNMENT NATIONAL MORTGAGE ASSOCIATION MORTGAGE-BACKED SECURITIES PROGRAM.
00239	5500.02	10/01/92	GNMA MORTGAGE-BACKED SECURITIES GUIDE FOR GNMA II PROGRAM.
00240	5552.00 R02	12/02/88	CPD COMPLAINTS.
00241	600.04	10/01/90	ALTERNATIVE WORK SCHEDULES.
00242	6400.01 R01	03/30/90	URBAN HOMESTEADING PROGRAM.
00243	6500.00	12/01/89	COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM ENTITLEMENT GRANT REGULATIONS.
00244	6509.02 R04	09/27/91	COMMUNITY PLANNING AND DEVELOPMENT MONITORING HANDBOOK.
00245	6509.03	04/30/91	CPD TECHNICAL REVIEW GUIDELINES FOR REGIONAL EVALUATION OF FIELD OFFICES.
00246	6510.01	08/01/81	REVIEWING AND PROCESSING ENTITLEMENT GRANTEE PERFORMANCE REPORTS (GPRS).
00247	6510.02 R01	06/13/91	COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM: ENTITLEMENT GRANTEE PERFORMANCE REPORT INSTRUCTIONS.
00248	6511.02 R01	07/31/91	URBAN DEVELOPMENT ACTION GRANT CLOSEOUT PROCEDURES.
00249	6512.01	05/17/91	MANAGEMENT OF APPALACHIAN REGIONAL COMMISSION GRANTS.
00250	6513.01	09/18/2	CDBG PROGRAM: ENTITLEMENT GRANT MANAGEMENT.
00251	6525.01 R01	01/07/91	FORMS/CPD DATABASE HANDBOOK.
00252	6549.01	10/01/90	COMMUNITY DEVELOPMENT TECHNICAL ASSISTANCE PROGRAM.
00253	7214.01	02/01/68	LAND MARKETING AND REDEVELOPMENT.
00254	7221.01	02/01/68	ACCOUNTING.
00255	7222.01 T110	02/05/74	URBAN RENEWAL HANDBOOK.
00256	7360.01	09/04/90	RENTAL REHABILITATION PROGRAM.
00257	7375.01 R02	03/15/90	SECTION 312 REHABILITATION LOAN PROGRAM.
00258	7400.02	09/30/81	SECTION 8 AND PUBLIC/INDIAN HOUSING MAILING SYSTEM HANDBOOK.
00259	7400.10	09/28/90	FUNDING CONTROL HANDBOOK.
00260	7401.01	08/01/83	LOW-RENT HOUSING ADMINISTRATION OF PROGRAM.
00261	7401.03	05/10/71	ORIENTATION TO THE LOW-RENT HOUSING PROGRAM GUIDE.
00262	7401.05	01/07/93	LOW-INCOME HOUSING PROPERTY/CASUALTY INSURANCE PARTS 1 AND 2 (PART 2, DATED 9/68).
00263	7401.07	10/23/87	NEW PUBLIC HOUSING AGENCY (PHA) PERSONNEL POLICIES.
00264	7417.01 R01	12/21/92	PUBLIC HOUSING DEVELOPMENT.
00265	7418.01	12/20/85	PREP OF LIFE-CYCLE ANALYSIS FOR UTILITY COMBINATIONS USED IN CONNECTION WITH DEVELOPMENT OF PUBLIC HOUSING AND INDIAN HOUSING PROJECTS.

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Item No.	Directive No.	Issue date	Directive title
00266	7420.01 R01	12/14/83	SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM, NEW CONSTRUCTION PROCESSING.
00267	7420.02 R01	12/14/83	SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—SUBSTANTIAL REHABILITATION PROCESSING HANDBOOK.
00268	7420.03 R02	02/17/93	SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM, EXISTING HOUSING PROCESSING HANDBOOK.
00269	7420.05	01/06/83	ADMISSION OF SINGLE PERSONS TO LOW-INCOME AND LOWER-INCOME ASSISTED HOUSING.
00270	7420.06	03/13/81	HOUSING ASSISTANCE PAYMENTS PROGRAM ACCOUNTING HANDBOOK.
00271	7420.07	03/05/93	PUBLIC HOUSING AGENCY ADMINISTRATIVE PRACTICES HANDBOOK FOR THE SECTION 8 EXISTING HOUSING PROGRAM.
00272	7430.01	05/17/82	LOW RENT HOUSING LEASED HOUSING HANDBOOK.
00273	7440.03 R03	11/30/92	THE INDIAN HOUSING MONITORING HANDBOOK.
00274	7450.01 R01	01/19/93	INDIAN HOUSING DEVELOPMENT.
00275	7460.01	03/22/91	INDIAN HOUSING MANAGEMENT.
00276	7460.02	03/26/85	THE PUBLIC HOUSING MANAGER CERTIFICATION PROGRAM HANDBOOK.
00277	7460.05	03/16/92	THE PUBLIC HOUSING MANAGEMENT ASSESSMENT PROGRAM.
00278	7460.07 R02	04/11/91	FIELD OFFICE MONITORING OF PUBLIC HOUSING AGENCIES (PHAS).
00279	7460.08 R01	01/14/93	PROCUREMENT HANDBOOK FOR PUBLIC HOUSING AGENCIES AND INDIAN HOUSING AUTHORITIES.
00280	7465.01 R02	07/12/91	PUBLIC HOUSING OCCUPANCY HANDBOOK.
00281	7465.02 R01	06/09/88	PUBLIC HOUSING OCCUPANCY AUDIT.
00282	7465.03	12/12/90	PUBLIC AND INDIAN HOUSING OCCUPANCY REPORTING.
00283	7470.01	12/02/91	INDIAN HOUSING FINANCIAL MANAGEMENT.
00284	7471.01	01/04/74	DEVELOPING AND EXPANDING COMMUNITY SERVICES ACTIVITIES WITHIN THE LOW-RENT PUBLIC HOUSING PROGRAM.
00285	7475.01 R01	03/09/89	LOW-INCOME HOUSING FINANCIAL MANAGEMENT.
00286	7475.13 R01	07/15/92	PERFORMANCE FUNDING SYSTEM.
00287	7476.01 R01	07/13/90	AUDITS OF PUBLIC HOUSING AGENCIES (PHAS) AND INDIAN HOUSING AUTHORITIES (IHAS) BY INDEPENDENT AUDITORS.
00288	7485.01 R04	12/20/89	PUBLIC HOUSING COMPREHENSIVE IMPROVEMENT ASSISTANCE PROGRAM.
00289	7485.02 R01	03/29/93	PUBLIC HOUSING MODERNIZATION STANDARDS.
00290	7485.03	03/18/92	COMPREHENSIVE GRANT PROGRAM (CGP).
00291	7486.01	10/24/86	PUBLIC HOUSING DEMOLITION, DISPOSITION AND CONVERSION.
00292	7487.01 R01	11/09/87	LEAD-BASED PAINT POISONING PREVENTION NOTIFICATION.
00293	7490.01	04/07/93	GRANTS MANAGEMENT HANDBOOK FOR RESIDENT INITIATIVES.
00294	7495.03	11/12/74	LOW-RENT HOUSING HOMEOWNERSHIP OPPORTUNITIES HANDBOOK.
00295	7510.01	06/04/81	LOW-RENT HOUSING ACCOUNTING.
00296	7511.01	02/08/72	ACCOUNTING GUIDE.
00297	7560.01 R01	09/30/91	PUBLIC AND INDIAN HOUSING DEVELOPMENT AND MODERNIZATION FUND REQUISITION AND FINANCING.
00298	7561.01 R01	12/17/89	COLLECTION OF PUBLIC AND INDIAN HOUSING RECEIPTS.
00299	7570.01	01/28/92	PUBLIC AND INDIAN HOUSING LOBBYING HANDBOOK.
00304	7610.01 R02	06/08/92	HOUSING COUNSELING PROGRAM.
00312	791.01 R02	06/28/91	EMPLOYEE SAFETY AND HEALTH.
00313	792.02 R02	10/15/90	EMPLOYEE ASSISTANCE PROGRAM (EAP).
00314	792.03	10/15/90	AGREEMENT BETWEEN U.S. DEPT. OF HOUSING AND URBAN DEVELOPMENT AND AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES AFL–CIO.
00316	80–014	05/14/80	SPECIAL APPRAISAL & INSPECTION DIRECTIVE 2—MAJOR REVISION OF HUD SINGLE FAMILY CONDITIONAL COMMITMENT PROCESSING PROCEDURES.
00325	8000.01 R01	11/01/80	FAIR HOUSING AND EQUAL OPPORTUNITY COMPLAINT AND COMPLIANCE REVIEW REPORTING AND CONTROL PROCEDURES.
00326	8000.02	08/01/80	FAIR HOUSING AND EQUAL OPPORTUNITY COMPLAINT AND COMPLIANCE REVIEW SYSTEM—USER'S MANUAL.
00327	8000.04	02/17/72	ADMINISTRATIVE CONTROL OF EQUAL OPPORTUNITY FUNDS.
00328	8003.02	12/15/80	FAIR HOUSING AND EQUAL OPPORTUNITY MONITORING OF COMMUNITY DEVELOPMENT PROGRAMS.
00329	8004.01	12/20/89	CONSOLIDATED CIVIL RIGHTS MONITORING REQUIREMENTS, PUBLIC HOUSING AGENCY, SECTION 8 EXISTING AND LOWER INCOME PUBLIC HOUSING PROGRAMS.
00330	8005.02	12/01/85	RESPONSIBILITIES OF FAIR HOUSING AND EQUAL OPPORTUNITY STAFF IN THE STATE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM.
00331	8020.01	10/01/72	TITLE VIII FIELD OPERATIONS HANDBOOK.
00332	8021.01	11/01/79	VOLUNTARY AFFIRMATIVE MARKETING.
00333	8021.02 R01	02/28/91	COMMUNITY HOUSING RESOURCE BOARD PROGRAM.
00334	8022.01	06/01/90	FAIR HOUSING ASSISTANCE PROGRAM.
00335	8023.01	07/01/92	IMPLEMENTATION OF SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968 AS AMENDED.
00336	8025.01 R02	04/20/93	IMPLEMENTING AFFIRMATIVE FAIR HOUSING MARKETING REQUIREMENTS.
00337	8030.01	05/01/73	PROCEDURES FOR IMPLEMENTATION OF MEMORANDUM OF UNDERSTANDING BETWEEN HUD AND GSA.

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00338	8040.01	06/01/76	COMPLIANCE AND ENFORCEMENT PROCEDURES FOR TITLE VI OF THE CIVIL RIGHTS ACT OF 1964.
00339	8045.01	02/01/92	PUBLIC HOUSING AFFIRMATIVE COMPLIANCE ACTIONS PROGRAM (PHACA).
00340	8050.01 R01	05/13/93	FEDERAL WOMEN'S PROGRAM.
00341	8051.01 R01	08/20/91	HISPANIC EMPLOYMENT PROGRAM.
00342	8055.01	06/03/91	UPWARD MOBILITY PROGRAM.
			Notices
00468	91–0003 (PHA) PIH	01/15/91	INSURANCE REQUIREMENTS FOR THE TESTING, ABATEMENT, CLEAN-UP AND DISPOSAL OF LEAD-BASED PAINT IN PUBLIC AND INDIAN HSG.
00470	91–0006 (HUD) H	01/25/91	MONITORING OF MONTHLY MORTGAGE INSURANCE PREMIUM (MIP) REMITTANCES (LIMITED SCOPE).
00474	91–0012 (HUD) H	02/06/91	SOLICITATION AND REQUIREMENTS FOR SINGLE FAMILY REAL ESTATE ASSET MANAGEMENT (REAM) SERVICES.
00475	91–0012 ADM	10/22/91	HIGHLIGHTS OF THE COMPUTER MATCHING AND PRIVACY PROTECTION ACT.
00480	91–0020 (HUD) H	04/01/93	FRAUD, WASTE AND MISMANAGEMENT VULNERABILITY SECRETARY-HELD MORTGAGES—SECTION 235.
00482	91–0023 (HUD) H	04/01/93	CLAIMS WITHOUT CONVEYANCE OF TITLE (CWCOT)—DEFICIENCY JUDGMENT BIDDING AND REIMBURSEMENT PROCEDURES.
00484	91–0024 (HUD) H	04/01/93	RESCISSION—ACCELERATION OF MORTGAGES SUBJECT TO THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1987 AND THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT REFORM ACT OF 1989.
00492	91–0031 (HUD) H	04/15/91	DELEGATED PROCESSING PROCEDURES.
00493	91–0034 (HUD) H	04/26/93	A PROCEDURES FOR RECONVEYANCE B. PROCEDURES FOR REIMBURSEMENT TO LENDERS ON UNINSURED CASES.
00497	91–0038 (HUD) PIH	09/25/91	FINANCIAL PROCEDURES FOR PUBLIC AND INDIAN HOUSING (PHAS/IHAS) SELECTED FOR FUNDING UNDER THE PUBLIC HOUSING DRUG ELIMINATION PROGRAM (PHDEP) FOR FEDERAL FISCAL YEAR 1991.
00498	91–0039 (PHA) PIH	09/24/91	APPLICABILITY OF PUBLIC HOUSING PROGRAM REQUIREMENTS TO TRANSACTIONS BETWEEN PUBLIC HOUSING AGENCIES OR INDIAN HOUSING AUTHORITIES AND THEIR RELATED NONPROFIT ENTITIES.
00505	91–0058 (HUD) H	07/01/91	CHANGE OF AUTHORITY TO APPROVE SECTION 202 PROJECT NAME CHANGES.
00506	91–0059 (HUD) H	07/01/91	RESIDENT INITIATIVES PROGRAM FOR MULTIFAMILY HOUSING.
00507	91–0062 (HUD) H	07/17/91	TECHNICAL CORRECTIONS, DELEGATED PROCESSING PROCEDURES.
00508	91–0063 H	07/24/91	EXTENSION OF TIME REQUIREMENTS FOR SINGLE FAMILY CLAIMS FOR INSURANCE BENEFITS.
00509	91–0065 (HUD) H	02/26/93	ADDITIONAL INFORMATION—MONTHLY MORTGAGE INSURANCE PREMIUM (MIP) REMITTANCES.
00510	91–0068 (HUD) H	07/30/91	DELEGATION OF AUTHORITY TO FORECLOSE MULTIFAMILY MORTGAGES.
00511	91–0074 (HUD) H	08/14/91	EXTENSION AND TECHNICAL CORRECTIONS OF NOTICE H 90–51 (HUD), SINGLE FAMILY PROPERTY DISPOSITION PRICING OF PROPERTIES.
00512	91–0075 (HUD) H	08/14/91	REQUESTS FOR PAYMENT OF PROPERTY DISPOSITION PROCUREMENT—SAMS 1106 FORM, INVOICE TRANSMITTAL.
00513	91–0079 (HUD) H	09/11/91	EARLY WARNING SYSTEM FOR MULTIFAMILY HOUSING PROJECTS.
00514	91–0084 (HUD) H	10/01/91	PROCESSING AND APPROVING THE DISPOSITION OF HUD-OWNED MULTIFAMILY PROJECTS.
00515	91–0088 H	10/31/91	DELEGATED PROCESSING PROCEDURES.
00516	91–0091 H	11/07/91	LEASE AND SALE OF ACQUIRED SINGLE FAMILY PROPERTIES FOR THE HOMELESS-HOUSING RESPONSIBILITIES.
00517	91–0092 (HUD) H	11/15/91	REVISION & EXTENSION OF H 90–83/ INSTRUCTIONS TO FILED OFFICES ON IMPLEMENTATION OF SINGLE FAMILY DEMONSTRATION PROGRAM FOR SALE OF PROPERTIES TO NONPROFITS AND GOVERNMENT ENTITIES.
00518	91–0094 (HUD) H	12/05/91	SINGLE FAMILY CLAIMS FOR INSURANCE BENEFITS: CHANGES IN THE REQUIREMENTS FOR PRESERVATION AND PROTECTION OF INSURED PROPERTIES.
00519	91–0095 (HUD) H	12/16/91	SECONDARY FINANCING BY PUBLIC BODIES FOR SECTION 202 PROJECTS.
00520	91–0096 (HUD) H	12/16/91	RELEASE OF SECTION 202 RATINGS AND RANKINGS.
00521	91–0097 (HUD) H	12/16/91	SITE CHANGES IN THE SECTION 202 PROGRAM.
00522	91–0098 (HUD) H	12/16/91	DAVIS-BACON EXCLUSIONS FOR SECTION 202 GROUP HOMES.
00523	91–0099 (HUD) H	12/16/91	REVIEW OF SECTION 202 APPLICATIONS FOR PROJECTS FOR THE ELDERLY IN FY 1990 IN AREAS WITH LIMITED MARKET DEMAND.
00524	91–0100 (HUD) H	12/16/91	PERMISSIBLE USES OF SECONDARY FINANCING FOR SECTION 202 PROJECTS.
00526	92–0002 (HUD) H	02/01/93	REINSTATEMENT OF HOUSING DEVELOPMENT GRANT-PROJECT SETTLEMENT PROCEDURES.
00527	92–0002 FHEO	05/15/92	COMPREHENSIVE HOUSING AFFORDABILITY STRATEGY (CHAS)-FY 1992.
00530	92–0004 FHEO	08/09/92	GUIDANCE FOR FHEO REVIEW OF HOME INVESTMENT PARTNERSHIPS PROGRAM DESCRIPTIONS.
00531	92–0005	02/06/92	MORTGAGEE MONITORING—SIGNIFICANT, REOCCURRING FINDINGS.
00532	92–0005 (HUD) H	01/13/92	REVISION TO NOTICE H 91–91, LEASE AND SALE OF ACQUIRED SF PROPERTIES FOR THE HOMELESS—HOUSING RESPONSIBILITIES.
00533	92–0005 FHEO	08/21/92	FHEO CDBG ENTITLEMENT MONITORING AND TECHNICAL ASSISTANCE STRATEGY.

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00536	92-0007 FHEO	10/19/92	GUIDANCE FOR FHEO REVIEW OF APPLICATIONS FOR HOPE FOR HOMEOWNERSHIP OF SINGLE FAMILY HOMES PROGRAM (HOPE 3).
00537	92-0008 (HUD) H	01/22/92	CLARIFICATION OF SOLICITATION DOCUMENT FOR REAL ESTATE ASSET MANAGEMENT (REAM) CONTRACTS.
00538	92-0008 ADM	09/07/92	EXTENSION OF NOTICE 91-0010 ADM WAIVER OF PROVISIONS CONTAINED IN DIRECTIVES.
00539	92-0008 FHEO	11/20/92	STATE ADMINISTRATION OF THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM—ACTIONS TO AFFIRMATIVELY FURTHER FAIR HOUSING.
00541	92-0009 ADM	08/24/92	ELECTRONIC MAIL.
00542	92-0010	03/24/92	SINGLE FAMILY LOAN PRODUCTION—ENHANCEMENTS TO CLAS.
00543	92-0010 (HUD) H	01/28/92	FAILURE TO ABIDE BY HUD'S EARNEST MONEY POLICY.
00544	92-0010 ADM	10/01/92	EXTENSION OF NOTICE 91-0012 ADM, HIGHLIGHTS OF THE COMPUTER MATCHING AND PRIVACY PROTECTION ACT.
00545	92-0011 (PHA) PIH	04/03/92	SECTION 504 COMPLIANCE IN THE COMPREHENSIVE GRANT PROGRAM.
00546	92-0011 ADM	11/16/92	ADMINISTRATIVE LEAVE FOR ADOPT-A-SCHOOL VOLUNTEERS.
00549	92-0014 (PHA) PIH	04/22/92	PROCEDURES FOR PAYMENT OF SPECIAL PRELIMINARY FEES UNDER PORTABILITY; ACCOUNTING FOR PORTABILITY TRANSACTIONS.
00552	92-0017 (HUD) H	02/13/92	EXTENSION OF NOTICE H 91-12 (HUD), SOLICITATION AND REQUIREMENTS FOR SINGLE FAMILY REAL ESTATE ASSET MANAGEMENT (REAM) SERVICES.
00555	92-0018 (HUD) H	02/27/92	DESIGNATION OF AUTHORITY AND RESPONSIBILITY FOR DECENTRALIZED SINGLE FAMILY FORECLOSURE MANAGEMENT AND CONTRACT ADMINISTRATION.
00558	92-0020 (HUD) H	02/28/92	EXTENSION OF NOTICE H 91-6 (HUD) MONITORING OF MONTHLY MORTGAGE INSURANCE PREMIUM (MIP) REMITTANCES (LIMITED SCOPE).
00560	92-0021 CPD	07/20/92	SUBMISSION AND REVIEW OF PERFORMANCE AND EVALUATION REPORTS FOR FY 1992 STATE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM.
00562	92-0022 CPD	08/03/92	ENVIRONMENTAL POLICY FOR IMPLEMENTATION GRANTS APPROVED UNDER THE HOPE SINGLE FAMILY HOMES PROGRAM.
00564	92-0023 CPD	08/24/92	EXTENSION OF NOTICE 91-16 CPD, REVISED PAYMENT SCHEDULES FOR MOVING EXPENSE AND DISLOCATION ALLOWANCE UNDER THE URA.
00566	92-0024 CPD	09/08/92	COMMUNITY PLANNING AND DEVELOPMENT DIRECTIVES DISTRIBUTED DURING THE MONTHS OF JUNE, JULY, AND AUGUST.
00568	92-0025 (HUD) H	03/10/92	CALCULATING IMPUTED INCOME FROM ASSETS.
00569	92-0025 CPD	09/10/92	INSTRUCTIONS FOR DEVELOPING AND COMPLETING A STATE COMPREHENSIVE HOUSING AFFORDABILITY STRATEGY (CHAS) ANNUAL PLAN FOR FY 1993 AND THE ANNUAL PERFORMANCE REPORT FOR FY 1992.
00571	92-0026 (HUD) H	03/11/92	SUPERVISORY REVIEW AND MANAGEMENT OF THE ASSIGNED SINGLE FAMILY MORTGAGE PORTFOLIO (MATERIAL WEAKNESS 89-15).
00572	92-0026 CPD	09/10/92	HOPE 3 PROGRAM—INSTRUCTIONS FOR OBLIGATION OF FUNDS AND DOCUMENTATION OF GRANT APPROVALS.
00574	92-0027 CPD	10/09/92	OPERATING PROCEDURES FOR RENEWAL GRANTS—SUPPORTIVE HOUSING DEMONSTRATION PROGRAM.
00576	92-0028 CPD	09/11/92	INSTRUCTIONS FOR DEVELOPING AND COMPLETING A LOCAL COMPREHENSIVE HOUSING AFFORDABILITY STRATEGY (CHAS) ANNUAL PLAN FOR FY 1993 AND THE ANNUAL PERFORMANCE REPORT FOR FY 1992.
00578	92-0029 (PHA) PIH	07/07/92	PRORATION OF PUBLIC HOUSING AUTHORITIES/INDIAN HOUSING POSITIONS AND SALARIES.
00579	92-0029 CPD	09/18/92	GRANTEES' RESPONSIBILITIES FOR DESCRIBING ACTIVITIES AND FUNDING SOURCES IN THE FINAL STATEMENT.
00581	92-0030 (HUD) PIH	07/14/92	POLICIES AND PROCEDURES ON MAXIMUM ALLOWABLE TOTAL DEVELOPMENT COST (TDC) FOR HUD-ASSISTED INDIAN HOUSING PROGRAM.
00582	92-0030	09/18/92	IMPLEMENTING RISK ANALYSIS FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) ENTITLEMENT PROGRAM FOR FY 1993.
00584	92-0031 (HUD) H	03/23/92	REVISED PROCESSING INSTRUCTIONS FOR THE SECTION 223(F) FULL INSURANCE PROGRAM.
00585	92-0031 (HUD) PIH	07/22/92	PUBLIC HOUSING DEVELOPMENT COST LIMITS.
00586	92-0031 CPD	09/24/92	USING HOME FUNDS FOR SINGLE ROOM OCCUPANCY (SRO) AND GROUP HOUSING.
00588	92-0032 (HUD) PIH	07/28/92	PROCEDURES FOR CONVERSION OF MUTUAL HELP HOMEOWNERSHIP OPERATING PROGRAM UNITS TO THE RENTAL PROGRAM.
00589	92-0032 CPD	09/29/92	FIELD OFFICE GUIDANCE ON MANUFACTURED HOUSING UNDER THE HOME PROGRAM.
00591	92-0033 (PHA) PIH	07/28/92	CALCULATING IMPUTED INCOME FROM ASSETS.
00592	92-0033 CPD	09/30/92	SELF-EMPLOYMENT, MICROENTERPRISES, AND LOW AND MODERATE INCOME BENEFIT IN THE CDBG PROGRAM.
00594	92-0034 (HUD) PIH	08/04/92	SECTION 5(H) HOMEOWNERSHIP PROGRAM— TRANSMITTAL OF FORM FOR PART I OF IMPLEMENTING AGREEMENT.
00595	92-0034 CPD	10/09/92	COMMUNITY PLANNING AND DEVELOPMENT DIRECTIVES DISTRIBUTED DURING THE MONTH OF SEPTEMBER 1991.
00597	92-0035 CPD	10/15/92	REGIONAL/FIELD OFFICE REVIEW OF FY 1993 COMPREHENSIVE HOUSING AFFORDABILITY STRATEGY (CHAS) ANNUAL PLANS.
00599	92-0036 (HUD) H	04/26/93	EXTENSION OF NOTICE H 91-34 (HUD), PROCEDURES FOR RECONVEYANCE AND PROCEDURES FOR REIMBURSEMENT TO LENDERS ON UNINSURED CASES.

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Item No.	Directive No.	Issue date	Directive title
00600	92-0036 (HUD) PIH	09/01/92	GRANT EXECUTION AND MONITORING NOTICE FOR THE PUBLIC AND INDIAN HOUSING YOUTH SPORTS PROGRAM FOR FEDERAL FISCAL YEARS 1991 AND 1992.
00601	92-0036 CPD	10/15/92	FY 1993 INSTRUCTIONS FOR DEVELOPING AND COMPLETING A FIVE-YEAR CHAS FOR LOCALITIES (INCLUDING HOME CONSORTIA).
00603	92-0037 CPD	10/26/92	INFORMATION BOOKLET EXPLAINING SECTION 104(D) RELOCATION ASSISTANCE.
00605	92-0038 (HUD) H	04/01/93	EXTENSION OF NOTICE 91-0020, FRAUD, WASTE AND MISMANAGEMENT VULNERABILITY SECRETARY-HELD MORTGAGES—SECTION 235.
00606	92-0038 (PHA) PIH	09/03/92	PUBLIC HOUSING DEVELOPMENT INVOLVING ACQUISITION OF HUD-OWNED PROPERTIES.
00607	92-0038 CPD	11/17/92	ANNUAL PERFORMANCE REPORT (APR) FOR THE HOME PROGRAM.
00609	92-0039 (HUD) H	04/01/93	EXTENSION OF NOTICE H 91-23 (HUD) CLAIMS WITHOUT CONVEYANCE OF TITLE (CWCOT) - DEFICIENCY JUDGMENT BIDDING AND REIMBURSEMENT PROCEDURES.
00610	92-0039 (HUD) PIH	09/16/92	PUBLIC AND INDIAN HOUSING DRUG ELIMINATION GRANT PROGRAM, GRANT EXECUTION AND MONITORING INSTRUCTIONS.
00611	92-0039 CPD	11/23/92	ENVIRONMENT POLICY FOR GRANTS APPROVED UNDER THE HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS PROGRAM.
00613	92-0040 (HUD) H	04/29/92	PROCESSING OF APPLICATIONS FOR SERVICES COORDINATORS IN SECTION 202 HOUSING AND MONITORING OF APPROVED APPLICANTS.
00614	92-0040 (PHA) PIH	09/17/92	DEPARTMENT OF LABOR AND DEPARTMENT OF HUD ASSISTANCE PROGRAMS; INTEGRATING SERVICES FOR THE ECONOMICALLY DISADVANTAGED.
00615	92-0040 CPD	12/07/92	CASH AND MANAGEMENT INFORMATION SYSTEM FOR THE HOPE 3 PROGRAM.
00617	92-0041(PHA) PIH	09/18/92	ISSUANCE OF FINAL RULE—24 CFR PARTS 882, 887, 905, 965, E AL.—SMOKE DETECTORS FOR HUD-ASSISTED OR INSURED RENTAL HOUSING AND PUBLIC AND INDIAN HOUSING.
00619	92-0042 (HUD) PIH	09/22/92	REVISED FORM HUD-52541-A OR HUD-52541-B, PROJECT ACCOUNTING DATA (PAD) FOR PUBLIC OR INDIAN HOUSING (DEVELOPMENT AND MODERNIZATION).
00621	92-0043 (PHA) PIH	09/29/92	PARTNERSHIP BETWEEN THE PEACE CORPS OF THE UNITED STATES AND THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.
00622	92-0044 (PHA) PIH	09/30/92	LEAD-BASED PAINT (LBP) RISK ASSESSMENT PROTOCOL.
00623	92-0046 (PHA) PIH	09/30/92	CONTRACTING AND MONITORING IN THE PUBLIC HOUSING RESIDENT MANAGEMENT PROGRAM.
00624	92-0047 (HUD) PIH	10/09/92	COMPREHENSIVE GRANT PROGRAM COMPREHENSIVE IMPROVEMENT ASSISTANCE PROGRAM INSTRUCTIONS FOR THE LINE OF CREDIT CONTROL SYSTEM/ VOICE RESPONSE SYSTEM.
00625	92-0048 (PHA) PIH	10/16/92	EXCLUSION OF INCOME RECEIVED UNDER TRAINING PROGRAMS.
00626	92-0049 (PHA) PIH	10/19/92	REQUIREMENTS FOR HUD APPROVAL OF TAKING OF PUBLIC HOUSING PROPERTY EMINENT DOMAIN.
00627	92-0050 (PHA) PIH	10/19/92	FORM HUD-9886, AUTHORIZATION FOR THE RELEASE OF INFORMATION.
00628	92-0052 (PHA) PIH	10/22/92	TURNKEY III HOMEOWNERSHIP PROGRAM—TRANSMITTAL OF CHECKLIST TO ASSIST HUD REGIONAL AND FIELD OFFICES IN EVALUATING HOUSING AUTHORITIES' DEBT FORGIVENESS REQUESTS UNDER HUD NOTICE 91-28 AND EXTENDED BY HUD NOTICE 92-24.
00629	92-0053 (HUD) H	07/01/92	EXTENSION OF NOTICE 91-58—CHANGE OF AUTHORITY TO APPROVE SECTION 202 PROJECT AME CHANGES.
00630	92-0053 (PHA) PIH	10/27/92	RETROACTIVE HOUSING ASSISTANCE PAYMENTS FOR SECTION 8 MODERATE REHABILITATION PROJECTS.
00631	92-0054 (HUD) H	07/21/92	PRESERVATION APPRAISAL, REVIEW AND PROCESSING GUIDELINES SECTION 241(F).
00632	92-0055 H	07/23/92	HOUSING DIRECTIVES DISTRIBUTED DURING MAY AND JUNE 1992.
00633	92-0057 (HUD) H	08/05/92	RETROACTIVE SECTION 8 HOUSING ASSISTANCE PAYMENTS—SECTION 801 OF THE HOUSING AND URBAN DEVELOPMENT REFORM ACT OF 1989.
00634	92-0057 (PHA) PIH	11/02/92	USING EXCESS DEVELOPMENT FUNDS TO CREATE ADDITIONAL PUBLIC HOUSING UNITS.
00635	92-0058 (HUD) H	08/05/92	EXTENSION OF NOTICE H 92-59—RESIDENT INITIATIVES PROGRAM FOR MULTIFAMILY HOUSING.
00636	92-0058 (PHA) PIH	11/09/92	PUBLIC AND INDIAN HOUSING PROGRAM—REVISED FORMS HUD-5369, INSTRUCTIONS TO BIDDERS FOR CONTRACTS; HUD-5369A, REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF BIDDERS; HUD-5370, GENERAL CONDITIONS.
00637	92-0058 H	08/05/92	EXTENSION OF NOTICE H 91-59, RESIDENT INITIATIVES PROGRAMS FOR MULTIFAMILY HOUSING
00638	92-0059 H	08/05/92	EXTENSION OF NOTICE 91-68 H, DELEGATION OF AUTHORITY TO FORECLOSE MULTIFAMILY MORTGAGES.
00639	92-0060 (HUD) PIH	11/12/92	GRANT AGREEMENT EXECUTION AND PAYMENT PROCEDURES FOR FY 1992 HOPE 1 PLANNING GRANTS.
00640	92-0060 H	08/10/92	FINAL CLOSING SECTION 202 LOANS.
00641	92-0061 (PHA/IHA) PIH	11/12/92	FY 1993 PERFORMANCE FUNDING SYSTEM (PFS) INFLATIONS FACTOR AND EQUATION.
00642	92-0061 H	08/12/92	EXTENSION OF NOTICE 91-79 H, EARLY WARNING SYSTEM FOR MULTIFAMILY HOUSING PROJECTS.

INVENTORY OF CURRENT HUD DIRECTIVES—Continued

Item No.	Directive No.	Issue date	Directive title
00643	92-0062 (HUD) H	08/11/92	REVISED LEAD-BASED PAINT HAZARD NOTICE AND DISCLOSURE REQUIREMENT.
00644	92-0062 (HUD) PIH	11/16/92	IMPLEMENTATION OF UNIFORM RELOCATION ACT—COORDINATION WITH CPD.
00645	92-0063 (HUD) H	08/12/92	SINGLE FAMILY ACCOUNTING MANAGEMENT SYSTEM INTERNAL CONTROLS.
00646	92-0063 (PHA) PIH	11/27/92	MINORITY BUSINESS ENTERPRISE (MBE) AND INDIAN PREFERENCE (IP) PARTICIPATION—EXTENSION OF NOTICE PIH 91-49 (PHA).
00647	92-0064 (HUD) H	08/11/92	EXTENSION OF NOTICE 91-63—EXTENSION OF TIME REQUIREMENT FOR SINGLE FAMILY CLAIMS FOR INSURANCE BENEFITS.
00648	92-0064 (PHA/PIH)	12/08/92	INSURANCE REQUIREMENTS FOR THE TESTING, ABATEMENT, CLEAN-UP, AND DISPOSAL OF LEAD-BASED PAINT IN PUBLIC AND INDIAN HOUSING WHEN PERFORMED BY PHAS/IHAS IN LIEU OF AN INDEPENDENT CONTRACTOR.
00649	92-0065 (HUD) H	08/11/92	EXTENSION OF NOTICE 91-75 (HUD)—REQUESTS FOR PAYMENT OF PROPERTY DISPOSITION PROCUREMENT—SAMS 1006 FORM, INVOICE TRANSMITTAL.
00650	92-0065 (PHA) PIH	12/14/92	GUIDANCE FOR ALL NONCOMPREHENSIVE GRANT PROGRAM (CGP) AGENCIES TO COMPLY WITH SECTION 504 REQUIREMENTS.
00651	92-0066 (HUD) H	08/11/92	EXTENSION OF NOTICES H 90-51 AND H 91-74—SINGLE FAMILY PROPERTY DISPOSITION PRICING OF PROPERTIES.
00652	92-0066 (HUD) PIH	12/15/92	GRANT EXECUTION AND MONITORING NOTICE FOR THE RESIDENT MANAGEMENT TECHNICAL ASSISTANCE PROGRAM FOR FEDERAL FY 1992.
00653	92-0067 H	08/13/92	THE INTEREST RATE REDUCTION PROGRAM.
00654	92-0068 (HUD) H	08/19/92	NOTICE OF CANCELLATION OF HANDBOOK 4515.01—MORTGAGE INSURANCE FOR LOWER INCOME FAMILIES, REHABILITATION HOUSING, SECTION 235(J).
00655	92-0069 (HUD) H	08/19/92	CANCELLATION OF HANDBOOK 4510.02—RENTAL AND COOPERATIVE HOUSING FOR LOWER INCOME TENANTS—FISCAL PROCEDURE.
00656	92-0070 (HUD) H	08/28/92	MONITORING MORTGAGEES DURING ON-SITE REVIEWS IN COMPLIANCE WITH THE PROVISIONS OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968 AS AMENDED—SINGLE FAMILY.
00657	92-0071 (HUD) H	09/15/92	SECOND SECTION 221(G)(4) PROJECT MORTGAGE AUCTION.
00658	92-0072 (HUD) H	09/22/92	IMPLEMENTING ACCOUNTABILITY MONITORING.
00659	92-0073 (HUD) H	09/28/92	MONITORING REAL ESTATE ASSET MANAGERS AND CLOSING AGENTS.
00600	92-0074 (HUD) H	09/28/92	TRANSMITTAL OF SMOKE DETECTOR FINAL RULE.
00661	92-0075 (HUD) H	9/30/92	WASHINGTON DOCKET AND AMORTIZATION SCHEDULE FOR MULTI-FAMILY MORTGAGE INSURANCE PROJECTS.
00662	92-0076 (HUD) H	09/30/92	DIRECTORS AND OFFICERS LIABILITY INSURANCE VS. INDEMNIFICATION BY THE CORPORATION.
00663	92-0077 (HUD) H	10/07/92	HEADQUARTERS CENTRALIZED PROCESS FOR CONTROLLING AND TRACKING REGULATION WAIVER REQUESTS.
00664	92-0078 (HUD) H	10/14/92	EXTENSION OF NOTICE H 91-84, PROCESSING AND APPROVING THE DISPOSITION OF HUD-OWNED MULTIFAMILY PROJECTS.
00665	92-0079 (HUD) H	10/15/92	SERVICING FHA-INSURED MORTGAGES AFFECTED BY HURRICANE INIKI.
00666	92-0080 (HUD) H	10/22/92	HOUSING DIRECTIVES DISTRIBUTED DURING JULY, AUGUST, AND SEPTEMBER 1992.
00667	92-0081 (HUD) H	10/22/92	PROCESSING APPLICATIONS UNDER THE PRESERVATION NOFA FOR TECHNICAL ASSISTANCE GRANTS FOR RESIDENT GROUPS, COMMUNITY GROUPS, COMMUNITY-BASED NONPROFIT ORGANIZATIONS AND RESIDENT COUNCILS.
00668	92-0082 (HUD) H	10/22/92	A NEW FORM HUD-9887, AUTHORIZATION FOR THE RELEASE OF INFORMATION.
00669	92-0083 H	10/26/92	EXTENSION OF NOTICE H 91-91: LEASE AND SALE OF ACQUIRED SINGLE FAMILY PROPERTIES FOR THE HOMELESS-HOUSING RESPONSIBILITIES.
00670	92-0084 H	10/29/92	EXTENSION OF NOTICE H 91-88, DELEGATED PROCESSING PROCEDURES.
00671	92-0085 (HUD) H	11/02/92	SERVICING FHA-INSURED MORTGAGES AFFECTED BY HURRICANE ANDREW.
00672	92-0086 (HUD) H	11/04/92	DISPOSITION OF HAZARD INSURANCE PROCEEDS.
00673	92-0087 (HUD) H	11/05/92	SERVICING FHA-INSURED MORTGAGES AFFECTED BY TYPHOON OMAR.
00674	92-0088 (HUD) H	11/17/92	EXTENSION OF NOTICE H 91-94, SINGLE FAMILY CLAIMS FOR INSURANCE BENEFITS: CHANGES IN THE REQUIREMENTS FOR PRESERVATION AND PROTECTION OF INSURED PROPERTIES.
00675	92-0089 (HUD) H	11/20/92	EXTENSION OF NOTICE H 91-92 (HUD), REVISION AND EXTENSION OF H 90-83/INSTRUCTIONS TO FIELD OFFICES ON IMPLEMENTATION OF SINGLE FAMILY DEMONSTRATION PROGRAM FOR SALE OF PROPERTIES TO NONPROFITS AND GOVERNMENT ENTITIES.
00676	92-0090 (HUD) H	12/03/92	EXTENSION OF NOTICE 91-0095, SECONDARY FINANCING BY PUBLIC BODIES FOR SECTION 202 PROJECTS.
00677	92-0091 (HUD) H	12/03/92	EXTENSION OF NOTICE 91-0096, RELEASE OF SECTION 202 RATINGS AND RANKINGS.
00678	92-0092 (HUD) H	12/03/92	EXTENSION OF NOTICE H 91-97, SITE CHANGES IN THE SECTION 202 PROGRAM.
00679	92-0093 (HUD) H	12/03/92	EXTENSION OF NOTICE H 91-98, DAVIS-BACON EXCLUSIONS FOR SECTION 202 GROUP HOMES.
00680	92-0094 (HUD) H	12/03/92	EXTENSION OF NOTICE H 91-99, REVIEW OF SECTION 202 APPLICATIONS FOR PROJECTS FOR THE ELDERLY IN FY 1990 IN AREAS WITH LIMITED MARKET DEMAND.
00681	92-0095 (HUD) H	12/03/92	EXTENSION OF NOTICE H 91-100, PERMISSIBLE USES OF SECONDARY FINANCING FOR SECTION 202 PROJECTS.
00682	92-0096 (HUD) H	12/03/92	FISCAL YEAR 1993 SPECIAL MARKETING TOOLS.

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Item No.	Directive No.	Issue date	Directive title
00683	92-0097 (HUD) H	12/08/92	PROCESSING HUD INSURED PROJECTS INVOLVING LOW INCOME HOUSING TAX CREDITS USING FORM HUD-92264-T.
00684	92-0098 (HUD) H	12/11/92	CIVIL MONEY PENALTIES—IMPLEMENTATION OF THE HUD REFORM ACT OF 1989.
00685	92-0099 (HUD) H	12/18/92	REQUIREMENT TO PROVIDE STATE AND LOCAL TAX INFORMATION TO PROVIDERS IN THE SINGLE FAMILY HOMELESS INITIATIVE PROGRAM AND START OF FY 1993 INVENTORY GUIDELINES BY REGION.
00686	92-0100 (HUD) H	12/28/92	PHASE-IN OF TENANT RENTS AFTER PLAN OF ACTION IMPLEMENTATION.
00688	93-0001 (PHA) PIH	01/05/93	EXTENSION OF NOTICE 91-0039 (PHA) PIH, APPLICABILITY OF PUBLIC HOUSING AGENCIES AND INDIAN HOUSING AUTHORITIES AND THEIR RELATED NONPROFIT ENTITIES.
00689	93-0001 ADM	04/02/93	DIRECTIVES INDEX.
00690	93-0001 CPD	01/08/93	UPDATED INDEX FOR THE CDBG ENTITLEMENT POLICY GUIDANCE NOTEBOOK.
00693	93-0002 (HUD) H	01/13/93	EXTENSION OF NOTICE H 92-10 (HUD), FAILURE TO ABIDE BY HUD'S EARNEST MONEY POLICY.
00694	93-0002 (PHA) PIH	01/14/93	PUBLIC HOUSING AGENCY (PHA) AND INDIAN HOUSING AUTHORITY (IHA) USE OF AND ACCESS TO INFORMATION ON INDIVIDUALS AND CONTRACTORS DEBARRED, SUSPENDED, OR SUBJECTED TO A LIMITED DENIAL OF PARTICIPATION (LDP).
00695	93-0002 ADM	03/19/93	DEPARTMENTAL FORMS INDEX.
00696	93-0002 CPD	01/11/93	INSTRUCTIONS FOR DEVELOPING AND COMPLETING A FIVE-YEAR COMPREHENSIVE HOUSING AFFORDABILITY STRATEGY (CHAS) AND AN ANNUAL PERFORMANCE REPORT FOR LOCAL JURISDICTIONS.
00698	93-0003 (HUD) H	01/13/93	EXTENSION OF NOTICE 92-8 (HUD) H, CLARIFICATION OF SOLICITATION DOCUMENT FOR REAL ESTATE ASSET MANAGEMENT (REAM) CONTRACTS.
00699	93-0003 (PHA) PIH	01/15/93	PROCEDURES FOR OBTAINING AUDIT SERVICES FOR PHAS/IHAS NOT IN COMPLIANCE WITH AUDIT REQUIREMENTS.
00700	93-0003 CPD	01/11/93	INSTRUCTIONS FOR DEVELOPING AND COMPLETING A FIVE-YEAR COMPREHENSIVE HOUSING AFFORDABILITY STRATEGY (CHAS) AND AN ANNUAL PERFORMANCE REPORT FOR STATES.
00701	93-0003 INTERIM H	04/28/93	TITLE VI, SUBTITLE D, OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992, AUTHORITY TO PROVIDE PREFERENCES FOR ELDERLY RESIDENTS AND UNITS FOR DISABLED RESIDENTS IN CERTAIN SECTION 8 ASSISTED HOUSING.
00703	93-0004 (HUD) H	01/14/93	EXTENSION OF NOTICE H 92-5 (HUD), REVISION TO NOTICE H 91-91 LEASE AND SALE OF ACQUIRED SINGLE FAMILY PROPERTIES FOR THE HOMELESS-HOUSING RESPONSIBILITIES.
00704	93-0004 (PHA) PIH	01/19/93	LEAD BASED PAINT (LBP) MONITORING CHECKLIST AND ANNUAL LBP ACTIVITY REPORT.
00705	93-0004 CPD	01/25/93	REGIONAL/FIELD OFFICE REVIEW OF FY 1993 FIVE-YEAR COMPREHENSIVE HOUSING AFFORDABILITY STRATEGY FOR LOCAL JURISDICTIONS (INCLUDING HOME CONSORTIA).
00707	93-0005 (HUD) H	01/15/93	HOUSING DIRECTIVES DISTRIBUTED DURING OCTOBER, NOVEMBER, AND DECEMBER 1992.
00708	93-0005 (PHA) PIH	02/04/93	ACCELERATING THE FISCAL YEAR 1993 COMPREHENSIVE GRANT PROGRAM.
00709	93-0005 CPD	02/01/93	INTEREST EARNED ON CDBG FUNDS LOANED BY GRANTEES FOR INELIGIBLE PURPOSES.
00711	93-0006 (HUD) H	01/19/93	SALE OF HUD OWNED PROPERTIES TO HOPE 3 GRANT RECIPIENTS.
00712	93-0006 (PHA) PIH	02/08/93	PUBLIC HOUSING PROGRAM—REVISED FORMS HUD-51915, CONTRACT FOR DEVELOPMENT ARCH. AND ENG. SERVICES AND HUD-51915.1, CONTRACT FOR COMPREHENSIVE IMPROVEMENT ASSISTANCE PROGRAM AND COMPREHENSIVE GRANT PROGRAM ARCH. AND ENG. SERVICES.
00713	93-0006 CPD	02/04/93	CONFLICT OF INTEREST PROVISIONS FOR THE HOME PROGRAM.
00715	93-0007 (HUD) H	02/26/93	POLICY AND PROCEDURAL GUIDELINES FOR PAYING TAXES THROUGH SAMS AND THE SERVICE CENTER.
00716	93-0007 CPD	02/05/93	FY 1993 STATE CDBG PROGRAM OPERATING INSTRUCTIONS.
00718	93-0008 (HUD) H	03/01/93	APPLICATION REVIEW AND SELECTION PROCEDURES FOR THE CONGREGATE HOUSING SERVICES PROGRAM—FY 1993.
00719	93-0008 (HUD) PIH	02/25/93	CASH AND MANAGEMENT INFORMATION SYSTEM (C/MI) AND LOCCS VRS FOR THE INDIAN HOME PROGRAM.
00720	93-0008 CPD	02/11/93	COMMUNITY PLANNING AND DEVELOPMENT DIRECTIVES DISTRIBUTED DURING THE MONTHS OF OCTOBER, NOVEMBER, DECEMBER 1992 AND JANUARY 1993.
00722	93-0009 (HUD) H	02/26/93	EXTENSION OF NOTICE 91-6 (HUD) H, MONITORING OF MONTHLY MORTGAGE INSURANCE PREMIUM (MIP) REMITTANCES (LIMITED SCOPE).
00723	93-0009 (PHA) PIH	03/03/93	INCENTIVES FOR PHAS/IHAS TO REDUCE THE COST OF UTILITIES.
00724	93-0009 CPD	02/18/93	TRANSMITTAL OF CORRESPONDENCE TO THE CDBG ENTITLEMENT PROGRAM GRANTEES.
00726	93-0010 (HUD) H	02/26/93	EXTENSION OF NOTICE H 91-12 (HUD), SOLICITATION AND REQUIREMENTS FOR SINGLE FAMILY REAL ESTATE ASSET MANAGEMENT (REAM) SERVICES.
00727	93-0010 (PHA) PIH	03/10/93	EXPEDITING FY 1993 COMPREHENSIVE GRANT PROGRAM (CGP) FUNDING FOR PUBLIC AND INDIAN HOUSING AUTHORITIES (HA) THAT HAD AN APPROVED COMPREHENSIVE PLAN IN FY 1992.
00728	93-0010 CPD	03/12/93	DIRECTORY OF HUD SPONSORED TECHNICAL ASSISTANCE AND TRAINING.

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Item No.	Directive No.	Issue date	Directive title
00730	93–0011 (HUD) H	02/26/93	EXTENSION OF NOTICE H 92–18 (HUD), DESIGNATION OF AUTHORITY AND RESPONSIBILITY FOR DECENTRALIZED SINGLE FAMILY FORECLOSURE MANAGEMENT AND CONTRACT ADMINISTRATION.
00731	93–0011 CPD	03/15/93	REGIONAL/FIELD OFFICE REVIEW OF FY 1992 COMPREHENSIVE HOUSING AFFORDABILITY STRATEGY (CHAS) ANNUAL PERFORMANCE REPORTS.
00732	93–0011 INTERIM (PHA) PIH	03/16/93	EXCLUSION OF SSI AND SOCIAL SECURITY DEFERRED PERIODIC PAYMENTS.
00734	93–0012 (HUD) H	02/26/93	REINSTATEMENT AND EXTENSION OF NOTICE H 91–65 (HUD), ADDITIONAL INFORMATION—MONTHLY MORTGAGE INSURANCE PREMIUM (MIP) REMITTANCES.
00735	93–0012 (PHA) PIH	03/22/93	COMPREHENSIVE IMPROVEMENT ASSISTANCE PROGRAM (CIAP): APPLICATION SUBMISSION, PROCESSING AND FUND RESERVATION.
00736	93–0012 CPD	03/17/93	LUMP SUM DRAWDOWN AGREEMENTS FOR THE CDBG PROGRAM FOR ENTITLEMENT COMMUNITIES.
00738	93–0013 (HUD) H	03/05/93	ELECTRONIC DATA INTERCHANGE OF FORM HUD–27011 AND TITLE APPROVAL LETTERS.
00739	93–0013 (HUD) PIH	03/25/93	WAIVER OF MANAGEMENT, MAINTENANCE, UTILITIES, OCCUPANCY AND SECTION 8 REVIEW REQUIREMENTS.
00740	93–0013 CPD	03/19/93	INSTRUCTIONS FOR URBAN COUNTY QUALIFICATION FOR PARTICIPATION IN THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM FOR FISCAL YEARS 1994–1996.
00742	93–0014 (HUD) H	03/09/93	SINGLE FAMILY DEVELOPMENT AND MANAGEMENT DIRECTIVE—REVISED SECTION 235(R) REFINANCE PROGRAM.
00743	93–0014 (PHA) PIH	03/29/93	PROJECT BASED ACCOUNTING.
00744	93–0014 CPD	03/22/93	NOTICE OF PROCEDURES FOR DESIGNATING CONSORTIA: HOME INVESTMENT PARTNERSHIPS PROGRAM.
00746	93–0015 (HUD) H	03/17/93	EXTENSION OF NOTICE H 92–25—CALCULATING IMPUTED INCOME FROM ASSETS.
00747	93–0015 (PHA) PIH	04/02/93	VACANCY REDUCTION PROGRAM SURVEY.
00748	93–0015 CPD	03/25/93	OPERATING PROCEDURES FOR RENEWAL GRANTS—SUPPORTIVE HOUSING PROGRAM.
00749	93–0016 (HUD) PIH	04/02/93	PROCESSING OF APPLICATIONS FOR FUNDS FOR FY 1993 PIH DRUG ELIMINATION PROGRAM.
00750	93–0016 CPD	03/29/93	FIELD OFFICE GUIDANCE ON THE ENVIRONMENT REVIEW PROCESS UNDER THE HOME PROGRAM.
00751	93–0017 (HUD) H	03/23/93	EXTENSION AND CLARIFICATION OF NOTICE H 92–31 (HUD), REVISED PROCESSING INSTRUCTIONS FOR THE SECTION 223(F) FULL INSURANCE PROGRAM.
00752	93–0017 (PHA) PIH	04/02/93	REVISIONS TO THE REQUIREMENTS RELATING TO THE RESIDENT ORGANIZATIONS' OPPORTUNITY TO PURCHASE THE DEVELOPMENT OR PORTION OF DEVELOPMENT PROPOSED FOR DEMOLITION OR DISPOSITION UNDER SECT. 18 OF THE U.S. HOUSING ACT OF 1937.
00753	93–0017 CPD	04/19/93	COMPREHENSIVE HOUSING AFFORDABILITY STRATEGIES INSTRUCTIONS FOR PREPARING AN ABBREVIATED HOUSING STRATEGY FOR FY 1993.
00754	93–0018 (HUD) H	03/24/93	FINANCIAL STATEMENT REQUIREMENT FOR SPONSORS UNDER THE CAPITAL ADVANCE PROGRAM.
00755	93–0018 CPD	04/22/93	REGIONAL/FIELD OFFICE REVIEW OF HOME PROGRAM DESCRIPTIONS FOR FY 1993.
00756	93–0019 (HUD) H	03/24/93	EXTENSION OF NOTICE H 92–26 (HUD), SUPERVISORY REVIEW AND MANAGEMENT OF THE ASSIGNED SINGLE FAMILY MORTGAGE PORTFOLIO (MATERIAL WEAKNESS 89–15).
00757	93–0019 (PHA) PIH	04/28/93	PROCEDURES FOR PAYMENT OF SPECIAL PRELIMINARY FEES UNDER PORTABILITY; ACCOUNTING FOR PORTABILITY TRANSACTIONS (EXTENSION OF NOTICE PIH 92–14 (PHA)).
00758	93–0019 CPD	05/05/93	COMMUNITY PLANNING AND DEVELOPMENT DIRECTIVES DISTRIBUTED DURING THE MONTHS OF FEBRUARY, MARCH AND APRIL 1993.
00759	93–0020 (HUD) H	03/29/93	FISCAL YEAR 1993 INTEREST RATE FOR SECTION 202 AND SECTION 811 CAPITAL ADVANCE PROJECTS.
00760	93–0020 (IHA) PIH	04/29/93	REVISIONS TO THE MUTUAL HELP AND OCCUPANCY (MHO) AGREEMENT.
00761	93–0020 CPD	05/24/93	USE OF HOME AND HOPE 3 FUNDS BY PUBLIC HOUSING AGENCIES (PHA).
00762	93–0021 (HUD) H	04/06/93	HOUSING DEVELOPMENT INSTRUCTIONS FOR PROCESSING PLANS FOR ACTION UNDER TITLE II OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1987 AND ASSOCIATED SECTION 241(F) LOAN APPLICATIONS.
00763	93–0021 (PHA) PIH	05/11/93	REVISED FEDERAL PRIVACY ACT NOTICE FOR THE RENTAL VOUCHER, RENTAL CERTIFICATE, MODERATE REHABILITATION, PUBLIC HOUSING AND INDIAN HOUSING PROGRAMS.
00764	93–0021 CPD	06/18/93	HOME PROGRAM—MATCH REDUCTION.
00765	93–0022 (HUD) H	04/06/93	CLOSE-OUT SECTION 106(B) NONPROFIT SPONSOR ASSISTANCE "SEED MONEY" LOAN PROGRAM.
00766	93–0022 CPD	06/18/93	HOME PROGRAM-INSTRUCTIONS FOR OBLIGATION OF FUNDS AND NUMBERING HOME INVESTMENT PARTNERSHIP AGREEMENTS OF FY 1993.
00767	93–0023 (HUD) H	04/07/93	NEED TO REDUCE UNDERWRITING RISK ON MULTIFAMILY INSURED AND COINSURED AND DELEGATED PROCESSING PROJECTS AND PROBLEM WITH SUMMARY REJECTION OF APPLICATIONS.

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Item No.	Directive No.	Issue date	Directive title
00768	93–0023 (IHA) PIH	05/19/93	CHANGE IN THE DEFINITION OF ADJUSTED INCOME FOR INDIAN HOUSING AUTHORITIES (IHAS).
00769	93–0024 (HUD) H	04/07/93	HOUSING DIRECTIVES DISTRIBUTED DURING JANUARY, FEBRUARY AND MARCH 1993.
00770	93–0025 (HUD) H	04/09/93	PROCEDURES FOR THE EXTENSION OF EXISTING CONGREGATE HOUSING SERVICES PROGRAM GRANTS EXPIRING THROUGH FEBRUARY 1993.
00771	93–0025 (HUD) PIH	05/28/93	ANNUAL PERFORMANCE REPORT (APR) FOR THE INDIAN HOME PROGRAM.
00772	93–0026 (HUD) H	04/09/93	REINSTATEMENT AND EXTENSION OF NOTICE H 92–2 (HUD), HOUSING DEVELOPMENT GRANT—PROJECT SETTLEMENT PROCEDURES, WHICH EXPIRED 1/31/93.
00773	93–0027 (HUD) H	04/09/93	EXTENSION OF NOTICE H 92–40 (HUD), PROCESSING OF APPLICATIONS FOR SERVICE COORDINATORS IN SECTION 202 HOUSING AND MONITORING OF APPROVED APPLICATIONS.
00774	93–0037 (PHA) PIH	06/09/93	PUBLIC HOUSING DEVELOPMENT COST LIMITS.
00775	93–0028 (HUD) H	04/19/93	DEFINITION OF ANNUAL INCOME: HOLOCAUST.
00776	93–0029 (HUD) H	04/23/93	LEAD-BASED PAINT: NOTIFICATION OF TENANTS IN HUD-INSURED, HUD-HELD AND HUD-SUBSIDIZED HOUSING.
00777	93–0029 (PHAS) PIH	06/17/93	SUBMISSION OF SIX-MONTH FORM HUD–52599—STATEMENT OF OPERATING RECEIPTS AND EXPENDITURES (SORES)—AND FORM HUD–52598—ANALYSIS OF NONROUTINE EXPENDITURES.
00778	93–0030 (HUD) H	04/30/93	REINSTATEMENT AND EXTENSION OF NOTICE H 91–24 (HUD), RECESSION-ACCELERATION OF MORTGAGES SUBJECT TO THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1987 AND THE DEPT. OF HOUSING & URBAN DEVELOPMENT REFORM ACT OF 1989.
00779	93–0031 (HUD) H	04/01/93	REINSTATEMENT AND EXTENSION OF NOTICE H 91–20 (HUD), FRAUD, WASTE AND MISMANAGEMENT VULNERABILITY SECRETARY-HELD MORTGATES-SECTION 235.
00780	93–0032 (HUD) H	04/26/93	REINSTATEMENT AND EXTENSION OF NOTICE H 91–34 (HUD), PROCEDURES FOR RECONVEYANCE AND PROCEDURES FOR REIMBURSEMENT TO LENDERS IN UNINSURED CASES.
00781	93–0033 (HUD) H	04/01/93	REINSTATEMENT AND EXTENSION OF NOTICE H 91–23 (HUD), CLAIMS WITHOUT CONVEYANCE OF TITLE (CWCOT)-DEFICIENCY JUDGEMENT BIDDING AND REIMBURSEMENT PROCEDURES.
00782	93–0034 (HUD) H	05/11/93	HOUSING DEVELOPMENT PROCESSING INSTRUCTIONS FOR THE HOME PROGRAM.
00783	93–0035 (HUD) H	05/17/93	START-UP PROCEDURES FOR THE CONGREGATE HOUSING SERVICES PROGRAM-FY 1993.
00784	93–0036 (HUD) H	06/02/93	GROUP HOMES FUNDED UNDER SECTION 202 AND SECTION 811.
00785	93–0037 (HUD) H	06/03/93	RESERVE FUND FOR REPLACEMENT BALANCES REPORTED AS PART OF THE MORTGAGOR'S SUBMISSION AND CERTIFICATION OF THE REQUIRED INDEPENDENTLY AUDITED ANNUAL FINANCIAL STATEMENTS.
00786	93–0043 H	06/21/93	BYRD AMENDMENT—LIMITATION ON PAYMENTS MADE TO INFLUENCE CERTAIN FEDERAL FINANCIAL AND CONTRACTING TRANSACTIONS.
00787	93–0045 (HUD) H	04/09/93	FY 1993 POLICY FOR CAPITAL ADVANCE AUTHORITY ASSIGNMENTS, INSTRUCTIONS AND ADDITIONAL PROGRAM REQUIREMENTS FOR THE SECTION 202 AND SECTION 811 CAPITAL ADVANCE PROGRAMS.
			Direct Endorsement Letters
00406	88–0001	03/24/88	UNDERWRITER/MORTGAGEE CERTIFICATION—DIRECT ENDORSEMENT.
00408	88–0002	08/15/88	DIRECT ENDORSEMENT—REQUEST FOR INSURANCE ENDORSEMENT FORM.
00441	90–0001	01/19/90	DIRECT ENDORSEMENT UPDATE—SENDING COPIES OF REJECTED LOAN APPLICATIONS TO HUD.
00443	90–0002	08/14/90	DIRECT ENDORSEMENT UPDATE—MORTGAGEE STAFF APPRAISERS.
			Ethics Letters
00817	91–0001	06/01/91	PROHIBITION OF ADVANCE DISCLOSURE OF FUNDING DECISIONS.
00818	91–0002	06/20/91	PROHIBITION OF ADVANCE DISCLOSURE OF FUNDING DECISIONS—SECTION 103 OF THE HUD REFORM ACT OF 1989.
00819	91–0003	06/26/91	IMPLEMENTATION OF SECTION 112 OF THE HUD REFORM ACT OF 1989, REGARDING THE REQUIREMENTS GOVERNING THE LOBBYING OF HUD PERSONNEL.
00820	91–0004	07/30/91	IMPLEMENTATION OF SECTION 102 OF THE HUD REFORM ACT OF 1989.
00821	91–0005	12/24/91	"BYRD AMENDMENT" REGARDING THE LIMITATION ON PAYMENTS MADE TO INFLUENCE CERTAIN FEDERAL CONTRACTING AND FINANCIAL TRANSACTIONS.
00822	92–0001	03/12/92	STANDARDS OF CONDUCT AND PRINCIPLES OF ETHICAL SERVICE FOR FEDERAL EMPLOYEES.
00823	92–0002	02/13/92	THE HUD REFORM ACT OF 1989: SECTION 102, "ACCOUNTABILITY IN THE PROVISION OF HUD ASSISTANCE."
00824	92–0003	02/20/92	HUD ALERT, "SECTION 112 OF THE HUD REFORM ACT OF 1989" REGARDING THE REQUIREMENTS GOVERNING THE LOBBYING OF HUD PERSONNEL.
00825	92–0004	03/17/92	VENDOR PROMOTIONAL TRAINING.
00826	92–0005	08/04/92	SECTION 112 OF THE HUD REFORM ACT, "REQUIREMENTS GOVERNING THE LOBBYING OF HUD PERSONNEL."

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Item No.	Directive No.	Issue date	Directive title
00827	92-0006	08/04/92	IMPLEMENTATION OF SECTION 102, "ACCOUNTABILITY IN THE PROVISION OF HUD ASSISTANCE," OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT REFORM ACT OF 1989.
			Labor Relations Letters
00828	LR-92-01	07/10/92	APPLICABILITY OF FEDERAL WAGE RATE REQUIREMENTS TO PRISON INMATES ENGAGED IN HUD-ASSISTED MAINTENANCE OR CONSTRUCTION WORK.
00829	LR-92-02	07/10/92	SUBMISSION REQUIREMENTS FOR SECTION 5.7 LABOR STANDARDS ENFORCEMENT REPORTS (DAVIS-BACON AND RELATED ACTS).
00830	LR-92-03	10/05/92	"STEP-UP" PROGRAM—QUESTIONS AND ANSWERS (ISSUE #1).
00831	LR-92-04	10/16/92	"STEP-UP" PROGRAM—QUESTIONS AND ANSWERS (ISSUE #2).
00832	LR-93-01	01/15/93	DETERMINATION OF PREVAILING WAGE RATES FOR CONSTRUCTION WORK FINANCED OR ELIGIBLE FOR FINANCING UNDER THE COMPREHENSIVE IMPROVEMENT ASSISTANCE PROGRAM (CIAP) OR COMPREHENSIVE GRANT PROGRAM (CGP).
			Mortgagee Letters
00300	76-02	01/12/76	CHANGE IN SECTION 235 HANDLING CHARGE.
00301	76-07	04/19/76	SUPPLEMENTAL CLAIMS FOR INSURANCE BENEFITS UNDER THE HOME MORTGAGE INSURANCE PROGRAMS.
00302	76-14	07/26/76	PROJECT MORTGAGE INSURANCE CLAIMS, REVISED ELECTION FILING INSTRUCTION.
00303	76-22	09/07/76	CLARIFICATION OF POLICY REGARDING COMMITMENT EXTENSIONS AND CLOSING PROCEDURES, SINGLE FAMILY APPLICATIONS ONLY.
00305	77-18	04/26/77	SUBMISSION FOR INSURANCE ENDORSEMENT (SINGLE FAMILY).
00306	77-20	06/21/77	MODIFICATION TO MORTGAGEE'S CERTIFICATE, FORM FHA 2434.
00307	78-10	07/14/78	PAYMENT OF CLAIMS—LOANS INSURED UNDER SECTION 241.
00308	78-13	11/02/78	AMENDMENT TO MORTGAGEE'S CERTIFICATE, FORM FHA-2434.
00309	79-03	03/01/79	RIGHT TO FINANCIAL PRIVACY ACT OF 1978.
00310	79-29	09/25/79	SINGLE FAMILY LOAN ENDORSEMENT PROCEDURES.
00311	79-37	11/23/79	SOLAR ENERGY INCREASE IN DOLLAR LIMITATION.
00317	80-02	01/09/80	CENTRALIZATION OF FEE AND PREMIUM BILLING.
00318	80-24	05/23/80	MAJOR REVISION OF HUD SINGLE FAMILY CONDITIONAL COMMITMENT PROCESSING PROCEDURES.
00319	80-32	07/31/80	CREATING SECONDARY MORTGAGES AS SECURITY TO FINANCE THE PURCHASE OF A HOME.
00320	80-33	08/07/80	HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS OF 1979—SECTION 245.
00321	80-35	08/14/80	INCREASED LOAN-TO-VALUE RATIOS FOR DWELLINGS WITH APPROVED WARRANTIES.
00322	80-45	11/18/80	CHANGE IN SINGLE FAMILY MAXIMUM AMOUNTS—HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1980.
00323	80-46	11/18/80	PAYMENT OF CLAIMS—MORTGAGES INSURED UNDER TITLE X.
00324	80-49	12/23/80	CHANGE IN METHOD OF PAYMENT OF MORTGAGE INSURANCE PREMIUMS WITH HUD DEBENTURES.
00343	81-0022	06/03/81	PROCESSING OF RECONSIDERATION BY PRIVATE APPRAISERS.
00344	81-0040	12/22/81	REDEMPTION OF DEBENTURES IN EXCHANGE FOR THE PAYMENT OF MORTGAGE INSURANCE PREMIUMS.
00345	82-0013	08/04/82	SURPLUS ESCROW PAYMENTS FOR MULTIFAMILY PROJECT MORTGAGES.
00346	82-0025	11/26/82	SINGLE FAMILY DEVELOPMENT PROCESSING PROCEDURES.
00347	82-0027	12/13/82	MORTGAGEE'S LATE CHARGE AND INTEREST CHARGE ON MORTGAGE INSURANCE PREMIUMS (MIP).
00348	83-0001	01/12/83	ASSIGNMENT OF MULTIFAMILY MORTGAGES.
00349	83-0004	02/18/83	SINGLE FAMILY DEVELOPMENT PROCESSING PROCEDURES.
00350	83-0012	05/12/83	MAILING LIST FOR HOUSING DIRECTIVES.
00351	83-0013	05/12/83	ACCEPTANCE OF MANUFACTURED HOMES FOR TITLE II MORTGAGE INSURANCE.
00352	83-0017	06/24/83	RURAL OUTREACH.
00353	83-0021	08/02/83	ONE-TIME MORTGAGE INSURANCE PREMIUM.
00354	83-0023	10/25/83	REQUIREMENTS FOR MULTIFAMILY INSURED PROJECTS (1) PROPERTY INSURANCE REQUIREMENTS, (2) INCREASE IN REPLACEMENT RESERVE DEPOSITS, (3) INVESTMENT OF REPLCMT. RSVS. & RESIDUAL RCPTS., (4) DISTRIB. OF FM. HUD-9807, REQ. FOR TERMNTN. OF MF MTGE. INS.
00355	83-27	01/01/84	LEGISLATIVE CHANGES COVERING INTEREST RATES.
00356	84-0008	03/30/84	CHANGES TO ONE-TIME MORTGAGE INSURANCE PREMIUM (MIP) AND INVESTOR LOAN-TO-VALUE RATIOS.
00357	84-06	03/27/84	SINGLE FAMILY CONDOMINIUM PROVISIONS OF THE HOUSING AND URBAN-RURAL RECOVERY ACT OF 1983.
00358	84-09	04/02/84	ONE-TIME MORTGAGE INSURANCE PREMIUM (MIP) REFUNDS AND DISTRIBUTIVE SHARES.
00359	84-15	07/02/84	FHA SINGLE FAMILY MORTGAGE INSURANCE PROGRAMS.

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00360	84–16	07/18/84	INSURANCE OF ADJUSTABLE RATE MORTGAGES ON SINGLE FAMILY PROPERTIES SEC 251 OF THE NATIONAL HOUSING ACT.
00361	84–21	10/22/84	REACTIVATION OF THE SEC 235 HOMEOWNERSHIP ASSISTANCE PROGRAM.
00362	84–24	11/26/84	PRINCIPAL ACTIVITY REQUIREMENT AND CLOSING FHA LOANS.
00363	85–03	03/15/85	GROWING EQUITY MORTGAGES (GEMS).
00364	85–04	03/27/85	FLOOD INSURANCE REQUIREMENTS.
00365	85–06	04/08/85	SINGLE FAMILY ORIGINATION—ONE-TIME MORTGAGE INSURANCE PREMIUM WIRE TRANSFER.
00366	85–07	04/11/85	MORTGAGEE MONITORING—FINDINGS.
00367	85–14	06/10/85	SINGLE FAMILY ORIGINATION TRANSFER OF DIRECT ENDORSEMENT CASES.
00368	85–23	09/27/85	CHANGE IN MORTGAGEE'S STATUS FROM SUPERVISED TO NONSUPERVISED.
00369	85–24	11/08/85	SINGLE FAMILY PRODUCTION—ADJUSTABLE RATE MORTGAGES (ARMS).
00370	85–25	11/08/85	IMPLEMENTING WIRE TRANSFERS OF MULTIFAMILY CLAIMS PAYABLE IN CASH OF $5,000 OR MORE.
00371	86–003	01/28/86	SINGLE FAMILY PRODUCTION—MONITORING MORTGAGEE PERFORMANCE INVESTOR PROCESSING DIRECT ENDORSEMENT CONVERSIONS.
00372	86–006	02/27/86	REVISED REGULATIONS CONCERNING HUD APPROVED LOAN CORRESPONDENTS.
00373	86–008	03/24/86	INSURANCE REQUIREMENTS—MULTIFAMILY HOUSING PROJECTS.
00374	86–010	05/05/86	SINGLE FAMILY PRODUCTION—REQUIRING SIGNATURES ON HUD–1—SETTLEMENT STATEMENT AND OTHER QUALITY CONTROL PROCEDURES.
00375	86–010 ADDENDUM	06/03/86	ML 86–10, SINGLE FAMILY PRODUCTION, REQUIRING SIGNATURES ON HUD–1—SETTLEMENT STATEMENT.
00376	86–011	06/23/86	FREE DISTRIBUTION OF HUD FORMS DISCONTINUED.
00377	86–013	07/30/86	REQUESTS FOR APPRAISALS/CONDITIONAL COMMITMENTS.
00378	86–016	08/22/86	SINGLE FAMILY PRODUCTION—REQUESTS TO INCREASE THE SINGLE FAMILY MAXIMUM MORTGAGE LIMITS.
00379	86–018	09/18/86	SINGLE FAMILY AND MULTIFAMILY PRODUCTION—GUIDELINES REGARDING LAPSES OF INSURANCE AUTHORITY AND CREDIT CAP LIMITS.
00380	86–020	11/24/86	SINGLE FAMILY PRODUCTION—IMPLEMENTATION OF CHUMS PHASE II AND COMPUTER GENERATED MORTGAGE INSURANCE CERTIFICATES.
00381	86–023	12/05/86	QUESTIONS AND ANSWERS ON MORTGAGEE LETTER 86–15.
00382	86–024	12/08/86	REMOVAL OF APPLIANCES BY MORTGAGEES' CLEANING CREWS FROM PROPERTIES BEING CONVEYED TO HUD.
00383	86–025	12/30/86	DISCONTINUANCE OF HUD RESALE TITLE BINDER PROGRAM.
00384	87–0017	06/09/87	CREDIT ALERT INTERACTIVE VOICE RESPONSE SYSTEM.
00385	87–0018	06/22/87	SINGLE FAMILY PRODUCTION—LENDER PREPARATION AND SUBMISSION OF UNIFORM CASE BINDER.
00386	87–0019	06/22/87	USE OF THE NEW FORMS HUD–92800 AND HUD–92800.5B.
00387	87–0022	07/28/87	USE OF PROJECT RESERVE/RESIDUAL RECEIPT ACCOUNTS TO CURE A POTENTIAL MORTGAGE DEFAULT.
00388	87–0024	08/31/87	REFINANCE TRANSACTIONS—ADDITIONAL INSTRUCTIONS AND CLARIFICATIONS.
00389	87–0025	09/08/87	FRAUD ALERT—FICTITIOUS NOTICES OF MORTGAGE TRANSFER OF SALE.
00390	87–0027	09/15/87	CLARIFICATION OF MORTGAGEE LETTER 87–12 ISSUES.
00391	87–0028	09/28/87	SECTION 245(B) - MODIFIED GRADUATED PAYMENT MORTGAGE.
00392	87–0029	10/05/87	ELIGIBILITY FOR TITLE II MORTGAGE INSURANCE OF MANUFACTURED HOMES WITH REMOVABLE CHASSIS CONSTRUCTED IN ACCORDANCE WITH DESIGNS APPROVED BEFORE 8/22/86.
00393	87–003	01/27/87	SINGLE FAMILY PRODUCTION—PROCEDURES.
00394	87–0031	10/15/87	CHANGES TO THE ADJUSTABLE RATE MORTGAGE (ARM) PROGRAM FOR FY 1988.
00395	87–0032	10/19/87	SINGLE FAMILY PROCESS. PROCEDURES—SHARED EQUITY IDENTITY OF INTEREST, UNIFORM RESIDEN. APPRAIS. REPORT SALES DATA, PROHIBITED KICKBACK PAYMENTS, MORTGAGOR BORROWING FUNDS.
00396	87–0034	10/21/87	SINGLE FAMILY PRODUCTION—CLARIFICATIONS AND CHANGES TO MORTGAGEE LETTER 87–018.
00397	87–0035	10/22/87	SINGLE FAMILY PRODUCTION—REVISIONS TO INTEREST BUYDOWN POLICY.
00398	87–0039	11/30/87	CHANGES TO THE TERM OF HUD CONDITIONAL COMMITMENTS ISSUED FOR PROPOSED CONSTRUCTION.
00399	87–006	02/02/87	SINGLE FAMILY DEVELOPMENT—STREAMLINED REFUND PROCESS FOR REFINANCE TRANSACTIONS.
00400	87-009	02/20/87	MORTGAGE PREPAYMENT PROVISIONS FOR HUD-INSURED AND COINSURED MULTIFAMILY PROJECTS.
00401	87-009 SUPP	07/31/87	ADDENDUM TO MORTGAGEE LETTER 87-009-2530 CLEARANCE PROCEDURES.
00402	87-010	03/09/87	SINGLE FAMILY PRODUCTION—IMPLEMENTATION OF UNIFORM RESIDENTIAL APPRAISAL REPORT AND NEW FORMS HUD-92800 AND 92800.5B.
00403	87-012	04/06/87	SINGLE FAMILY PROCESSING PROCEDURES—APPLICANT IDENTIFICATION REQUIREMENTS, INVESTOR LOANS, RESIDUAL INCOME MORTGAGE CERTIFICATION.
00404	87-013	04/09/87	SPONSOR'S SUPERVISION AND QUALITY CONTROL OF LOAN CORRESPONDENTS.
00405	87-014	04/23/87	OPERATIONAL JURISDICTION FOR MULTIFAMILY PROJECTS.
00407	88-0002	02/05/88	IMPLEMENTATION OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1987—SINGLE FAMILY PROVISIONS.
00409	88-0003	02/09/88	PREPAYMENT OF A HUD-INSURED MORTGAGE BY AN OWNER OF LOW-INCOME HOUSING.

INVENTORY OF CURRENT HUD DIRECTIVES—Continued

Item No.	Directive No.	Issue date	Directive title
00410	88-0004	02/24/88	REVISED CREDIT ALERT INTERACTIVE VOICE RESPONSE SYSTEM (CAIVRS)—COMBINING TITLE I AND TITLE II RECORDS—ADDITIONAL PROCESSING INSTRUCTIONS.
00411	88-0005	02/29/88	SINGLE FAMILY DEVELOPMENT—CERTIFICATIONS OF MECHANICAL EQUIPMENT, ROOFING OR STRUCTURAL COMPONENTS BY QUALIFIED HOME INSPECTORS (EXISTING PROPERTIES).
00412	88-0011	04/06/88	MORTGAGE INSURANCE ON INDIAN RESERVATIONS AND OTHER RESTRICTED LANDS.
00413	88-0013	04/28/88	SARABOND TESTING.
00414	88-0014	05/17/88	SINGLE FAMILY PRODUCTION—REQUESTS TO INCREASE THE SINGLE FAMILY MAXIMUM MORTGAGE LIMITS.
00415	88-0015	05/18/88	SUBMISSION OF ATTACHMENT A, ASSUMPTION POLICY, STREAMLINE REFINANCE, ALLOWABLE FEES.
00416	88-0016	05/19/88	SINGLE FAMILY PRODUCTION—INCLUDING HOME INSPECTION FEES IN CLOSING COSTS.
00417	88-0019	05/31/88	EMPLOYMENT OF INDIVIDUALS THAT HAVE BEEN DEBARRED, SUSPENDED OR ARE THE SUBJECT OF A LIMITED DENIAL OF PARTICIPATION.
00418	88-0022	07/11/88	ANNUAL INSPECTION OF INSURED PROJECTS.
00419	88-0024	06/27/88	SHARED EQUITY PROGRAM.
00420	88-0026	07/21/88	DISCLOSURE REQUIREMENTS CONCERNING THE ORIGINATION OF ADJUSTABLE RATE MORTGAGES (ARMS).
00421	88-0029	08/26/88	FHA DEBENTURES.
00422	88-0030	09/09/88	SINGLE FAMILY PRODUCTION—CLARIFICATIONS AND CHANGES TO PROCESSING PROCEDURES.
00423	88-0034	10/31/88	PURCHASE OF HUD FORMS FROM THE U.S. GOVERNMENT PRINTING OFFICE.
00424	88-0035	11/03/88	PURCHASE OF MORTGAGES PRIOR TO ISSUANCE OF MICS.
00425	88-0037	12/01/88	SINGLE FAMILY PRODUCTION—RECAP OF HUD'S TEMPORARY INTEREST BUYDOWN POLICY.
00426	88-0038	12/22/88	HOME EQUITY CONVERSION MORTGAGE INSURANCE DEMONSTRATION—PROCEDURES FOR APPLYING FOR RESERVATIONS OF INSURANCE AUTHORITY.
00427	89-0001	01/04/89	SINGLE FAMILY SUBDIVISION PROCESSING REQUIREMENTS—VA/CRVS AND MCRVS.
00428	89-0002	01/18/89	CHECKLIST OF HOUSING MORTGAGEE LETTERS.
00429	89-0007	01/19/89	GROWING EQUITY MORTGAGE PROGRAM.
00430	89-0009	02/01/89	REVISED SINGLE FAMILY SUBDIVISION PROCESSING REQUIREMENTS—VA/CRVS AND MCRVS.
00431	89-0012	03/28/89	INVESTMENT OF REPLACEMENT RESERVES AND RESIDUAL RECEIPTS IN TAX-EXEMPT SECURITIES.
00432	89-0013	03/29/89	CLARIFICATION OF RESIDENTIAL MORTGAGE CREDIT REPORT STANDARDS.
00433	89-0016	05/22/89	PROVIDING HOUSING THROUGH LOCAL GOVERNMENT PARTICIPATION.
00434	89-0020	06/27/89	SINGLE FAMILY LOAN PRODUCTION—MODIFICATIONS TO MORTGAGE CREDIT UNDERWRITING.
00435	89-0023	10/11/89	SINGLE FAMILY LOAN PRODUCTION—REQUIREMENTS FOR SINGLE FAMILY MORTGAGE INSTRUMENTS.
00436	89-0024	09/29/89	INSURANCE OF ADJUSTABLE RATE MORTGAGES ON SINGLE FAMILY PROPERTIES SECTION 251 OF THE NATIONAL HOUSING ACT.
00437	89-0025	10/20/89	SINGLE FAMILY LOAN PRODUCTION—USE OF EFFECTIVE GROSS INCOME TO CALCULATE BORROWER QUALIFYING RATIOS AND CHANGES TO UNDERWRITING INVESTOR APPLICATIONS.
00438	89-0031	12/26/89	SINGLE FAMILY LOAN PRODUCTION—IMPLEMENTATION OF CERTAIN PROVISIONS OF THE "DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT REFORM ACT OF 1989."
00439	89-0032	12/26/89	QUALITY CONTROL PLAN FOR APPROVED MORTGAGES.
00440	90-0001	01/17/90	CHECKLIST OF HOUSING MORTGAGEE LETTERS.
00442	90-0002	01/11/90	PREPAYMENT OF HUD-INSURED MORTGAGE BY AN OWNER OF LOW-INCOME HOUSING.
00444	90-0005	02/21/90	STANDARDS FOR AUDITS OF ALL HUD-APPROVED NONSUPERVISED MORTGAGEES AND LOAN CORRESPONDENTS.
00445	90-0012	04/16/90	REFORM ACT OF 1989—EMPHASIS ON ENFORCEMENT OF SERVICING REQUIREMENTS.
00446	90-0013	04/26/90	OMB'S GUIDANCE ON GOVERNMENTWIDE NEW RESTRICTIONS ON LOBBYING.
00447	90-0014	05/07/90	USE OF GOOD FAITH ESTIMATES TO ESTABLISH CLOSING COSTS AND OTHER ALLOWABLE FEES, AND HUD-1 DISCLOSURE OF THIRD PARTY PARTICIPATION.
00448	90-0015	05/01/90	PURSUING COLLECTION OF FUNDS FROM MORTGAGORS WHOSE MORTGAGES HAVE BEEN FORECLOSED UPON TO OFFSET LENDER'S MORTGAGE LOSSES.
00449	90-0016	05/22/90	FLOOD INSURANCE REQUIREMENTS FOR FHA INSURED LOANS.
00450	90-0017	05/29/90	HOME EQUITY CONVERSION MORTGAGE (HECM) INSURANCE PROGRAM, CHANGES AND AMENDMENTS TO HUD HANDBOOK 4235.1.
00451	90-0019	06/15/90	PROCESSING OF ASSUMPTION TRANSACTIONS BY AUTHORIZED AGENTS.

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Item No.	Directive No.	Issue date	Directive title
00452	90–0020	06/26/90	SINGLE FAMILY LOAN PRODUCTION—REFINANCE TRANSACTIONS INVOLVING TEMPORARY BUYDOWNS—"LIVE FREE" MORTGAGE PROGRAMS—"CHURNING" MORTGAGES BY MULTIPLE REFINANCES—NEW TEL. NO. FOR CREDIT ALERT INTERACTIVE VOICE RESPONSE SYSTEM (CAIVRS).
00453	90–0024	07/16/90	DEBENTURE INTEREST RATES.
00454	90–0025	07/18/90	HOME MORTGAGE DISCLOSURE REPORTING REQUIREMENTS.
00455	90–0026	07/26/90	SINGLE FAMILY PRODUCTION—PROVIDING PROPERTY CONDITION DISCLOSURE STATEMENTS TO APPRAISERS.
00456	90–0028	08/10/90	SINGLE FAMILY PRODUCTION—FIELD REVIEW OF APPRAISALS INVOLVING FORMER HUD-OWNED PROPERTIES.
00457	90–0029	08/09/90	SUPPLEMENTAL INFORMATION TO MORTGAGEE LETTER 90–14, USE OF GOOD FAITH ESTIMATES TO ESTABLISH CLOSING COSTS.
00458	90–0031	08/23/90	SINGLE FAMILY LOAN PRODUCTION—COMPLIANCE WITH THE BYRD AMENDMENT—CLARIFICATION TO MORTGAGEE LETTER 90–13.
00459	90–0032	08/24/90	PAYMENT OF MULTIFAMILY CLAIMS BY ISSUANCES OF DEBENTURES.
00460	90–0036	09/28/90	SINGLE FAMILY LOAN PRODUCTION—DIRECT ENDORSEMENT PROCESSING OF SECTION 203(K) REHABILITATION MORTGAGE INSURANCE.
00461	90–0038	10/25/90	SINGLE FAMILY LOAN PRODUCTION—STREAMLINE REFINANCING OF FHA-INSURED ADJUSTABLE RATE MORTGAGES—COMPLETION OF FORM HUD–92800.
00462	90–0040	11/28/90	CHANGE IN MAXIMUM INTEREST RATES.
00463	90–0041	11/21/90	MORTGAGEES' OBLIGATIONS IN REMITTING LATE CHARGES AND INTEREST PAYMENTS FOR DELINQUENT ONE-TIME MORTGAGE INSURANCE PREMIUM (OTMIP) REMITTANCES.
00464	90–0044	12/02/90	DEBENTURE INTEREST RATES.
00465	90–0051 (HUD) H	08/02/90	SINGLE FAMILY PROPERTY DISPOSITION PRICING OF PROPERTIES.
00466	91–0001	01/10/91	SINGLE FAMILY LOAN PRODUCTION—IMPLEMENTATION OF CERTAIN PROVISIONS OF THE 1990 HOUSING LEGISLATION.
00467	91–0002	01/11/91	DELEGATED PROCESSING SERVICES FOR MULTIFAMILY MORTGAGE INSURANCE PROGRAMS.
00469	91–0004	01/25/91	SINGLE FAMILY DEVELOPMENT—ACCEPTANCE OF INDIVIDUAL RESIDENTIAL WATER PURIFICATION EQUIPMENT.
00471	91–0008	02/11/91	SINGLE FAMILY LOAN PRODUCTION—UPDATED REQUIREMENTS FOR SINGLE FAMILY MORTGAGE INSTRUMENTS.
00472	91–0009	02/11/91	SINGLE FAMILY LOAN PRODUCTION—PROVIDING CLOSING INSTRUCTIONS TO SETTLEMENT AGENT AND REVISED HUD–1 CERTIFICATIONS.
00473	91–0012	02/28/91	SINGLE FAMILY LOAN PRODUCTION—USE OF THE DEPT. OF VETERANS AFFAIRS (VA)/U.S. DEPT. OF HUD WOOD DESTROYING INSECT INFORMATION REPORT FOR EXISTING CONSTRUCTION, VA FORM 26–8850/HUD FORM 92053 DATED APRIL 1983.
00476	91–0015	03/11/91	SINGLE FAMILY LOAN PRODUCTION CLARIFICATION TO MORTGAGEE LETTER 89–31 (ELIMINATION OF PRIVATE INVESTORS).
00477	91–0017	03/20/91	MORTGAGEE RESPONSIBILITIES PENDING ASSIGNMENT OF MULTIFAMILY MORTGAGES.
00478	91–0018	03/22/91	HOME MORTGAGE DISCLOSURE REPORTING REQUIREMENTS.
00479	91–0019	04/09/91	AUCTION OF SECTION 221(G)(4) MULTIFAMILY MORTGAGES.
00481	91–0023	05/28/91	MULTIFAMILY MORTGAGE INSURANCE PREMIUMS.
00483	91–0024	05/28/91	SINGLE FAMILY LOAN PRODUCTION—IMPLEMENTATION OF LIMIT ON FINANCING CLOSING COSTS.
00485	91–0025	05/28/91	PREPAYMENT OF A HUD–INSURED MORTGAGE BY AN OWNER OF LOW INCOME HOUSING.
00486	91–0026	05/30/91	SINGLE FAMILY INSURANCE PROCESSING FOR RISK BASED MORTGAGE INSURANCE PREMIUMS.
00487	91–0027	06/04/91	MORTGAGE CRAMDOWNS.
00488	91–0028	06/18/91	PARTICIPATION IN THE AUTOMATED CLEARING HOUSE PROGRAM FOR PAYING UP–FRONT SINGLE FAMILY MORTGAGE INSURANCE PREMIUMS.
00489	91–0029	06/18/91	AUCTION OF SECTION 221(G)(4) MULTIFAMILY MORTGAGES.
00490	91–0030	07/03/91	DEBENTURE INTEREST RATES.
00491	91–0031	07/22/91	DELINQUENT FEDERAL DEBT.
00494	91–0035	08/07/91	ANNOUNCEMENT OF RECONCILIATION GROUP FOR RISK-BASED PREMIUMS.
00495	91–0036	08/12/91	COLLECTION OF INTEREST ON ONE-TIME MORTGAGE INSURANCE PREMIUM PAYMENTS THAT WERE MADE LATE.
00496	91–0037	08/12/91	CIVIL MONEY PENALTIES AGAINST MORTGAGEES—IMPLEMENTATION OF THE HUD REFORM ACT.
00499	91–0042	09/06/91	AVAILABILITY OF FLOOD INSURANCE BROCHURES.
00500	91–0043	09/16/91	SINGLE FAMILY LOAN PRODUCTION—STATE LICENSING REQUIREMENTS FOR APPRAISERS AND ITS IMPACT ON THE DIRECT ENDORSEMENT PROGRAM.
00501	91–0044	09/18/91	SINGLE FAMILY LOAN PRODUCTION—CLARIFICATION TO MORTGAGEE LETTER 91–24 ON LENDER PAID CLOSING COSTS.
00502	91–0046	09/24/91	CHANGE IN MAXIMUM INTEREST RATES.
00503	91–0050	12/31/91	SINGLE FAMILY LOAN PRODUCTION—REVISED INTEREST RATE DISCLOSURE STATEMENT.

INVENTORY OF CURRENT HUD DIRECTIVES—Continued

Item No.	Directive No.	Issue date	Directive title
00504	91-0051	12/31/91	SINGLE FAMILY LOAN PRODUCTION UNDERWRITING CLARIFICATIONS AND MODIFICATIONS.
00525	92-0001	01/01/92	CHECKLIST OF HOUSING MORTGAGEE LETTERS.
00528	92-0003	01/27/92	DEBENTURE INTEREST RATES.
00529	92-0004	02/06/92	EFFECT OF AGENT ORANGE COMPENSATION EXCLUSION ACT ON SECTION 235 MORTGAGES.
00534	92-0006	02/13/92	HOME MORTGAGE DISCLOSURE ACT (HMDA).
00535	92-0007	03/02/92	SINGLE FAMILY LOAN PRODUCTION—IMPLEMENTING OF THE UNIFORM RESIDENTIAL LOAN APPLICATION (URLA), HUD/VA ADDENDUM TO URLA (FORM HUD 92900-A) AND REQUEST FOR ENDORSEMENT (FORM HUD-54111).
00540	92-0009	03/03/92	USE OF THE CREDIT ALERT INTERACTIVE RESPONSE SYSTEM (CAIVRS) IN DEEDS-IN-LIEU OF FORECLOSURE.
00542	92-0010	03/24/92	SINGLE FAMILY LOAN PRODUCTION—ENHANCEMENTS TO CLAS.
00547	92-0013	03/27/92	AUTOMATIC CLEARING HOUSE (ACH) INFORMATION PACKAGE.
00548	92-0014	04/24/92	SINGLE FAMILY LOAN PRODUCTION—EXEMPTION FROM ANNUAL MIP FOR STREAMLINE REFINANCE MORTGAGES.
00550	92-0015	05/12/92	SINGLE FAMILY LOAN PRODUCTION—MISCELLANEOUS CHANGES TO UNDERWRITING GUIDELINES AND DOCUMENTATION REQUIREMENTS.
00551	92-0016	05/14/92	MORTGAGE INSURANCE ON INDIAN RESERVATIONS AND OTHER RESTRICTED LANDS (SECTION 248).
00553	92-0017	05/22/92	SERVICING FHA-INSURED MORTGAGES AFFECTED BY THE LOS ANGELES RIOTS (APRIL 30, 1992).
00554	92-0018	06/05/92	SINGLE FAMILY LOAN PRODUCTION—ACCEPTANCE OF INDIVIDUAL RESIDENTIAL WATER PURIFICATION EQUIPMENT.
00556	92-0019	06/05/92	PREPAYMENT DISCLOSURE STATEMENTS—CORRECTION TO THE FEDERAL REGISTER NOTICE, CORRECTION DATED APRIL 13, 1992.
00557	92-0020	06/29/92	FIRST LEGAL ACTION TO COMMENCE FORECLOSURE—TEXAS, COLORADO, AND MASSACHUSETTS.
00559	92-0021	07/01/92	ADDITIONAL EXTENSION OF TIME TO INITIATE FORECLOSURE TO PERMIT COMPLIANCE WITH ASSIGNMENT LETTER OR STATE NOTICE REQUIREMENTS AFTER RELEASE FROM BANKRUPTCY STAY.
00561	92-0022	07/20/92	ANNOUNCEMENT OF AUTOMATED CLEARING HOUSE PAYMENTS (ACH) FOR MONTHLY RISK-BASED MORTGAGE INSURANCE PREMIUMS.
00563	92-0023	07/20/92	DEBENTURE INTEREST RATES.
00565	92-0024	08/11/92	SINGLE FAMILY LOAN PRODUCTION—REVISED LEAD-BASED PAINT NOTIFICATION TO PROSPECTIVE HOMEBUYERS.
00567	92-0025	08/11/92	SINGLE FAMILY LOAN PRODUCTION—CONSTRUCTION/PERMANENT MORTGAGES PILOT PROGRAM.
00570	92-0026	08/13/92	PROMPT REMITTANCE OF MORTGAGE INSURANCE PREMIUMS (MIPS).
00573	92-0027	08/28/92	SERVICING FHA-INSURED MORTGAGES AFFECTED BY HURRICANE ANDREW.
00575	92-0028	09/14/92	PREPAYMENT DISCLOSURE STATEMENTS—EXTENSION FOR FIRST MAILING OF THE ANNUAL DISCLOSURE STATEMENT.
			Mortgagee Letters
00577	92-0029	09/15/92	SINGLE FAMILY MORTGAGE INSURANCE CLAIM SUBMISSIONS AND INQUIRIES.
00580	92-0030	09/15/92	SECTION 221(G)(4) PROJECT MORTGAGE AUCTION.
00583	92-0031	09/17/92	EXPANSION OF THE CREDIT ALERT INTERACTIVE VOICE RESPONSE SYSTEM (CAIVRS).
00587	92-0032	09/23/92	SINGLE FAMILY LOAN PRODUCTION—THE REVISED LEAD-BASED PAINT NOTICE.
00590	92-0033	09/28/92	SINGLE FAMILY LOAN PRODUCTION—CLARIFICATION AND MODIFICATIONS 203(D) REHAB PROGRAM.
00593	92-0034	09/30/92	SINGLE FAMILY LOAN PRODUCTION—PROGRAM AND UNDERWRITING CHANGES TO ASSIST DISASTER VICTIMS OF RECENT HURRICANES.
00596	92-0035	10/02/92	SINGLE FAMILY LOAN PRODUCTION—MISCELLANEOUS POLICY ISSUES.
00598	92-0036	10/05/92	NEW REMITTANCE FORM HUD-2752, "RISK-BASED ANNUAL PREMIUMS: MONTHLY REMITTANCE SUMMARY".
00602	92-0037	10/13/92	SINGLE FAMILY CLAIMS FOR INSURANCE BENEFITS: NEW INITIATIVES, SYSTEM ENHANCEMENTS AND POLICY CLARIFICATIONS.
00604	92-0038	10/15/92	SERVICING FHA-INSURED MORTGAGES AFFECTED BY HURRICANE INIKI.
00608	92-0039	10/16/92	SINGLE FAMILY LOAN PRODUCTION—ELIMINATION OF LIMIT ON FINANCING CLOSING COSTS.
00612	92-0040	11/02/92	ASSISTANCE TO MORTGAGORS ADVERSELY AFFECTED BY HURRICANE ANDREW.
00616	92-0041	11/04/92	HAZARD INSURANCE PROCEEDS.
00618	92-0042	11/05/92	SERVICING FHA-INSURED MORTGAGES AFFECTED BY TYPHOON OMAR.
00620	92-0043	12/10/92	SINGLE FAMILY LOAN PRODUCTION—PROVISIONS OF RECENT HOUSING LEGISLATION AND MORTGAGE INSURANCE PREMIUMS ON 15-YEAR MORTGAGES.
00687	93-0001	01/06/93	EXPANSION OF HUD'S PRE-FORECLOSURE SALE (PFS) PROGRAM DEMONSTRATION.
00692	93-0002	01/07/93	NEW REGULATIONS FOR MORTGAGEE APPROVAL AND THE DIRECT ENDORSEMENT PROGRAM—SINGLE FAMILY LOAN PRODUCTION.
00697	93-0003	01/08/93	REFINANCING SECTION 235 MORTGAGES—SUPERSEDING MORTGAGEE LETTER 91-22.

INVENTORY OF CURRENT HUD DIRECTIVES—Continued

Item No.	Directive No.	Issue date	Directive title
00702	93–0004	01/19/93	DEBENTURE INTEREST RATES.
00706	93–0005	01/27/93	SINGLE FAMILY LOAN PRODUCTION—BYRD AMENDMENT COMPLIANCE (SECTION 319 OF PUBLIC LAW 101–121).
00710	93–0006	01/28/93	ADVISORY REGARDING THE FILING OF FORM HUD–27050A, "MORTGAGE INSURANCE TERMINATION," IN THE CONTEXT OF THE PREFORECLOSURE SALE PROGRAM.
00714	93–0007	03/12/93	IMPLEMENTATION OF MANDATORY DIRECT ENDORSEMENT PROCESSING.
00717	93–0008	03/12/93	FACTORS FOR COMPUTING FORMULA TWO ASSISTANCE PAYMENTS UNDER SECTION 235(R)—SECTION 235(R) FACTOR TABLES.
00721	93–0009	03/22/93	REVISED APPLICATION TO PARTICIPATE IN THE AUTOMATED CLEARING HOUSE.
00725	93–0010	04/05/93	SINGLE FAMILY CLAIMS FOR INSURANCE BENEFITS: ELECTRONIC DATA INTERCHANGE PILOT IMPLEMENTATION.
00729	93–0011	05/10/93	FHA SINGLE FAMILY INSURANCE CLAIMS—HANDBOOK 4330.04—CLARIFICATIONS AND CORRECTIONS.
00733	93–0012	06/03/93	RECORDKEEPING REQUIREMENTS FOR RESERVE FUND FOR REPLACEMENT ACTIVITIES AND FORMS HUD–9250.
00737	93–0013	05/24/93	SINGLE FAMILY LOAN PRODUCTION—ENERGY EFFICIENT MORTGAGE PILOT PROGRAM.
00741	93–0014	05/26/93	QUALITY CONTROL FOR ORIGINATION AND SERVICING REVISIONS TO MORTGAGEE LETTER 89–32.
00745	93–0015	06/04/93	DELINQUENT FEDERAL DEBT UNDER HUD'S MULTIFAMILY HOUSING PROGRAMS.
			Title I Letters
00788	TI-0360	05/07/85	NOTICE TO BORROWER OF HUD'S ROLE IN TITLE I LOANS.
00789	TI-0392	01/11/88	OBTAINING APPRAISAL SERVICES ON MANUFACTURED HOMES.
00790	TI-0394	03/10/88	CREDIT ALERT INTERACTIVE VOICE RESPONSE SYSTEM.
00791	TI-0398	11/03/88	THIRD REGIONAL SERVICE CENTER ESTABLISHED.
00792	TI-0399	11/17/88	ADDITIONAL FORMS AVAILABLE FROM GOVERNMENT PRINTING OFFICE.
00793	TI-0400	05/11/89	NEW TITLE I REGULATIONS.
00794	TI-0401	09/18/89	MAJOR CHANGES TO TITLE I REGULATIONS THAT BECOME EFFECTIVE OCTOBER 9, 1989.
00795	TI-0405	08/22/90	PROHIBITION ON THE USE OF LOAN BROKERS IN THE TITLE I PROGRAM.
00796	TI-0406	01/29/91	PROPOSED REFORM OF THE TITLE I PROGRAM.
00797	TI-0407	02/25/91	TITLE I EXPRESS TELEPHONE SERVICE.
00798	TI-0408	03/12/91	REQUIRED STATEMENT TO BE INCLUDED IN NOTICES OF DEFAULT AND ACCELERATION.
00799	TI-0409	08/23/91	IMPOSITION OF CIVIL MONEY PENALTIES AGAINST TITLE I LENDERS, DEALERS AND LOAN CORRESPONDENTS UNDER THE DEPARTMENT OF HUD REFORM ACT OF 1989.
00800	TI-0410	08/23/91	PROCEDURES FOR APPEAL OF A CLAIM DENIAL OR REQUEST FOR A WAIVER OF NONCOMPLIANCE.
00801	TI-0411	10/04/91	CLARIFICATION OF REQUIREMENTS FOR PAYMENT OF TITLE I LOAN INSURANCE CHARGES.
00802	TI-0412	10/18/91	IMPLEMENTATION OF TITLE I PROGRAM REFORMS.
00803	TI-0413	11/18/91	NOTICE TO THE BORROWER OF HUD'S ROLE IN TITLE I LOANS.
00804	TI-0414	11/18/91	VERIFICATION OF BORROWER'S SOCIAL SECURITY NUMBER.
00805	TI-0415	01/03/92	EQUITY REQUIREMENT FOR PROPERTY IMPROVEMENT LOANS IN EXCESS OF $15,000.
00806	TI-0416	08/04/92	REVISED FORMS AVAILABLE FROM GOVERNMENT PRINTING OFFICE.
00807	TI-0417	08/04/92	REPROCESSING FEES FOR SUPPLEMENT CLAIMS.
00808	TI-0418	08/10/92	CHANGE OF NOTIFICATION OF ANNUAL RECERTIFICATION PROCEDURES.
00809	TI-0419	09/30/92	INCREASED MAXIMUM LOAN AMOUNTS AND LOAN TERMS FOR TITLE I PROPERTY IMPROVEMENT LOANS.
00810	TI-0420	10/26/92	WAIVER OF THE TITLE I REGULATIONS TO BENEFIT VICTIMS OF HURRICANE ANDREW AND INIKI.
00811	TI-0421	11/25/92	REVISED TITLE I REGULATIONS HANDBOOK.
00812	TI-0422	04/02/93	RELOCATION OF THE TITLE I INSURANCE DIVISION.
00813	TI-369	03/17/85	PROGRAM INTEGRITY BULLETIN.
00814	TI-376	07/22/86	SUBORDINATION OF SECURITY.
00815	TI-379	09/25/86	PRE-CLAIM COLLECTION ASSISTANCE.
00816	TI-387	03/20/87	UNILATERAL REDUCTION OF INTEREST RATES FOR LOANS THAT ARE NOT DELINQUENT OR IN DEFAULT.

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0013	0044	0075	0106	0137	0168	0199	0230	0261	0292	0323	0354	0385	0416	0447	0478
0014	0045	0076	0107	0138	0169	0200	0231	0262	0293	0324	0355	0386	0417	0448	0479
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0016	0047	0078	0109	0140	0171	0202	0233	0264	0295	0326	0357	0388	0419	0450	0481
0017	0048	0079	0110	0141	0172	0203	0234	0265	0296	0327	0358	0389	0420	0451	0482
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[FR Doc. 93-27015 Filed 11-4-93; 8:45 am]
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federal register

Friday
November 5, 1993

Part III

Department of Health and Human Services

Public Health Service

Funds for Family Planning Research Grant; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Announcement of Availability of Funds for Family Planning Research Grant

AGENCY: Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The Office of Population Affairs requests applications for a grant under the family planning and population research program, authorized under section 1004(2) of title X of the Public Health Service (PHS) Act (42 U.S.C. 300a–2(2)). Projects funded under section 1001 of title X provide free or low-cost, voluntary family planning services to over 4 million clients annually, mostly women, throughout the 50 States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands and the Republic of Palau. The program's priorities include serving persons from low-income families, adolescents, and others for whom other sources of family planning services are inaccessible. Many persons have observed that gaps exist in the array of data and analyses needed by administrators, planners and researchers in the field of family planning. The need for such data is likely to increase as health care reform progresses. The purpose of this proposed grant is to increase the availability of data and research-based information which will be useful to family planning administrators and providers, researchers and officials of local, State and Federal government to improve the delivery of family planning services to persons needing and desiring such services.

The PHS is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity for setting priority areas. This announcement is related to the priority area of family planning. 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).

(OMB Catalog of Federal Domestic Assistance: 13.974)

DATES: Applications will be considered on time if they are either (1) received on or before February 3, 1994 or (2) sent on or before February 3, 1994 and received in time for orderly processing. (Applicants should request 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 will not be accepted for review. Applications which do not conform to the requirement of this program announcement also will not be accepted for review. Applicants will be notified, and the applications will be returned.

ADDRESSES: Application kits may be obtained from and applications must be submitted to the Office of Population Affairs, Grants Management Office. If mailed through regular U.S. Postal Service, address as follows: North Building—East-West Highway, 5600 Fishers Lane, Rockville, MD 20857. For Federal Express or Special Messenger, address as follows: North Building, suite 1115, 4330 East-West Highway, Bethesda, MD 20814.

FOR FURTHER INFORMATION CONTACT: Barbara Rosenberg Director, Grants Management Office, at (301) 594–4012, or Eugenia Eckard, Acting Director of Research and Evaluation, at (301) 594–4008, are available to answer questions and provide limited technical assistance in the preparation of grant applications.

SUPPLEMENTARY INFORMATION: Title X of the Public Health Service Act, 42 U.S.C. 300, *et seq.*, authorizes the Secretary of Health and Human Services to award grants for projects for research in biomedical, contraceptive development, behavioral, and program implementation fields related to family planning and population. (Catalog of Federal Domestic Assistance Number 13.974.) The Administration's FY 1994 budget request for family planning services, training and research is $208 million which represents a 20 percent increase over the appropriation for FY 1993 of $173 million, of which $2.1 million was awarded in contracts and grants for family planning service delivery improvement research. This program announcement is subject to the appropriation of funds and is a contingency action being taken to assure that, should funds become available for this purpose, they can be awarded in a timely fashion consistent with the needs of the program. This notice announces the availability of approximately $300,000 to $400,000 in funding for one (1) year of the five-year research project described below; it is anticipated that $300,000 to $400,000 will be available annually for funding the remaining years of the project.

One grant with a project period of five years will be made to a public or private nonprofit organization to conduct data analyses and related research on issues of interest to the family planning field. This should include developing estimates and assessments on such topics as the need for family planning services, the population currently being served, characteristics of served and underserved populations, and scope of services provided in family planning programs. In order to be competitive, an application should (1) describe a set of information needs in the field of family planning in the United States deemed by the applicant to represent the most pressing data gaps for the efficient and effective provision of family planning services, and (2) propose a coherent five year program of research, data analysis, estimation and/or assessment designed to fill these needs in a practical and creative manner. The application should outline the frequency of any particular proposed analyses (i.e., continuously, annually, biennially, or once during the five year project period of this grant), describe the methodologies to be used, and propose a plan to make accessible the products of this project to the audience intended, (i.e., administrators, providers and researchers) for the five-year period of the project. The application should reflect a good understanding of the systems by which family planning services are provided, a familiarity with research, data collection systems and analyses in the area of family planning and population studies supported by other sources, a discussion of the relationship of the studies proposed for support under this grant to studies, research and analyses supported by other sources, explanation of the relevance and importance of the analytic and research activities proposed for support under this grant, and a justification of the expected utility of the analytic products expected from this effort. Applicants should propose a schedule of work for the five year life of this project. It is recognized that other research, changing conditions, new priorities or the effect of health care reform may cause some activities proposed, particularly for the later years of this project, to be superseded in importance, and modifications in actual work plans may need to be negotiated between the successful applicant and the Office of Population Affairs if this situation does in fact develop.

Although the purpose of this announcement is to encourage applicants to develop and propose analytic strategies which they will

pursue if supported under this announcement, several problem areas are described below as representing some of the areas appropriate for inclusion in a proposal:

A. Estimates of the size and geographic distribution of the population at risk of unintended pregnancy;

B. Estimates of the size and geographic distribution of the population in need of subsidized family planning services;

C. Characteristics, in terms of age, race and income or poverty status of the two populations listed above (A and B);

D. Estimates of the size, geographic distribution and characteristics of populations in need of family planning services but currently not being served;

E. Patterns of family planning and reproductive health care service delivery among the varied sources of family planning services (clinics, physicians' offices, etc.);

F. Patterns of integration of family planning with related services including sexually transmitted disease (STD) services, HIV prevention, substance abuse and cancer screening;

G. Patterns and trends in providing services to adolescents, including use of school settings, special clinics, special protocols;

H. Patterns and trends in the training, recruitment and retention of clinic personnel;

I. The provision of family planning services to males;

J. Utilization of outreach, follow-up and case management strategies in provision of services to high-risk, poorly motivated clients (including substance abusers, persons at high STD/HIV risk, and adolescents).

This project does not necessarily involve original data collection, and applications which propose to place major emphasis on collection of original data are unlikely to be funded. However, if it is relevant and it can be demonstrated that appropriate data do not exist elsewhere, some collection of original data is not precluded.

Review Procedures and Criteria

Applications in response to this solicitation will be reviewed on a nationwide basis and in competition with other submitted applications. The review process will take into account the applicant's familiarity with and access to relevant data sets in the areas of family planning and population studies, and demonstrated ability to analyze data and present it in a manner useful to researchers, administrators and family planning providers. The award of a grant will take into account the extent to which the organization's proposal represents a comprehensive plan for developing data analyses, estimates and assessments useful to planners and providers of family planning services, local, State and Federal administrators and researchers in the areas of family planning and population studies, according to the following criteria:

A. The extent to which the proposal presents a coherent and well-justified plan for data analysis and research for the five-year term of the grant;

B. The extent to which the application reflects a good understanding of the systems for provision of family planning services in the United States and familiarity with data systems and relevant research;

C. The extent to which the applicant organization demonstrates the ability to analyze data and make these analyses accessible to providers, planners, administrators and researchers in the area of family planning;

D. The extent to which the application creatively and efficiently proposes to use existing data and analyses, and to fill gaps by proposing analyses, research, estimations and assessment tasks to fill the knowledge gaps;

E. Competency of proposed staff;

F. Adequacy of proposed methodology to carry out analyses;

G. Feasibility of the project;

H. Reasonableness of proposed budget in relation to the proposed project; and

I. Amount of grant funds necessary for completion of project and adequacy of applicant's resources available for project.

Applications will be reviewed by an Objective Review Committee and recommended for funding. In making the award decision the Deputy Assistant Secretary for Population Affairs (DASPA) will take into consideration the priority score, the resourcefulness of the applicant, the methodological merits of the proposal and the availability of funds.

Review Under Executive Order 12372

Applicants under this announcement are exempt from the review requirements of Executive Order 12372, State Review of Applications for Federal Financial Assistance, as implemented by 45 CFR part 100.

When a final funding decision has been made, each applicant will be notified by letter of the outcome. The official document notifying an applicant that a project application has been approved for funding is the Notice of Grant Award, which specifies to the grantee the amount of money awarded, the purposes of the grant, and terms and conditions of the grant award.

Dated: September 23, 1993.

Gerald J. Bennett,

Acting Deputy Assistant Secretary for Population Affairs.

[FR Doc. 93-27197 Filed 11-4-93; 8:45 am]

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federal register

Friday
November 5, 1993

Part IV

Department of Health and Human Services

Administration for Children and Families

Administration for Native Americans: Availability of Financial Assistance; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. 93612-942]

Administration for Native Americans: Availability of Financial Assistance

AGENCY: Administration for Native Americans (ANA), Administration for Children and Families, (ACF), Department of Health and Human Services, (DHHS).

ACTION: Announcement of availability of competitive financial assistance for Alaska Native social and economic development projects.

SUMMARY: The Administration for Native Americans (ANA) announces the anticipated availability of fiscal year 1994 funds for social and economic development projects. Financial assistance provided by ANA is designed to promote the goal of self-sufficiency for Alaska Natives through support of locally determined social and economic development strategies (SEDS) and the strengthening of local governance capabilities.

DATES: The closing dates for submission of applications are February 11, 1994 and May 20, 1994.

FOR FURTHER INFORMATION CONTACT: Lucille Dawson (202) 690-7727 or Hank Aguirre, (202) 690-7714, Department of Health and Human Services, Administration for Children and Families, Administration for Native Americans, 200 Independence Avenue, SW., 349F, Washington, DC 20201-0001.

SUPPLEMENTARY INFORMATION:

A. Introduction and Purpose

The purpose of this program announcement is to announce the anticipated availability of fiscal year 1994 financial assistance to promote the goal of social and economic self-sufficiency for Alaska Natives through social and economic development (SEDS) strategies. Funds will be awarded under section 803 of the Native American Programs Act of 1974, as amended, (42 U.S.C. 2991b) for local governance and social and economic development projects.

Proposed projects will be reviewed on a competitive basis against the evaluation criteria in this announcement.

The Administration for Native Americans believes that responsibility for achieving self-sufficiency rests with the governing bodies of Indian tribes, Alaska Native villages, and in the leadership of Native American groups. Progress toward the goal of self-sufficiency requires active development with regard to the strengthening of governmental responsibilities, economic progress, and improvement of social systems which protect and enhance the health and economic well-being of individuals, families and communities. Progress towards self-sufficiency is based on the community's ability to develop a social and economic development strategy and to plan, organize, and direct resources in a comprehensive manner to achieve the community's long-range goals. A Native American community is self-sufficient when it can generate and control the resources which are necessary to meet the needs of its members and to meet its own social and economic goals.

The Administration for Native Americans bases its program and policy on three interrelated goals:

(1) *Governance:* To assist tribal and village governments, Native American institutions, and local leadership to exercise local control and decision-making over their resources.

(2) *Economic Development:* To foster the development of stable, diversified local economies and economic activities which will provide jobs and promote economic well-being.

(3) *Social Development:* To support local access to, control of, and coordination of services and programs which safeguard the health and well-being of people, provide support services and training so people can work, and which are essential to a thriving and self-sufficient community.

To achieve these Federal agency goals, ANA supports tribal and village governments, and other Native American organizations, in their efforts to develop and implement community-based, long-term governance, social and economic development strategies (SEDS). These strategies must promote the goal of self-sufficiency in local communities.

The ANA SEDS approach supports ANA's Federal agency goals and is based on two fundamental principles:

(1) The local community and its leadership are responsible for determining goals, setting priorities, and planning and implementing programs aimed at achieving those goals. The unique mix of socio-economic, political, and cultural factors in each community makes such self-determination necessary. The local community is in the best position to apply its own cultural, political, and socio-economic values to its long-term strategies and programs.

(2) Economic, governance, and social development are interrelated, and development in one area should be balanced with development in the others in order to move toward self-sufficiency. Consequently, comprehensive development strategies should address all aspects of the governmental, economic, and social infrastructures needed to develop self-sufficient communities.

The principles of the SEDS approach discussed above assume these definitions of important terms linked to the SEDS process:

- *Governmental infrastructure* includes the constitutional, legal, and administrative development requisite for independent governance.
- *Economic infrastructure* includes the physical, commercial, industrial and/or agricultural components necessary for a functioning local economy which supports the life-style embraced by the Native American community.
- *Social infrastructure* includes those components through which health and economic well-being are maintained within the community and that support governance and economic goals.

These definitions should be kept in mind as a local SEDS strategy is developed as part of the application for project funding. Without a careful balance between all of these, a community's development efforts could be jeopardized. For example, expansion of social services, without providing opportunities for employment and economic development, could lead to dependency on social services. Conversely, inadequate social support services and training could seriously impede productivity and local economic development. Additionally, the governmental infrastructures must be put in place to support or institute social and economic development and growth.

B. Proposed Projects To Be Funded

1. General Considerations

The Administration for Native Americans assists eligible applicants (see section C below) to undertake one-to-three year development projects that are a part of long-range comprehensive plans to move toward social and economic self-sufficiency. Applicants must also propose a concrete, locally determined strategy to carry out a proposed project and fundable activities. Local long-range planning must consider the maximum use of all available resources, how these resources will be directed to development opportunities, and present a strategy for

overcoming the local issues that hinder social and economic growth in the community. The Administration for Native Americans encourages applicants to design project strategies to achieve their specific but interrelated governance, and social and economic objectives and to use available human, natural, financial, and physical resources to which the applicant has access.

Non-ANA resources should be leveraged to strengthen and broaden the impact of the proposed project in the community. Project designs should explain how those parts of projects which ANA does not fund, such as construction, will be financed through other sources. For example, ANA does not fund construction. Applicants must show the relationship of non-ANA funded activities to those objectives and activities that are funded with ANA grant funds.

All projects funded by ANA must be completed, self-sustaining or supported with other than ANA funds at the end of the project period. "Completed" means that the project ANA funded is finished, and the desired result(s) have been attained. "Self-sustaining" means that a project will continue without outside resources. "Supported by other than ANA funds" means that the project will continue beyond the ANA project period, but supported by funds other than ANA's.

2. Activities That Cannot Be Funded by ANA

The Administration for Native Americans does not fund programs which operate indefinitely or would have a need for ANA funding on a recurring basis.

The Administration for Native Americans does not fund objectives or activities for the core administration of an organization. However, ANA will consider funding core administrative capacity building projects at the village government level if the village does not have governing systems in place. Additionally, ANA will fund the salaries of approved staff for time actually and reasonably spent to implement a funded ANA project. "Core administration" is defined as funding for staff salaries for those functions which support the organization as a whole or for purposes unrelated to the actual management or implementation of work conducted under an ANA approved project. Functions and activities that are clearly project related are eligible for grant funding. For example, the management and administrative functions necessary to carry out an ANA approved project are not considered "core administration" and are therefore grant eligible costs.

3. SEDS Goals and Potential Activity Focus

This sub-section discusses SEDS goals and the range of possible activities that are thought to be consistent with each of the three SEDS goals below. Applicants should define their own activities, keeping in mind the range of options that encompass each goal.

Social and Economic Development Strategies (SEDS)

Building on developing the foundation for strong local governance, ANA supports tribal and village governments' efforts and other social and economic development strategies (SEDS). These interrelated strategies and their objectives should describe in detail how the community coordinates and directs all resources (Federal and non-Federal) toward locally determined priorities, and how the community and its members are assisted in ways that promote greater economic and social self-sufficiency. In addition, SEDS strategies that combine balanced social, economic and governance goals should address how to obtain independent sources of revenue for the community or how the venture supports the long-term goals.

Goal 1: Governance Development. Effective governance is a necessary foundation and condition for the social and economic development of Indian tribes, Alaska Native villages, and Native American groups. Efforts to achieve effective governance include: (1) Strengthening the governmental, judicial and/or administrative infrastructures of tribal and village governments; (2) increasing the ability of tribes, villages, and Native American groups and organizations to plan, develop, and administer a comprehensive program to support community social and economic self-sufficiency; and (3) increasing awareness of and exercising the legal rights and benefits to which Native Americans are entitled, either by virtue of treaties, the Federal trust relationship, legislative authority, or as citizens of a particular state, or of the United States. Under its governance development goal, ANA strongly encourages tribal and village councils, and other governing bodies, to strengthen and streamline their established administrative and management procedures that influence their institutional management systems. The purpose of this capacity is to develop and implement effective social and economic development strategies and their comprehensive community long-term goals and to improve their day-to-day governmental management. By improving governance and management capabilities, Indian Tribes, Alaska Native villages, and Native American groups can better define and achieve their goals, promote greater efficiency, and the effective use of all available resources.

Applications in this area are generally under the following categories:

- Clarification of tribal status;
- Federal or State tribal recognition;
- Amendments to tribal constitutions; court procedures and functions; bylaws or codes; and council or executive branch duties and functions; and
- Improvements in administration and management of tribes/villages.

Goal 2: Economic Development is the long-term mobilization and management of economic resources to achieve a diversified economy. It is characterized by the effective and planned distribution of economic resources, services, and benefits. It also includes the participation of community members in the productive activities and economic investments of the community, and the pursuit of economic interests through methods that balance economic gain with social development, supported by an adequate governmental infrastructure.

Goal 3: Social Development is the mobilization and management of resources for the social benefit of community members. It involves the establishment of institutions, systems, and practices that contribute to the social environment desired by the community. This includes the development of, access to, and local control over, the projects and institutions that protect the health and economic well-being of individuals and families, and preserve the values, language, and culture of the community.

Alaska Initiative

Based on the three ANA goals, in fiscal year 1984, ANA implemented a special Alaska social and economic development initiative. The purpose of this special effort was to provide financial assistance at the village level or for village-specific projects aimed at improving a village's social and economic development. This program announcement continues to implement this initiative. ANA sees both the nonprofit and for-profit corporations in Alaska as being able to play an important supportive role in assisting individual villages to develop and implement their own locally determined strategies which take advantage of the opportunities afforded to Alaska Natives

under the Alaska Native Claims Settlement Act (ANCSA), Public Law 92–202.

Examples of the types of projects that ANA is seeking to fund include, but are not limited to, projects that will:

Governance

• Initiate a demonstration program at a regional level to allow Native people to become involved in developing strategies to maintain and develop their economic subsistence base.

• Assist villages in developing land use capabilities and skills in the areas of land and natural resource management, resources assessment and development, and studies of the potential impact of land use upon the environment and the subsistence ecology.

• Assist village consortia in the development of tribal constitutions, ordinances, codes and court systems.

• Develop agreements between the State and villages that transfer programs, jurisdictions, and/or control to Native entities.

• Strengthen village government control of land management, including land protection.

• Develop tribal courts, adoption codes, and/or related comprehensive children's codes.

• Assist in status clarification.

• Initiate village level mergers between village councils, village corporations and others to coordinate programs and services which safeguard the health and well being of a community and its people.

• Develop Regional IRAs (Indian Reorganization Act of 1934) and village consortia in order to maximize tribal government resources, i.e., to develop model codes, tribal court systems, governance structures and organic documents.

• Assist villages in developing and coordinating plans for the development of water and sewer systems for use within the village boundaries.

• Assist villages in establishing structures through which youth would participate in the governance of the community and be trained to assume leadership roles in village governments.

Economic Development

• Assist village to develop businesses and industries which: (1) Use local materials, (2) create jobs for Alaska Natives, (3) are capable of high productivity at a small scale of operation, and (4) complement traditional and necessary seasonal activities.

• Substantially increase and strengthen efforts to establish and improve the village and regional infrastructure and the capabilities to develop and manage resources in a highly competitive cash-economy system.

• Assist villages or consortia of villages in developing subsistence compatible industries that will retain local dollars in villages.

• Assist in new or expanded native-owned businesses.

• Assist villages in labor export, i.e., people leaving the local communities for seasonal work and returning to their communities.

• Consider strategies and plans to protect against, monitor, and assist when catastrophic events occur, such as oil spills, earthquakes, etc.

Social Development

• Assist villages in developing programs to deliver needed social services.

• Assist in developing training and education programs for those jobs in education, government and health usually found in local communities; and work with the various agencies to encourage job replacement of non-Natives by Natives.

• Coordinate land use planning with village corporations and city government.

• Develop local models related to comprehensive planning and delivery of social services.

• Develop new service programs established with ANA funds and funded for continued operation by local communities or the private sector.

• Develop or coordinate activities with State-funded projects in decreasing the incidence of child abuse and neglect, fetal alcohol syndrome, or Native suicides.

• Assist in obtaining licenses to provide housing or related services from State or local governments.

• Develop businesses to provide relief for caretakers needing respite from demanding care work, child care, chore service, etc.

C. Eligible Applicants

Who Is Generally Eligible To Apply?

• Current ANA grantees in Alaska whose project period terminates in fiscal year 1994 (October 1, 1993—September 30, 1994) are eligible to apply for a grant award under this program announcement. (The Project Period is noted in Block 9 of the "Financial Assistance Award" document);

• Alaska Native villages as defined in the Alaska Native Claims Settlement Act (ANCSA) and/or nonprofit village consortia;

• Nonprofit Alaska Native Regional Associations in Alaska with village specific projects;

• Nonprofit Native organizations in Alaska with village specific projects; and

• Nonprofit Alaska Native community entities or tribal governing bodies (IRA or traditional councils) as recognized by the Bureau of Indian Affairs.

Proof of an applicant's nonprofit status, such as an IRS determination of nonprofit status under IRS Code 501(c)(3), must be included in the application. Although for-profit regional corporations established under ANCSA are not eligible applicants, individual villages and Indian communities are encouraged to use the for-profit corporations as subcontractors and to collaborate with them in joint-venture projects for promoting social and economic self-sufficiency. ANA encourages the for-profit corporations to assist the villages in developing applications and to participate as subcontractors in a project.

2. Who Is Not Generally Eligible

Colleges and universities are not eligible applicants.

This program announcement does not apply to current grantees with multi-year projects that apply for continuation funding for their second or third year budget periods.

NOTE: In fiscal year 1994, Alaska Native entities are eligible to submit an application under either program announcement 93612–941 or 93612–942, but are limited to a single application for each closing date.

An Alaska Native applicant may apply for the:

(1) February 11, 1994 closing date for Program Announcement 93612–941 OR for Program Announcement 93612–942; and

(2) May 20, 1994 closing date for Program Announcement 93612–941 OR for Program Announcement 93612–942.

D. Available Funds

Approximately $1.5 million of financial assistance is anticipated to be available under this program announcement for Alaskan Native projects. This program announcement is being issued in anticipation of the appropriation of funds for FY 1994, and is contingent upon final appropriations.

ANA plans to award approximately 15–18 grants under this announcement. For individual village projects, the funding level for a budget period of 12 months will be up to $100,000; for regional nonprofit and village consortia, the funding level for a budget period is

up to $150,000, commensurate with approved multi-village objectives. Each eligible applicant can receive only one grant award under this announcement.

E. Multi-Year Projects

Applicants may apply for projects of up to 36 months duration. A multi-year project is a project on a single theme that requires more than 12 months to complete and affords the applicant an opportunity to develop and address more complex and in-depth strategies than can be completed in one year. Applicants are encouraged to develop multi-year projects. A multi-year project cannot be a series of unrelated objectives with activities presented in chronological order over a two or three year period.

The budget period for each multi-year project is 12 months. The non-competitive funding for the second and third year is contingent upon the grantee's satisfactory progress in achieving the objectives of the project, according to the approved Objective Work Plan (OWP), the availability of Federal funds, and compliance with the applicable statutory, regulatory and grant requirements, including timely objective progress reports (OPRs).

F. Grantee Share of Project

Grantees must provide at least 20 percent of the total approved cost of the project. The total approved cost of the project is the sum of the ACF share and the non-Federal share. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a project requesting $300,000 in Federal funds (based on an award of $100,000 per budget period) must include a match of 20% or at least $75,000 ($25,000 per budget period). An itemized budget detailing the applicant's non-Federal share, and its source, must be included in an application. A request for a waiver of the non-Federal share requirement may be submitted in accordance with 45 CFR 1336.50(b)(3) of the Native American Program Regulations.

G. Intergovernmental Review of Federal Programs

This program is not covered by Executive Order 12372.

H. The Application Process

Availability of Application Forms

In order to be considered for a grant under this program announcement, an application must be submitted on the forms supplied and in the manner prescribed by ANA. The application kits containing the necessary forms and instructions may be obtained from: Department of Health and Human Services, Administration for Children and Families, Administration for Native Americans, room 348F, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201–0001, Attention: Earldine Glover, Phone: (202) 690–7730.

Application Submission

One signed original, and two copies of the grant application, including all attachments, must be hand delivered or mailed by the closing date to: Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, room 341F.2, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201–0001, Attention: ANA 93612–942.

The application must be signed by an individual authorized (1) to act for the applicant tribe or organization and (2) to assume the applicant's obligations under the terms and conditions of the grant award, including Native American Program statutory and regulatory requirements.

Application Consideration

The Commissioner of the Administration for Native Americans determines the final action to be taken on each grant application received under this program announcement. The following points should be taken into consideration by all applicants:

- Incomplete applications and applications that do not conform to this announcement will not be accepted for review. Applicants will be notified in writing of any such determination by ANA.
- Complete applications that conform to all the requirements of this program announcement are subjected to a competitive review and evaluation process. An independent review panel consisting of reviewers familiar with Native American Tribes, communities and organizations evaluates each application against the published criteria in this announcement. The review will result in a numerical score attributed to each application. The results of this review assist the Commissioner to make final funding decisions.
- The Commissioner's funding decision also takes into account the analysis of the application, recommendation and comments of ANA staff, State and Federal agencies having contract and grant performance related information, and other interested parties.
- The Commissioner makes grant awards consistent with the purpose of the Act, all relevant statutory and regulatory requirements, this program announcement, and the availability of funds.
- After the Commissioner has made decisions on all applications, unsuccessful applicants are notified in writing within approximately 120 days of the closing date. The notification will be accompanied by a critique including recommendations for improving the application. Successful applicants are notified through an official Financial Assistance Award (FAA) document. The Administration for Native Americans staff cannot respond to requests for information regarding funding decisions prior to the official notification to the applicants. The FAA will state the amount of Federal funds awarded, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the project period, the budget period, and the amount of the non-Federal matching share requirement.

I. Review Process and Criteria

1. Initial Application Review

Applications submitted by the closing date and verified by the postmark under this program announcement will undergo a pre-review to determine that:

- The applicant is eligible in accordance with the Eligible Applicants Section of this announcement; and
- The application narrative, forms and materials submitted are adequate to allow the review panel to undertake an indepth evaluation. (All required materials and forms are listed in the Grant Application Checklist in the Application Kit.)

2. Applicants Rejected for Organizational or Activities Ineligibility

Applicants who are initially rejected from competitive evaluation because of ineligibility may appeal an ANA decision of applicant ineligibility. Likewise, applicants may also appeal an ANA decision that an applicant's proposed activities are ineligible for funding consideration. Section 810(b) (42 U.S.C. 2991h) of the Native American Programs Act Amendments provides for an appeals process when ANA determines that an organization or activities are ineligible for assistance. Section 810(b) (42 U.S.C. 2991h) provides that:

"* * * (b) if an application is rejected on the grounds that the applicant is ineligible or that activities proposed by the applicant are ineligible for funding, the applicant may appeal to

the Secretary, not later than 30 days after the date of receipt of notification of such rejection. On appeal, if the Secretary finds that an applicant is eligible or that its proposed activities are eligible, such eligibility shall not be effective until the next cycle of grant proposals are considered by the Administration * * *"

When an application or the activities proposed by the applicant are rejected as ineligible, the applicant will be advised of the appropriate appeal process.

3. Competitive Review of Accepted Applications

Applications which pass the pre-review will be evaluated and rated by an independent review panel on the basis of the five evaluation criteria listed below. These criteria are used to evaluate the quality of a proposed project, and to determine the likelihood of its success. A proposed project should reflect the purposes of ANA's SEDS policy and program goals (described in Introduction and Program Purpose of this announcement), include a social and economic development strategy, and address the specific developmental steps toward self-sufficiency that the specific tribe or Native American community is undertaking.

The five programmatic and management criteria are closely related to each other. They are considered as a whole also in judging the overall quality of an application. Points are awarded only to applications which are responsive to this announcement and these criteria. The five evaluation criteria are:

(1) *Long-Range Goals and Available Resources.* (15 points)

(a) The application explains how specific social, governance and economic long-range community goals relate to the proposed project and strategy. It explains how the community intends to achieve these goals. It documents the involvement and support of the community in the planning process and implementation of the proposed project. The goals are described within the context of the applicant's comprehensive community social and economic development plan. (Inclusion of the community's entire development plan is not necessary.) The application has a clearly delineated social and economic development (SEDS) strategy.

(b) Available resources (other than ANA) which will assist, and be coordinated with the project are described. These resources should be documented by letters or documents of commitment of resources, not merely letters of support. "Letters of support" merely express another organizations' endorsement of a proposed project. Support letters are not binding commitment letters or documents that factually establish the authenticity of other resources. Letters and other documents of commitments are binding in that they specifically state the nature, amount and conditions under which another agency or organization will support a project funded with ANA monies. For example, a letter from another Federal agency or foundation pledging a commitment of $200,000 in construction funding to complement proposed ANA funded pre-construction activity is evidence of a firm funding commitment. These resources may be human, natural or financial, and may include other Federal and non-Federal resources. Applicant statements that additional funding will be sought from other specific sources is not considered a binding commitment of outside resources.

(2) *Organizational Capabilities and Qualifications.* (10 points)

(a) The management and administrative structure of the applicant is explained. Evidence of the applicant's ability to manage a project of the proposed scope is well defined. The application clearly shows the successful management of prior or current projects of similar scope by the organization, and/or by the individuals designated to manage the project.

(b) Position descriptions or resumes of key personnel, including those of consultants, are presented. The position descriptions and resumes relate specifically to the staff proposed in the Approach Page and in the proposed Budget of the application. Position descriptions very clearly describe each position and its duties and clearly relate to the personnel staffing required to achieve the project objectives. Resumes indicate that the proposed staff are qualified to carry out the projects activities. Either the position descriptions or the resumes set forth the qualifications that the applicant believes are necessary for overall quality management of the project.

(3) *Project Objectives, Approach and Activities.* (45 points)

The application proposes specific project objective work plans with activities related to the SEDS strategy and the overall long-term goals. The objective work plan(s) in the application include(s) project objectives and activities for *each* budget period proposed and demonstrates that each of the objectives and its activities:

- Are measurable and/or quantifiable in terms of results or outcomes;
- Are based on the fully described and locally determined balanced SEDS strategy narrative for governance or social and economic development;
- Clearly relate to the community's long-range goals which the project addresses;
- Can be accomplished with the available or expected resources during the proposed project period;
- Indicate when the objective, and major activities under each objective, will be accomplished;
- Specify who will conduct the activities under each to achieve the objective; and,
- Support a project that will be completed, self-sustaining, or financed by other than ANA funds at the end of the project period.

(4) *Results or Benefits Expected.* (20 points)

The proposed objectives will result in specific, measurable outcomes to be achieved that will clearly contribute to the completion of the overall project and will help the community meet its goals. The specific information provided in the narrative and objective work plans on expected results or benefits for each objective is the standard upon which its achievement can be evaluated at the end of each budget year.

(5) *Budget.* (10 points)

There is a detailed budget provided for each budget period requested. The budget is fully explained. It justifies each line item in the budget categories in Section B of the Budget Information of the application, including the applicant's non-Federal share and its source. Sufficient cost and other detail is included and explained to facilitate the determination of cost allowability and the relevance of these costs to the proposed project. The funds requested are appropriate and necessary for the scope of the project. For business development projects, the proposal demonstrates that the expected return on the funds used to develop the project provides a reasonable operating income and return within a future specified time frame.

J. Guidance to Applicants

The following is provided to assist applicants in developing a competitive application.

(1) Program Guidance

- The Administration for Native Americans funds projects that present the strongest prospects for fulfilling a community's governance, social or economic development leading to its self-sufficiency. The Administration for

Native Americans does not fund on the basis of need alone.

• In discussing the goals, strategy, and problems being addressed in the application, include sufficient background and/or history of the community concerning these and/or progress to date, as well as the size of the population to be served. The appropriateness and potential of the proposed project in strengthening and promoting the goal of the self-sufficiency of a community will be determined by reviewers.

• An application should describe a clear relationship between the proposed project, the SEDS strategy, and the community's long-range goals or plan.

• The project application must clearly identify in measurable terms the expected results, benefits or outcomes of the proposed project, and the positive or continuing impact on the community that the project will have.

• Supporting documentation or other testimonies from concerned interests other than the applicant should be included to provide support for the feasibility and the commitment of other resources to implement or conduct the proposed project.

In the ANA Project Narrative, Section A of the application package, Resources Available to the Proposed Project, the applicant should describe any specific financial circumstances which may impact on the project, such as any monetary or land settlements made to the applicant, and any restrictions on the use of those settlements. When the applicant appears to have other resources to support the proposed project and chooses not to use them, the applicant should explain why it is seeking ANA funds and not utilizing these resources for the project.

• Reviewers of applications for ANA indicate they are better able to evaluate whether the feasibility and the practicality of a proposed economic development project to start a business has been addressed if the applicant includes a business plan that clearly describes its feasibility and the plan for the implementation and marketing of the business. (ANA has included sample business plans in the application kit). It is strongly recommended that an applicant use these as a guide to its development of an economic development project or business that is part of the application. The more information provided a review panel, the better able the panel is to evaluate the potential for the success of the proposed project.

• A "multi-purpose community-based Native American organization" is an association and/or corporation whose charter specifies that the community designates the Board of Directors and/or officers of the organization through an elective procedure and that the organization functions in several differing areas of concern to the members of the local Native American community. These areas are specified in the by-laws and/or policies adopted by the organization. They may include, but need not be limited to, economic, artistic, cultural, and recreational activities, the delivery of human services such as health, day care, counseling, education, and training.

(2) Technical Guidance

• It is strongly suggested that the applicant follow the Supplemental Guide included in the ANA application kit to develop an application. The Guide provides practical information and helpful suggestions, and is an aid to help applicants prepare ANA applications for social and economic development projects.

• Applicants are encouraged to have someone other than the author apply the evaluation criteria in the program announcement and to score the application prior to its submission, in order to gain a better sense of the application's quality and potential competitiveness in the ANA review process.

• For purposes of developing an application, applicants should plan for a project start date approximately 120 days after the closing date under which the application is submitted.

• The Administration for Native Americans will not fund essentially identical projects serving the same constituency.

• The Administration for Native Americans will accept only one application from any one applicant for each closing date. If an eligible applicant sends in two applications, the one with the earlier postmark will be accepted for review unless the applicant withdraws the earlier application.

• An application from an Indian Tribe, Alaskan Native village or other applicant must be from the governing body of the applicant.

• The application's Form 424 must be signed by the applicant's representative authorized to act with full authority on behalf of the applicant.

• The Administration for Native Americans suggests that the pages of the application be numbered sequentially from the first page, and that a table of contents be provided. This allows for easy reference during the review process. Simple tabbing of the sections of the application is also helpful to the reviewers.

• Two copies of the application plus the original are required.

• The Cover Page (included in the Kit) should be the first page of an application, followed by the one-page abstract.

• The Approach Page (Section B of the ANA Program Narrative) for each Objective Work Plan proposed should be of sufficient detail to become a monthly staff guide for project responsibilities if the applicant is funded.

• The applicant should specify the entire project period length on the first page of the Form 424, Block 13, not the length of the first budget period. Should the application's contents propose one length of project period and the Form 424 specify a conflicting length of project period, ANA will consider the project period specified on the Form 424 as governing.

• Line 15a of the 424 should specify the Federal funds requested for the first Budget Period, not the entire project period.

• If a profit-making venture is being proposed, profits must be reinvested in the business in order to decrease or eliminate ANA's future participation. Such revenue must be reported as general program income. A decision will be made at the time of grant award regarding appropriate use of program income. (See 45 CFR part 74 and part 92.)

• Applicants proposing multi-year projects must fully describe each year's project objectives and activities. Separate Objective Work Plans (OWPs), as well as separate itemized budgets of the Federal and non-Federal costs of the project must be included for each budget period.

• Applicants for multi-year projects must justify the entire time-frame of the project (i.e., why the project needs funding for more than one year) and clearly describe the results to be achieved for each objective by the end of each budget period of the total project period.

• Village governments or other applicants without established accounting systems must arrange for qualified, acceptable accounting services prior to release of grant funds.

Note: Subpart H, 45 CFR part 74 and subpart C, 45 CFR part 92, address those elements of a generally acceptable accounting system for Federal grantees. The financial management standards in subparts H and C, for example, include:

(1) Accurate, current and complete disclosure;

(2) Records which show source and application of funds;

(3) Effective control and accountability of funds and property;
(4) Comparison of actual and budgeted amounts;
(5) Procedures to minimize time lapsing between transfer and disbursement of funds;
(6) Procedures to determine allowability and allocation of funds;
(7) Accounting records with source documentation;
(8) Periodic audits; and
(9) A follow-up system.

(3) Projects or activities that generally will not meet the purposes of this announcement

• Projects in which a grantee would provide training and/or technical assistance (T/TA) to other tribes or Native American organizations ("third party T/TA"). However, the purchase of T/TA by a grantee for its own use or for its members' use (as in the case of a consortium), where T/TA is necessary to carry out project objectives, is acceptable.

• Projects that request funds for feasibility studies, business plans, marketing plans or written materials, such as manuals, that are not an essential part of the applicant's SEDS strategy long-range development plan. The Administration for Native Americans is not interested in funding 'wish lists' of business possibilities. The Administration for Native Americans expects written evidence of the solid investment of time and consideration on the part of the applicant with regard to the development of business plans. Business plans should be developed based on market analysis and feasibility studies on the potential success to the business prior to the submission of the application.

• The support of on-going social service delivery programs or the expansion, or continuation, of existing social service delivery programs.

• Core administration functions, or other activities, that essentially support only the applicant's on-going administrative functions.

• Project goals which are not responsive to one or more of the three interrelated ANA goals (Governance Development, Economic Development, Social Development).

• Proposals from consortia of tribes and villages that are not specific with regard to support from, and roles of, member tribes and villages. The Administration for Native Americans expects an application from a consortium to have goals and objectives that will create positive impacts and outcomes in the communities of its members.

• Projects which should be supported by other Federal funding sources that are appropriate, and available, for the proposed activity.

• Projects that will not be completed, self-sustaining, or supported by other than ANA funds, at the end of the project period.

• The purchase of real estate (see 45 CFR 1336.50(e)) or construction (see ACF Grants Administration Manual Ch. 3, § E.).

• Projects originated and designed by consultants who are not members of the applicant organization, tribe or village who prepared the application and provide a major role for themselves in the proposed project.

The Administration for Native Americans will critically evaluate applications in which the acquisition of major capital equipment (i.e., oil rigs, agricultural equipment, etc.) is a major component of the Federal share of the budget. During negotiation, such expenditures may be deleted from the budget of an otherwise approved application, if not fully justified by the applicant and not deemed appropriate to the needs of the project by ANA.

K. Paperwork Reduction Act of 1980

Under the Paperwork Reduction Act of 1980, Public Law 96–511, the Department is required to submit to the Office of Management and Budget (OMB) for review and approval any reporting and recordkeeping requirements in regulations including program announcements. This program announcement does not contain information collection requirements beyond those approved for ANA grant applications under the Program Narrative Statement by OMB.

L. Due Date for Receipts of Applications

The closing dates for applications submitted in response to this program announcement are February 11, 1994 and May 20, 1994.

M. Receipt of Applications

Applications must either be hand delivered or mailed to the address in Section H, The Application Process: Application Submission. The Administration for Native Americans will not accept applications submitted via facsimile (FAX) equipment.

Deadlines. Applications mailed through the U.S. Postal Service or a commercial delivery service shall be considered as meeting an announced closing date if they are either:

(1) Received on or before the deadline date at the address specified in Section H, Application Submission, or

(2) Sent on or before the deadline date and received in time for the ANA independent review. (Applicants are cautioned to request a legibly dated receipt from a commercial carrier or U.S. Postal Service or a legible postmark date from the U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing).

Late applications. Applications which do not meet the criteria in the above paragraph of this section are considered late applications and will be returned to the applicant. The Administration for Native Americans shall notify each late applicant that its application will not be considered in the current competition.

Extension of deadlines. The Administration for Native Americans may extend the deadline for all applicants because of acts of God such as floods, hurricanes, etc., or when there is a widespread disruption of the mails. However, if ANA does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicant.

(Catalog of Federal Domestic Assistance Program Number 93.612 Native American Programs)

Dated: October 1, 1993.

Dominic Mastrapasqua,

Acting Commissioner, Administration for Native Americans.

[FR Doc. 93–27225 Filed 11–4–93; 8:45 am]

BILLING CODE 4184–01–M

federal register

Friday
November 5, 1993

Part V

Department of the Interior

Bureau of Indian Affairs

Upper Sioux Community Alcohol Beverage Control Law; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Upper Sioux Community Alcohol Beverage Control Law

October 27, 1993.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This Notice is published in accordance with authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8, and in accordance with the Act of August 15, 1953, 67 Stat. 586, 18 U.S.C. 1161. This notice certifies that Resolution No. 13–93, the Upper Sioux Community Liquor Ordinance was duly adopted by the Upper Sioux Community on March 4, 1993. The Ordinance provides for the regulation of the activities of the manufacture, distribution, sale and consumption of liquor in the area of Indian Country under the jurisdiction of the Upper Sioux Community.

DATES: This Ordinance is effective as of November 5, 1993.

FOR FURTHER INFORMATION CONTACT: Chief, Branch of Judicial Services, Division of Tribal Government Services, 1849 C Street, NW., MS 2611–MIB, Washington, DC 20240–4001; telephone (202) 208–4400.

SUPPLEMENTARY INFORMATION: The Upper Sioux Community Liquor Control Ordinance is to read as follows:

Upper Sioux Community—Liquor Control Ordinance

Part I.—Policy and Definitions

Section 1.—Public Policy Declared

This Ordinance shall be cited as the Upper Sioux Community Liquor Control Ordinance and under the inherent sovereignty of the Upper Sioux Community shall be deemed an exercise of the Community's power, for the protection of the welfare, health, peace, morals, and safety of the people of the Community. It is further the Community's policy to assure that any transaction, importation, sale or consumption involving an alcoholic beverage, while within the Community's jurisdiction shall occur in strict compliance with this Ordinance, the laws of the United States and the State of Minnesota.

Section 2.— Definitions

(a) *Alcoholic beverage:* Shall mean any intoxicating liquor, low point beer, or any wine, as defined under the provisions of this Ordinance.

(b) *Application:* Shall mean a formal written request for the issuance of a license supported by a verified statement of facts.

(c) *Council:* Shall mean the Board of Trustees (governing body) of the Upper Sioux Community, duly elected in accordance with the provisions of the Constitution of the Community.

(d) *Establishment:* Shall mean any liquor store or on-sale dealer.

(e) *High point beer:* Shall mean any beer having an alcoholic content in excess of three and two-tenths per centum (3.2%) of weight.

(f) *Intoxicating liquor:* Shall mean any liquid either commonly used, or reasonably adapted to use, for beverages purposes, containing in excess of three and two-tenths per centum (3.2%) of alcohol by weight. This shall include any type of wine, regardless of alcoholic content.

(g) *Legal age:* Shall mean the age requirements as defined in part II, section 1.

(h) *Liquor store:* Shall mean any store, established by the Community or licensed individual or entity, for the sale of alcoholic beverages.

(i) *Low point beer:* Shall mean any liquid either commonly used, or reasonably adapted to use, for beverages purposes, and which is produced wholly or in part from brewing of any grain or grains, malt substitute, and which contains any alcohol whatsoever but no more than three and two-tenths per centum (3.2%) of alcohol by weight.

(j) *Off-sale:* Shall mean the sale of any alcoholic beverages for consumption off the premises where sold.

(k) *On-sale dealer:* Shall mean the Upper Sioux Community or licensed individual or entity that sells, or keeps for sale any alcoholic beverage authorized under this Ordinance for consumption on the premises where sold.

(l) *On-sale:* Shall mean the sale of any alcoholic beverage for consumption only upon the premises where sold.

(m) *Sale:* Shall mean the transfer of any bagged, bottled, boxed, canned or kegged alcoholic beverage, or the serving of any contents of any bagged, bottled, boxed, canned or kegged alcoholic beverage for a consideration of currency exchange.

(n) *Transaction:* Shall mean any transfer of any bagged, bottled, boxed, canned or kegged alcoholic beverage, or the transfer of any contents of any bagged, bottled, boxed, canned or kegged alcoholic beverage from any liquor store, on-sale dealer or vendor to any person.

(o) *Vendor:* Shall mean any person employed or under the supervision by and of a liquor store or on-sale dealer who conducts sales or transactions involving alcoholic beverages.

(p) *Wine:* Shall mean any beverage containing alcohol obtained by the fermentation of the natural sugar contents of fruits or other agricultural products, and containing not more than seventeen percent (17%) of alcohol by weight, including sweet wines, fortified with wine spirits, such as port, sherry, muscatel, and angelica.

Section 3.—General Prohibition

It shall be unlawful to manufacture for sale, sell, offer, or keep for sale, possess, transport or conduct any transaction involving any alcoholic beverage except in compliance with the terms, conditions, limitations, and restrictions specified in this Ordinance.

Section 4.—Community Control of Alcoholic Beverages

The Council shall have the sole and exclusive right to authorize the importation of alcoholic beverages for sale or for the purpose of conducting transactions therewith, and no person or organization shall so import any such alcoholic beverage into the Upper Sioux Community Reservation unless authorized by the Council.

Section 5.—Community Liquor Store

The Council may establish and maintain anywhere on the Upper Sioux Community Reservation that the Council may deem advisable, a community or individual liquor store or stores for storage and off-sale of alcoholic beverages in accordance with the provisions of this Ordinance. The Council may set the prices of alcoholic beverages sold.

Section 6.—Community On-Sale Dealer

The Council may establish and maintain anywhere on the Upper Sioux Community Reservation that the Council may deem advisable, a community on-sale dealer or dealers for storage and on-sale of alcoholic beverages in accordance with the provisions of this Ordinance. The Council may set the prices of alcoholic beverages sold.

Section 7.—State of Minnesota Licenses

The council or operator shall obtain a State of Minnesota liquor license for any Community operated establishment that sells alcoholic beverages or conducts transactions involving alcoholic beverages in compliance with Minnesota law chapter 340A.4055 and display the State of Minnesota license at each licensed establishment in a conspicuous place.

Part II. Compliance With the Laws of The State of Minnesota

Section 1.—Persons Under 21 Years of Age; Restrictions

The Council shall enforce the State of Minnesota laws regarding restrictions on those persons under the age of 21 years in any Community establishment operating pursuant to the provisions of this Ordinance.

(a) No Community operated or licensed establishment shall sell, barter, furnish, give or allow to be consumed therein alcoholic beverages to and by a person under 21 years of age;

(b) Any Community operated or licensed establishment shall require proof of age for purchasing or consuming alcoholic beverages by requiring a valid drivers license or State of Minnesota identification card, or in the case of a foreign national a valid passport to be shown at any time deemed necessary while on the premises of a Community operated or licensed establishment;

(c) Any Community operated or licensed establishment shall prohibit all persons under the age of 21 years to enter the establishment except to: (1) Perform work if the person is 18, 19 or 20 years of age; (2) consume meals while accompanied by an adult who is the legal guardian or parent of the person; and (3) attend social functions that are held in a portion of the establishment where alcoholic beverages are not sold;

(d) No Community operated or licensed establishment shall employ any person under the age of 18 years to serve or sell alcoholic beverages.

Section 2.—Restrictions on Intoxicated Persons

No Community operated or licensed establishment shall sell, give, or furnish any alcoholic beverage or in any way allow any alcoholic beverage to be sold, given or furnished to a person who is obviously intoxicated, or known to be a habitual drunkard.

Section 3.—Liability Insurance

For the purpose of obtaining a State of Minnesota liquor license for a Community operated establishment, the Council or operator shall demonstrate proof of financial responsibility by obtaining the necessary liability insurance required by Minnesota law chapter 340A.409.

Section 4.—Hours and Days of Sale

(a) No Community operated or licensed establishment shall sell or furnish alcoholic beverages for on-sale purposes between 1 a.m. and 8 a.m. on the days of Monday through Saturday, or after 1 a.m. on Sundays; or otherwise not in compliance with Minnesota law chapter 340A.504.

(b) No Community operated or licensed establishment shall sell or furnish alcoholic beverages for off-sale purposes: (1) on Sundays; (2) before 8 a.m. on Monday through Saturday; (3) after 10 p.m. on Monday through Saturday; or (4) otherwise not in compliance with Minnesota law chapter 340A.504.

Part III.—Community Licensing and Regulation

Section 1.—Power to License and Tax

The power to establish licenses and levy taxes under the provisions of this Ordinance is vested exclusively with the Council. If the Council enters into any tax agreements with the State, the agreement shall be deemed tribal law.

Section 2.—Community Liquor Licenses

The Council can issue by resolution, upon proper application and Council approval, a Community liquor license to any establishment wishing to sell, serve, or furnish alcoholic beverages or conduct transactions involving alcoholic beverages within the boundaries of the Upper Sioux Community Reservation.

Section 3.—Classes of Licenses

Classes of licenses under this part shall be as follows:

(a) Class A Off-Sale Liquor store;

(b) Class B On-Sale Dealer

Section 4.—Community Operated Establishments

The Council can issue by resolution an appropriate license to a Community operated establishment upon determining the site for the establishment, creating an operating infrastructure for the establishment and obtaining the appropriate licensing from the State of Minnesota.

Section 5.—Regulations

The Council shall adopt regulations to implement this Ordinance.

Section 6.—Beverage Board

The Council shall set annual fees for licenses and appoint a beverage board consisting of three members, each serving three years on staggered terms. Initially, the members shall serve 1, 2 and 3 years unless re-appointed. The beverage board shall administer all licenses and regulation of licenses, as delegated by tribal law. The board members serve at the pleasure of the Council.

Section 7.—No Vested Rights

No license shall be assigned or transferred except with approval of the Council. A new license fee shall be charged for a transfer. Licenses are a privilege and no person shall have vested rights therein.

Section 8.—Appeals

A person challenging a decision of the Beverage Board must file a written appeal with the Council within seven (7) days. The Council may appoint a hearing officer if necessary for a recommended decision.

Part IV.—Distribution of Profits

Section 1.—Distribution of Profits

All profits from the sale of alcoholic beverages on the Upper Sioux Community Reservation are subject to distribution of the Council in accordance with its usual appropriation procedures for essential governmental and social services.

Part V.—Construction

Section 1.—Severability

If any section of any part of this Ordinance, or the application thereof to any party, person, or entity or to any circumstances, shall be held invalid for any reason whatsoever, the remainder of the part or Ordinance shall not be affected thereby, and shall remain in full force and effect as though no part thereof had been declared to be invalid.

Section 2.—Amendment or Repeal of Ordinance

This Ordinance may be amended or repealed only by a majority vote of the Council in regular session.

Section 3.—Sovereign Immunity

Nothing in this Ordinance is intended nor shall be construed as a waiver of sovereign immunity of the Upper Sioux Community.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 93-27237 Filed 11-4-93; 8:45 am]

BILLING CODE 4310-02-P

federal register

Friday
November 5, 1993

Part VI

Department of the Interior

Bureau of Indian Affairs

25 CFR Part 226

Leasing of Osage Reservation Lands for Oil and Gas Mining; Proposed Rule

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 226

RIN 1076-AC09

Leasing of Osage Reservation Lands for Oil and Gas Mining

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Indian Affairs (BIA) is proposing to amend the regulations concerning the leasing of Osage reservation lands for oil and gas mining to eliminate premium, bonus, or other like payments from consideration in the calculation of the royalty price for crude oil in Osage County. This proposed amendment will eliminate the language that caused differences in interpretation that led to appeals to the IBIA.

DATES: Comments must be received on or before January 4, 1994.

ADDRESSES: Written comments should be directed to Gordon Jackson, Superintendent, Osage Agency, Bureau of Indian Affairs, Pawhuska, Oklahoma 74056, telephone (918) 287-1032.

FOR FURTHER INFORMATION CONTACT: Gordon Jackson, Superintendent, Osage Agency, Bureau of Indian Affairs, Pawhuska, Oklahoma 74056, telephone (918) 287-1032.

SUPPLEMENTARY INFORMATION: This proposed rule is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs in the Departmental Manual at 209 DM8.

The purpose of this proposed rule is to amend 25 CFR 226.11(a)(2) to eliminate premium, bonus, or other like payments from consideration in the calculation of the royalty price for crude oil in Osage County.

The existing regulation was the subject of administrative appeals by numerous oil producers over the meaning of: "and settlement shall be based on the highest of the bona fide selling price, posted or offered price by a major purchaser (as defined in Sec. 226.1(h)) in Osage County, Oklahoma, who purchases production from Osage oil leases." The Bureau of Indian Affairs has interpreted that language to mean that when a higher price is offered and paid for crude oil in Osage County, that price shall be used for royalty computation for all oil of the same quality sold in the County. However, there is reason to believe that this interpretation has discouraged purchasers from offering bonus prices.

The Interior Board of Indian Appeals (IBIA) issued its decision in favor of the producers on February 5, 1993, in *Okie Crude Co., et al.* v. *Muskogee Area Director, Bureau of Indian Affairs*, IBIA 92-18-A, *et al.* The IBIA concluded that the current regulations require a producer to pay royalty on the highest price available to it, whether or not it actually receives that price. Prices not available to a producer would not be used to calculate royalties due from that producer. This proposed amendment will eliminate the language that caused the differences in interpretation that led to the appeals to the IBIA.

It is the consensus of the BIA and the Osage Tribal Council that this proposed amendment to 25 CFR 226.11(a)(2) will create a positive economic benefit in the form of increased royalty income to the Osage headright holders. This rule change would remove the existing disincentive to purchasers to remain in Osage County resulting from bonus payments paid to some producers but not all. The producers in Osage County would then have incentive to receive bonus payments, which would increase mineral activity in the Osage mineral estate.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* In accordance with the Executive Order 12630, the Department has determined that this rule does not have significant takings implications.

In accordance with Executive Order No. 12612, the Department has determined that this rule does not have significant federalism effects.

The Department has certified to the Office of Management and Budget that these proposed regulations meet the applicable standards provided in Sections 2(a) and 2(b)(2) of Executive Order 12778.

The policy of the Department of the Interior is, whenever practical, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments regarding the proposed rule to the locations identified in the **ADDRESSES** section of this document.

Since this document does not constitute a major Federal action under the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.* (1982), no environmental impact statements or environmental assessments were made.

The information collections contained in 25 CFR part 226 are required by the Secretary, Department of the Interior, and are necessary to comply with the requirements of Office of Management and Budget (OMB) Circular No. A-102. The Standard Form 424 and attachments prescribed by such circular are approved by OMB under 44 U.S.C. 3501 *et seq.* (1982) and assigned approval number 0348-0006. These sections describe the types of information that would satisfy the requirements of Circular A-102. The information will be utilized in leasing of Osage lands for oil and gas mining. Response is mandatory.

William Haney, Field Solicitor, was the primary author of this document. For further information contact Gordon Jackson, Superintendent, Osage Agency, at (918) 287-1032.

List of Subjects in 25 CFR Part 226

Indian lands, Mineral resources, Mines, Oil and gas exploration.

For the reasons set out in the preamble, part 226 of title I, chapter 25 of the Code of Federal regulations is proposed to be amended as set forth below.

PART 226—LEASING OF OSAGE RESERVATION LANDS FOR OIL AND GAS MINING

1. The authority citation for 25 CFR part 226 continues to read as follows:

Authority: Sec. 3, 34 Stat. 543; secs. 1, 2, 45 Stat. 1478; sec. 3, 52 Stat. 1034, 1035; sec. 2(a), 92 Stat. 1660.

2. Section 226.11(a)(2) is revised to read as follows:

§ 226.11 Royalty payments.

(a) * * *

(2) Unless the Osage Tribal Council, with approval of the Secretary, shall elect to take the royalty in kind, payment is owing at the time of sale or removal of the oil, except where payments are made on division orders, and settlement shall be based on the actual selling price, but at not less than the highest posted price by a major purchaser (as defined in § 226.1(h)) in Osage County, Oklahoma, who purchases production from Osage oil leases.

* * * * *

Stan Speaks,

Acting Assistant Secretary-Indian Affairs.

[FR Doc. 93-27238 Filed 11-4-93; 8:45 am]

BILLING CODE 4310-02-P

federal register

Friday
November 5, 1993

Part VII

Department of Education

34 CFR Part 643

Talent Search Program; Final Regulations and Notice

DEPARTMENT OF EDUCATION

34 CFR Part 643

RIN 1840-AB94

Talent Search Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations governing the Talent Search program. The Talent Search program is authorized under title IV of the Higher Education Act of 1965 (HEA), and these final regulations implement changes made to the HEA by the Higher Education Amendments of 1992, Public Law 102-325. In addition to incorporating statutory changes, the regulations clarify and simplify requirements governing the program and revise the funding criteria.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write to the Department of Education contact person. A notice announcing the effective date will be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Prince O. Teal or Peggy J. Whitehead, U.S. Department of Education, 400 Maryland Avenue SW., room 5065, Washington, DC 20202-5249. Telephone: (202) 708-4804. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purposes and allowable activities of the Talent Search program support the National Education Goals. Specifically, the program funds projects designed to improve high school graduation rates (Goal #2), and to improve academic competency of program participants (Goal #3).

On June 10, 1993, the Secretary published a notice of proposed rulemaking (NPRM) for the Talent Search program in the **Federal Register** (58 FR 32580). The NPRM included a summary of regulations proposed to implement statutory changes and other regulations proposed to clarify and simplify requirements governing the program.

Analysis of Comments and Changes

In response to the Secretary's invitation in the NPRM, 161 persons submitted comments on the proposed regulations. An analysis of the comments and of the changes that have been made in the regulations since publication of the NPRM is published as an appendix to these final regulations.

Major Changes in the Regulations

The major differences between the NPRM and these final regulations are as follows:

Section 643.3 (Eligible Participants)

The eligibility provisions for a project participant have been revised to delete the requirement that a participant reside in the target area or attend a target school. Further, this section clarifies the eligibility of a person who needs Talent Search services in order to reenter a program of postsecondary education.

Section 643.7 (Definitions)

The definition of participant has been modified to eliminate an apparent redundancy.

The definition of target school has been revised to delete "secondary" as a modifier of "school" and to provide that such a school is one designated by the applicant as a focus of project services.

The definition of "potential first-generation college student" has been clarified and expanded.

Section 643.20 (Evaluation of Applications)

The method used to select applications in cases of ties has been revised to clarify that priority will be given to areas or eligible populations that have been underserved by the Talent Search program.

Section 643.21 (Selection Criteria)

This section has been revised to change the number of points awarded for each criterion as follows:

(a) Need for the project—24 points.

(b) Objectives—8 points.

(c) Plan of operation—30 points.

(d) Applicant and community support—16 points .

(e) Quality of personnel—9 points.

(f) Budget—5 points.

(g) Evaluation plan—8 points.

The reasons for the changes and the revisions of sub-criteria are included in the appendix.

Section 643.22 (Prior Experience)

This section has been revised to redistribute the points more equitably between the second and third criteria. As revised, each criterion is valued at 6 points. The total weight for prior experience continues to be 15 points.

Section 643.30 (Allowable Costs)

This section has been revised to include, as an allowable cost, lodging for project participants and staff for college visits that require an overnight stay. Also, fees for college admissions applications and college entrance examinations are now permissible under certain conditions.

Section 643.31 (Unallowable Costs)

This section has been revised to conform to the changes made in the allowable costs section and to delete the provision that bars costs for certain duplicative services.

Section 643.32 (Other Requirements)

Paragraph (b) of this section has been revised to require generally that each project serve a minimum of 600 participants.

This section has also been revised to require the grantee to give the project director sufficient authority to administer the project effectively.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Assessment of Educational Impact

In the notice of proposed rulemaking, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the response to the proposed rules and on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 643

Colleges and Universities, Education of disadvantaged, Grant programs-education, Reporting and recordkeeping requirements, Secondary education.

(Catalog of Federal Domestic Assistance Number 84.044 Talent Search Program)

Dated: November 1, 1993.

Richard W. Riley,

Secretary of Education.

The Secretary revises part 643 of title 34 of the Code of Federal Regulations to read as follows:

PART 643—TALENT SEARCH

Subpart A—General

Sec.
643.1 What is the Talent Search program?
643.2 Who is eligible for a grant?
643.3 Who is eligible to participate in a project?
643.4 What services may a project provide?
643.5 How long is a project period?
643.6 What regulations apply?
643.7 What definitions apply?

Subpart B—Assurances

643.10 What assurances must an applicant submit?

Subpart C—How Does the Secretary Make a Grant?

643.20 How does the Secretary decide which new grants to make?
643.21 What selection criteria does the Secretary use?
643.22 How does the Secretary evaluate prior experience?
643.23 How does the Secretary set the amount of a grant?

Subpart D—What Conditions Must Be Met by a Grantee?

643.30 What are allowable costs?
643.31 What are unallowable costs?
643.32 What other requirements must a grantee meet?

Authority: 20 U.S.C. 1070a–11 and 1070a–12, unless otherwise noted.

Subpart A—General

§ 643.1 What is the Talent Search program?

The Talent Search program provides grants for projects designed to—

(a) Identify qualified youths with potential for education at the postsecondary level and encourage them to complete secondary school and undertake a program of postsecondary education;

(b) Publicize the availability of student financial assistance for persons who seek to pursue postsecondary education; and

(c) Encourage persons who have not completed education programs at the secondary or postsecondary level, but who have the ability to do so, to reenter these programs.

(Authority: 20 U.S.C. 1070a–12)

§ 643.2 Who is eligible for a grant?

The following are eligible for a grant to carry out a Talent Search project:

(a) An institution of higher education.

(b) A public or private agency or organization.

(c) A combination of the types of institutions, agencies, and organizations described in paragraphs (a) and (b) of this section.

(d) A secondary school, under exceptional circumstances such as if no institution, agency, or organization described in paragraphs (a) and (b) of this section is capable of carrying out a Talent Search project in the target area to be served by the proposed project.

(Authority: 20 U.S.C. 1070a–11)

§ 643.3 Who is eligible to participate in a project?

(a) An individual is eligible to participate in a Talent Search project if the individual meets all the following requirements:

(1) (i) Is a citizen or national of the United States;

(ii) Is a permanent resident of the United States;

(iii) Is in the United States for other than a temporary purpose and provides evidence from the Immigration and Naturalization Service of his or her intent to become a permanent resident;

(iv) Is a permanent resident of Guam, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands (Palau); or

(v) Is a resident of the Freely Associated States—the Federated States of Micronesia or the Republic of the Marshall Islands.

(2) (i) Has completed five years of elementary education or is at least 11 years of age but not more than 27 years of age.

(ii) However, an individual who is more than 27 years of age may participate in a Talent Search project if the individual cannot be appropriately served by an Educational Opportunity Center project under 34 CFR part 644 and if the individual's participation would not dilute the Talent Search project's services to individuals described in paragraph (a)(2)(i) of this section.

(3) (i) Is enrolled in or has dropped out of any grade from six through 12, or has graduated from secondary school, has potential for a program of postsecondary education, and needs one or more of the services provided by the project in order to undertake such a program; or

(ii) Has undertaken, but is not presently enrolled in, a program of postsecondary education, has the ability to complete such a program, and needs one or more of the services provided by the project to reenter such a program.

(b) A veteran as defined in § 643.6(b), regardless of age, is eligible to participate in a Talent Search project if he or she satisfies the eligibility requirements in paragraph (a) of this section other than the age requirement in paragraph (a)(2).

(Authority: 20 U.S.C. 1070a–11 and 1070a–12)

§ 643.4 What services may a project provide?

A Talent Search project may provide the following services:

(a) Academic advice and assistance in secondary school and college course selection.

(b) Assistance in completing college admission and financial aid applications.

(c) Assistance in preparing for college entrance examinations.

(d) Guidance on secondary school reentry or entry to other programs leading to a secondary school diploma or its equivalent.

(e) Personal and career counseling.

(f) Tutorial services.

(g) Exposure to college campuses as well as cultural events, academic programs, and other sites or activities not usually available to disadvantaged youth.

(h) Workshops and counseling for parents of students served.

(i) Mentoring programs involving elementary or secondary school teachers, faculty members at institutions of higher education, students, or any combination of these persons.

(j) Activities described in paragraphs (a) through (i) of this section that are specifically designed for students of limited English proficiency.

(k) Other activities designed to meet the purposes of the Talent Search program stated in § 643.1, including activities to meet the specific educational needs of individuals in grades six through eight.

(Authority: 20 U.S.C. 1070a–12)

§ 643.5 How long is a project period?

(a) Except as provided in paragraph (b) of this section, a project period under the Talent Search program is four years.

(b) The Secretary approves a project period of five years for applications that score in the highest ten percent of all applications approved for new grants under the criteria in § 643.21.

(Authority: 20 U.S.C. 1070a–11)

§ 643.6 What regulations apply?

The following regulations apply to the Talent Search program:

(a) The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR part 74 (Administration of Grants to Institutions of Higher Education, Hospitals, and Nonprofit Organizations).

(2) 34 CFR part 75 (Direct Grant Programs), except for § 75.511.

(3) 34 CFR part 77 (Definitions That Apply to Department Regulations), except for the definition of "secondary school" in § 77.1.

(4) 34 CFR part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(5) 34 CFR part 82 (New Restrictions on Lobbying).

(6) 34 CFR part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(7) 34 CFR part 86 (Drug-Free Schools and Campuses).

(b) The regulations in this part 643.

(Authority: 20 U.S.C. 1070a–11 and 1070a–12)

§ 643.7 What definitions apply?

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR 77.1:

Applicant
Application
Budget
Budget period
EDGAR
Equipment
Facilities
Fiscal year
Grant
Grantee
Private
Project
Project period
Public
Secretary
Supplies

(b) *Other definitions.* The following definitions also apply to this part:

HEA means the Higher Education Act of 1965, as amended.

Institution of higher education means an educational institution as defined in sections 1201(a) and 481 of the HEA.

Low-income individual means an individual whose family's taxable income did not exceed 150 percent of the poverty level amount in the calendar year preceding the year in which the individual initially participated in the project. The poverty level amount is determined by using criteria of poverty established by the Bureau of the Census of the U.S. Department of Commerce.

Participant means an individual who—

(1) Is determined to be eligible to participate in the project under § 643.3; and

(2) Receives project services designed for his or her age or grade level.

Postsecondary education means education beyond the secondary school level.

Potential first-generation college student means—

(1) An individual neither of whose natural or adoptive parents received a baccalaureate degree;

(2) An individual who, prior to the age of 18, regularly resided with and received support from only one parent and whose supporting parent did not receive a baccalaureate degree; or

(3) An individual who, prior to the age of 18, did not regularly reside with or receive support from a natural or an adoptive parent.

Secondary school means a school that provides secondary education as determined under State law, except that it does not include education beyond grade 12.

Target area means a geographic area served by a Talent Search project.

Target school means a school designated by the applicant as a focus of project services.

Veteran means a person who served on active duty as a member of the Armed Forces of the United States—

(1) For a period of more than 180 days, any part of which occurred after January 31, 1955, and who was discharged or released from active duty under conditions other than dishonorable; or

(2) After January 31, 1955, and who was discharged or released from active duty because of a service-connected disability.

(Authority: 20 U.S.C. 1070a–11, 1070a–12 and 1141)

Subpart B—Assurances

§ 643.10 What assurances must an applicant submit?

An applicant shall submit, as part of its application, assurances that—

(a) At least two-thirds of the individuals it serves under its proposed Talent Search project will be low-income individuals who are potential first-generation college students;

(b) Individuals who are receiving services from another Talent Search project or an Educational Opportunity Center project under 34 CFR part 644 will not receive services under the proposed project;

(c) The project will be located in a setting or settings accessible to the individuals proposed to be served by the project; and

(d) If the applicant is an institution of higher education, it will not use the project as a part of its recruitment program.

(Authority: 20 U.S.C. 1070a–12)

Subpart C—How Does the Secretary Make a Grant?

§ 643.20 How does the Secretary decide which new grants to make?

(a) The Secretary evaluates an application for a new grant as follows:

(1) (i) The Secretary evaluates the application on the basis of the selection criteria in § 643.21.

(ii) The maximum score for all the criteria in § 643.21 is 100 points. The maximum score for each criterion is indicated in parentheses with the criterion.

(2) (i) For an application for a new grant to continue to serve substantially the same populations or campuses that the applicant is serving under an expiring project, the Secretary evaluates the applicant's prior experience in delivering services under the expiring project on the basis of the criteria in § 643.22.

(ii) The maximum score for all the criteria in § 643.22 is 15 points. The maximum score for each criterion is indicated in parentheses with the criterion.

(3) The Secretary awards additional points equal to 10 percent of the application's score under paragraphs (a)(1) and (2) of this section to an application for a project in Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands (Palau), or the Northern Mariana Islands if the applicant meets the requirements of Subparts A, B, and D of this part.

(b) The Secretary makes new grants in rank order on the basis of the applications' total scores under paragraphs (a)(1) through (3) of this section.

(c) If the total scores of two or more applications are the same and there are insufficient funds for these applications after the approval of higher-ranked applications, the Secretary uses the remaining funds to serve geographic areas and eligible populations that have been underserved by the Talent Search program.

(d) The Secretary may decline to make a grant to an applicant that carried out a project that involved the fraudulent use of funds under section 402A(c)(2)(B) of the HEA.

(Authority: 20 U.S.C. 1070a–11, 1070a–12, and 1144a(a))

§ 643.21 What selection criteria does the Secretary use?

The Secretary uses the following criteria to evaluate an application for a new grant:

(a) *Need for the project* (24 points). The Secretary evaluates the need for a Talent Search project in the proposed

target area on the basis of the extent to which the application contains clear evidence of the following:

(1) A high number or percentage, or both, of low-income families residing in the target area;

(2) A high number or percentage, or both, of individuals residing in the target area with education completion levels below the baccalaureate level;

(3) A high student dropout rate in the proposed target schools in the preceding three years;

(4) A low rate of enrollment in programs of postsecondary education by graduates of the target schools in the preceding three years;

(5) A high ratio of students to school counselors in the target schools; and

(6) Other indicators of need for a Talent Search project, including the presence of unaddressed academic or socio-economic problems of students in the target schools or the target area.

(b) *Objectives* (8 points). The Secretary evaluates the quality of the applicant's proposed project objectives on the basis of the extent to which they—

(1) Include both process and outcome objectives relating to each of the purposes of the Talent Search program stated in § 643.1;

(2) Address the needs of the target area;

(3) Are clearly described, specific, and measurable; and

(4) Are ambitious but attainable within each budget period and the project period given the project budget and other resources.

(c) *Plan of operation* (30 points). The Secretary evaluates the quality of the applicant's plan of operation on the basis of the following:

(1) (4 points) The plan to inform the residents, schools, and community organizations in the target area of the goals, objectives, and services of the project and the eligibility requirements for participation in the project;

(2) (4 points) The plan to identify and select eligible participants and ensure their participation without regard to race, color, national origin, gender, or disability;

(3) (2 points) The plan to assess each participant's need for services provided by the project;

(4) (12 points) The plan to provide services that meet participants' needs and achieve the objectives of the project; and

(5) (8 points) The plan, including the project's organizational structure and the time committed to the project by the project director and other personnel, to ensure the proper and efficient administration of the project.

(d) *Applicant and community support* (16 points). The Secretary evaluates the applicant and community support for the proposed project on the basis of the extent to which the applicant has made provision for resources to supplement the grant and enhance the project's services, including—

(1) (8 points) Facilities, equipment, supplies, personnel, and other resources committed by the applicant; and

(2) (8 points) Resources secured through written commitments from schools, community organizations, and others.

(e) *Quality of personnel* (9 points). (1) The Secretary evaluates the quality of the personnel the applicant plans to use in the project on the basis of the following:

(i) The qualifications required of the project director.

(ii) The qualifications required of each of the other personnel to be used in the project.

(iii) The plan to employ personnel who have succeeded in overcoming the disadvantages of circumstances like those of the population of the target area.

(2) In evaluating the qualifications of a person, the Secretary considers his or her experience and training in fields related to the objectives of the project.

(f) *Budget* (5 points). The Secretary evaluates the extent to which the project budget is reasonable, cost-effective, and adequate to support the project.

(g) *Evaluation plan* (8 points). The Secretary evaluates the quality of the evaluation plan for the project on the basis of the extent to which the applicant's methods of evaluation—

(1) Are appropriate to the project's objectives;

(2) Provide for the applicant to determine, using specific and quantifiable measures, the success of the project in—

(i) Making progress toward achieving its objectives (a formative evaluation); and

(ii) Achieving its objectives at the end of the project period (a summative evaluation); and

(3) Provide for the disclosure of unanticipated project outcomes, using quantifiable measures if appropriate.

(Approved by the Office of Management and Budget under control number 1840–0549)

(Authority: 20 U.S.C. 1070a–12)

§ 643.22 How does the Secretary evaluate prior experience?

(a) In the case of an application described in § 643.20(a)(2)(i), the Secretary reviews information relating to an applicant's performance under its expiring Talent Search project. This information includes performance reports, audit reports, site visit reports, and project evaluation reports.

(b) The Secretary evaluates the applicant's prior experience in delivering services on the basis of the following criteria:

(1) (3 points) (i) Whether the applicant provided services to the number of participants required to be served under the approved application; and

(ii) Whether two-thirds of all participants served were low-income individuals and potential first-generation college students.

(2) (6 points) The extent to which the applicant met or exceeded its objectives regarding the retention, reentry, and graduation levels of secondary school participants.

(3) (6 points) The extent to which the applicant met or exceeded its objectives regarding the admission or reentry of participants to programs of postsecondary education.

(Approved by the Office of Management and Budget under control number 1840–0549)

(Authority: 20 U.S.C. 1070a–12)

§ 643.23 How does the Secretary set the amount of a grant?

(a) The Secretary sets the amount of a grant on the basis of—

(1) 34 CFR 75.232 and 75.233, for new grants; and

(2) 34 CFR 75.253, for the second and subsequent years of a project period.

(b) If the circumstances described in section 402A(b)(3) of the HEA exist, the Secretary uses the available funds to set the amount of the grant beginning in fiscal year 1994 at the lesser of—

(1) $180,000; or

(2) The amount requested by the applicant.

(Approved by the Office of Management and Budget under control number 1840–0549)

(Authority: 20 U.S.C. 1070a–11)

Subpart D—What Conditions Must Be Met by a Grantee?

§ 643.30 What are allowable costs?

The cost principles that apply to the Talent Search program are in 34 CFR part 74, subpart Q. Allowable costs include the following if they are reasonably related to the objectives of the project:

(a) Transportation, meals, and, if necessary, lodging for participants and staff for—

(1) Visits to postsecondary educational institutions to obtain

information relating to the admission of participants to those institutions;

(2) Participation in "College Day" activities; and

(3) Field trips to observe and meet with persons who are employed in various career fields in the target area and who can act as role models for participants.

(b) Purchase of testing materials.

(c) Fees required for college admissions applications or entrance examinations if—

(1) A waiver of the fee is unavailable; and

(2) The fee is paid by the grantee to a third party on behalf of a participant.

(d) In-service training of project staff.

(e) Rental of space if—

(1) Space is not available at the site of the grantee; and

(2) The rented space is not owned by the grantee.

(f) Purchase of computer hardware, computer software, or other equipment for student development, project administration, and recordkeeping, if the applicant demonstrates to the Secretary's satisfaction that the equipment is required to meet the objectives of the project more economically or efficiently.

(Authority: 20 U.S.C. 1070a–11 and 1070a–12)

§ 643.31 What are unallowable costs?

Costs that are unallowable under the Talent Search program include, but are not limited to, the following:

(a) Tuition, stipends, and other forms of direct financial support for participants.

(b) Application fees for financial aid.

(c) Research not directly related to the evaluation or improvement of the project.

(d) Construction, renovation, and remodeling of any facilities.

(Authority: 20 U.S.C. 1070a–11 and 1070a–12)

§ 643.32 What other requirements must a grantee meet?

(a) *Eligibility of participants.* (1) A grantee shall determine the eligibility of each participant in the project at the time that the individual is selected to participate.

(2) A grantee shall determine the status of a low-income individual on the basis of the documentation described in section 402A(e) of the HEA.

(b) *Number of participants.* A grantee shall serve a minimum of 600 participants in each budget period. However, the Secretary may reduce the minimum number of these participants if the amount of the grant for the budget period is less than $180,000.

(c) *Recordkeeping.* For each participant, a grantee shall maintain a record of—

(1) The basis for the grantee's determination that the participant is eligible to participate in the project under § 643.3;

(2) The grantee's needs assessment for the participant;

(3) The services that are provided to the participant; and

(4) The specific educational progress made by the participant as a result of the services.

(d) *Project director.* (1) A grantee shall employ a full-time project director unless paragraph (d)(3) of this section applies.

(2) The grantee shall give the project director sufficient authority to administer the project effectively.

(3) The Secretary waives the requirement in paragraph (d)(1) of this section if the applicant demonstrates that the requirement will hinder coordination—

(i) Among the Federal TRIO Programs (sections 402A through 402F of the HEA); or

(ii) Between the programs funded under sections 402A through 410 of the HEA and similar programs funded through other sources.

(Approved by the Office of Management and Budget under control number 1840–0549)

(Authority: 20 U.S.C. 1070a–11 and 1070a–12)

Appendix—Analysis of Comments and Responses

(Note: This appendix will not be codified in the Code of Federal Regulations)

The following is an analysis of the comments and the changes in the regulations since publication of the NPRM on June 10, 1993 (58 FR 32580). Substantive issues are discussed under the section of the regulations to which they pertain. Minor changes made to the language published in the NPRM—and suggested changes the Secretary is not legally authorized to make under applicable statutory authority—are generally not addressed.

What Is the Talent Search Program? (§ 643.1)

Comment: One commenter objected to the stated purposes in § 643.1 of the proposed regulations because the Secretary included the phrase "[e]ncourage persons who have not completed education programs at the secondary or postsecondary level, but who have the ability to do so, to reenter these programs." The commenter suggested that the phrase implied that a Talent Search grant applicant would be penalized in an application competition if its design did not serve out-of-school populations.

Discussion: The purposes of the Talent Search program in § 643.1 are taken directly from the statutory authority for the program. Under the final regulations the Secretary evaluates the objectives of a proposed project on the basis of the extent to which the objectives relate to each of the purposes of the Talent Search program. Section 643.21(b)(1). An application, in all likelihood, would be penalized if the applicant failed to show that low-income, first-generation youth who have dropped out of secondary school would not be served by that project.

Changes: None.

Who Is Eligible for a Grant? (§ 643.2)

Comment: Two commenters requested that the Secretary change § 643.2 of the proposed regulations to explain which applicant or applicants would be held accountable for Federal funds if a combination of applicants receives a grant.

Discussion: The Secretary has determined that it is unnecessary to change § 643.2 because combination applicants are regulated by the Education Department General Administrative Regulations (EDGAR, 34 CFR 75.127–75.129). The pertinent EDGAR provisions require combination applicants to designate one member of the combination to make the application on behalf of the group. In the alternative, EDGAR allows a combination of eligible parties to create a separate legal entity to apply for the grant. Under either application procedure, each member of the combination must enter into an agreement that delineates the duties of each member of the combination. The agreement must also bind each member to the statements and assurances made in the application.

Changes: None.

Who Is Eligible To Participate in a Project? (§ 643.3)

Comment: Many commenters suggested that the Secretary change § 643.3 by deleting the eligibility requirements concerning residence in a target area or attendance at a target school because it could cause a documentation burden and was contrary to an asserted congressional intent to allow all citizens to obtain information from a Talent Search project.

Discussion: The primary purpose of a Talent Search project is to provide services to persons residing in a discrete geographic area or attending schools located in that area. Under the Talent Search program, this area is called the target area. These regulations provide for the award of new grants based in substantial part on the need for the project in the target area. At the same time, the Secretary is persuaded that a Talent Search project should not be precluded from serving individuals who do not live in the target area or attend a target school. In light of these considerations, the Secretary has deleted the requirement in § 643.3 that a project participant must reside in, or attend a school located in, the target area.

Changes: The Secretary has deleted the phrase "resides in the target area or attends a target school" from the participant eligibility requirements in § 643.3.

Comment: Many commenters suggested that the Secretary delete the provision in the proposed regulations that required that participants have potential for a program of

postsecondary education. Commenters were concerned that the requirement would force project staff to engage in unnecessary speculation and burdensome recordkeeping.

Discussion: The Secretary believes that the provision in question accurately reflects the pertinent language of the authorizing statute. The overarching purpose of the Talent Search program is to assist participants to enroll in postsecondary education. The Secretary views the provision as necessary to ensure that projects serve those who will benefit from the program. The Secretary believes that a participant's potential for postsecondary education is neither too speculative to be considered nor too burdensome to record. Therefore, the Secretary declines to make the requested change.

The Secretary does not require project staff to make an elaborate assessment of potential or a detailed record of that assessment. However, project personnel must exercise reasonable professional judgment in deciding whether a prospective participant has potential. Section 643.32(c)(1) requires that project staff make a record that describes the basis on which each participant is selected to receive services.

Changes: None.

Comment: Many commenters suggested that § 643.3 of the proposed regulations be changed to eliminate the requirement that projects determine whether each participant needs one or more of the services provided by the project. The commenters were concerned that the proposed requirement would impose an unnecessary assessment and recordkeeping burden. The commenters contended that people do not seek the services of a Talent Search project unless they need the services.

Discussion: The Secretary views needs assessments as a necessary first step in establishing effective counselor-client relationships. Further, such an initial contact encourages project staff to exercise their professional judgment in (1) ascribing meaning to the word "need," (2) differentiating between those who need services and those who do not, and (3) creating a record that reasonably describes the basis on which each participant was determined to need Talent Search services. Section 643.32(c)(2) requires that a grantee maintain a record of needs assessments.

Changes: None.

What Services May a Project Provide? (§ 643.4)

Comment: Three commenters recommended that the Secretary clarify the list of permissible services in § 643.4 of the proposed regulations. Commenters were concerned that the list did not provide sufficient guidance to prospective applicants.

Discussion: The Secretary encourages applicants and grantees to exercise reasonable professional judgment when designing and delivering services. The Secretary finds that it would be inappropriate to delineate, with greater specificity, the types of services that may be provided by a Talent Search project. By listing a broad range of permissible services, the Secretary intends to encourage applicants to identify from a wide variety of possibilities the means of furthering the purposes of the Talent Search program in their communities.

Changes: None.

How Long Is a Project Period? (§ 643.5)

Comment: Two commenters requested that the Secretary clarify § 643.5 of the proposed regulations, which describes the period for which Talent Search grants are awarded.

Discussion: The Secretary agrees that the proposed § 643.5 was unclear. The word "approved" was inadvertently omitted from the proposed § 643.5. The error has been corrected, thus eliminating what might have caused confusion on the part of the commenters.

Changes: The Secretary has changed § 643.5(b) to read "[t]he Secretary approves a project period of five years for applications that score in the highest ten percent of all applications approved for new grants under the criteria in § 643.21."

What Definitions Apply? (§ 643.7)

Comment: Many commenters requested that the Secretary change the proposed definition of "participant," which required that a participant be able to benefit from one or more of the services available from the project. Commenters complained that the requirement was ambiguous and could not be measured.

Discussion: The Secretary agrees that the phrase "able to benefit" does not offer sufficient guidance. Further, the Secretary believes that the proposed definition of "participant" was somewhat redundant. The first part of the definition required that a participant be determined to be eligible to participate in the project under § 643.3. The second part of the definition required that the participant be determined to be able to benefit from participating. The Secretary believes that an individual who is determined to be eligible for services under § 643.3 will have necessarily demonstrated a need for and an ability to benefit from project services.

Changes: The Secretary has revised the definition of "participant" to mean "an individual who—(1) [i]s determined to be eligible to participate in the project under § 643.3; and (2) [r]eceives project services designed for his or her age or grade level."

Comment: Many commenters requested that the Secretary revise the definition of "potential first-generation college student" in § 643.7(b). The commenters asserted that the Secretary's definition of "potential first-generation college student" was confusing and that it would not allow project staff to determine the first-generation status of foster children or children whose parents are divorced.

Discussion: The proposed definition of "potential first-generation college student" has been revised to address the commenters' concerns. The definition has been amended to clarify that it embraces both natural and adoptive parents. The Secretary believes that revised paragraph (2) of the definition applies to many children whose parents are divorced, as well as other children in single-parent families. A new paragraph (3) has been added to address foster children and other similarly-situated individuals.

Changes: In paragraph (1) of the definition, the words "natural or adoptive" have been added as modifiers of the term "parents." In paragraph (2), the phrase "prior to the age of 18" has been added to clarify the period in which the individual regularly resided with and received support from only one parent. A new paragraph (3) provides that "potential first-generation college student" includes "[a]n individual who, prior to the age of 18, did not regularly reside with or receive support from a natural or an adoptive parent."

Comment: Many commenters suggested that the word "secondary" be stricken from the definition of "target school" in § 643.7(b) of the proposed regulations. The commenters pointed out that the 1992 amendments to the Higher Education Act allow projects to serve students who have completed five years of elementary school, but the requirement that a target school be a secondary school would preclude services to sixth graders.

Discussion: The Higher Education Act defines a secondary school as a day or residential school that provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12. The Secretary finds that State law often defines secondary education as not including the sixth grade. The Secretary also finds that limiting target schools as proposed would, in some cases, exclude individuals who are eligible to participate in Talent Search projects.

Changes: Section 643.7(b) of the final regulations defines target school as "a school designated by the applicant as a focus of project services."

How Does the Secretary Decide Which New Grants To Make? (§ 643.20)

Comment: Several commenters objected to § 643.20(c) of the proposed regulations, which describes how the Secretary awards grants when two or more applications receive identical scores and all of these applications cannot be funded. The commenters suggested that the decision should not be made on the basis of what appeared to them to be a subjective judgment.

Discussion: The Secretary believes that the standards for awards in the circumstances described should be clarified. The Secretary has therefore changed the language to mirror congressional concern regarding equitable distribution of services to geographic areas and eligible populations that have been underserved by the program.

Changes: In the final regulations, § 643.20(c) reads: "[i]f the total scores of two or more applications are the same and there are insufficient funds for these applications after the approval of higher-ranked applications, the Secretary uses the remaining funds to serve geographic areas and eligible populations that have been underserved by the Talent Search program."

What Selection Criteria Does the Secretary Use? (§ 643.21)

Comment: Many commenters suggested that the Secretary change the point distribution in § 643.21 of the proposed regulations. The commenters offered the following table as a summary of their suggestions:

	Points in NPRM	Suggested points
Need for the project	24	25
Objectives	8	0
Plan of operation	33	32
Applicant and community support	8	20
Quality of personnel	9	10
Budget	10	5
Evaluation plan	8	8
Total	100	100

The commenters suggested that the criterion listed under the heading "Plan of operation" be combined with the criterion listed under the heading "Objectives" and that the combined criteria be allocated 32 points. They argued that merging the criteria would simplify the application process by eliminating unnecessary duplication.

The commenters suggested that the "Applicant and community support" criterion be allotted 20 points instead of 8 points because the criterion is so important to the success of a project.

The commenters suggested that the "Budget" criterion be allotted 5 points instead of 10 points because (1) many field readers are not familiar with local personnel and other operating costs, and (2) the budget submitted with an application is not the budget that ultimately governs the project.

Finally, the commenters suggested that the Secretary allot an additional point to the "Need for the project" criterion and one additional point to the "Quality of personnel" criterion. The commenters did not present a specific argument in support of these suggestions.

Discussion: The Secretary has reconsidered the entire point distribution and agrees with the commenters, in whole or in part, with regard to the "Applicant and community support," "Plan of operation," and "Budget" criteria. However, the Secretary believes that it is unnecessary to change the points for the "Need for the project," "Objectives," or "Quality of personnel."

The Secretary was persuaded by the commenters' assertion that the "Applicant and community support" criterion had been undervalued in the proposed regulations. The Secretary agrees with the commenters that support from the host institution and community is often vital to the success of a Talent Search project. The Secretary has therefore doubled the points allotted to the criterion.

The Secretary also agrees with the commenters that there may have been some duplication between the "Objectives" criterion and the "Plan of operation" criterion. However, the Secretary has chosen not to combine the two criteria. Instead, the Secretary has eliminated any possible duplication by clarifying the language in each criterion. The Secretary has also decreased the points allotted to the "Plan of operation" criterion to allow more points in the "Applicant and community support" criterion.

The Secretary agrees with the commenters that some field readers may not be familiar with local salary levels and other operating costs. The Secretary also acknowledges that the budget submitted with an application is not always the budget that ultimately governs the project because the Department often negotiates a new budget after an applicant has been selected for funding. The Secretary also agrees that the application budget may not be as good an indicator of a high quality project as is applicant and community support. Therefore, the Secretary has redistributed five points from the "Budget" criterion to the "Applicant and community support" criterion.

The Secretary has declined to increase the points allotted to the "Need for the project" and "Quality of personnel" criteria because the Secretary was unable to ascertain the commenters' reasons for recommending those changes.

Changes: Section 643.21(a) (Need for the project): Minor editorial changes have been made in paragraphs (a)(1) and (a)(6).

Section 643.21(b) (Objectives): No change in point allocation was made, but the Secretary has changed the language of the criterion to eliminate overlap with the "Plan of operation" criterion and for other purposes. Paragraph (b)(1) now provides for an evaluation of objectives on the basis of the extent to which they "[i]nclude both process and outcome objectives relating to each" of the program purposes. Paragraph (b)(2) of the proposed criterion has been eliminated and a new provision has been substituted to provide for an evaluation of the extent to which the objectives "[a]ddress the needs of the target area." Finally, paragraph (b)(4) now refers to "each budget period" as well as the project period.

Section 643.21(c) (Plan of operation): The Secretary has decreased the number of points allotted to this criterion from 33 points to 30 points. The Secretary also revised the provision in order to describe more explicitly the various key components of an effective and comprehensive operating plan.

Section 643.21(d) (Applicant and community support): The Secretary increased the number of points allotted to this criterion to 16 points and made minor editorial changes in the language. Each of the two subcriteria is allotted eight points.

Section 643.21(e) Quality of personnel: A minor editorial change has been made in paragraph (e)(1)(iii).

Section 643.21(f) Budget: The Secretary has reduced the points allotted to this criterion from ten to five points and simplified the language.

Comment: One commenter suggested that § 643.21(e) of the proposed regulations, relating to the quality of key personnel, be amended to require at least a master's degree for all project directors.

Discussion: The Secretary believes that it is appropriate to rely on applicants to use their professional judgment in deciding what credentials are necessary and proper for personnel in a proposed project. Allowing each applicant to establish its own hiring standards ensures that applicants have the flexibility they need to design projects that will meet the unique needs of the target area they propose to serve. The Secretary also believes that academic achievement is not the only indicator of a project director's potential for success.

Changes: None.

Comment: One commenter suggested that the regulations include provisions allowing Talent Search projects to enter into partnerships with a variety of agencies and community organizations.

Discussion: Section 643.2(c) of the regulations allows for partnerships, and § 643.21(d)(2) encourages all Talent Search projects to establish a variety of collaborative and supportive relationships with local schools and community organizations. However, neither the enabling legislation nor the regulations requires formal partnership agreements.

Changes: None.

Comment: Several commenters suggested that the Secretary change § 643.21(e)(1)(iii) of the proposed regulations, which allocates points to an applicant based on the applicant's plan to employ personnel who have overcome the disadvantages of circumstances like those of the population in the target area. Some commenters suggested that the Secretary include a list of groups from which applicants should hire. Various commenters suggested that the Secretary evaluate whether the applicant planned to hire members of racial and ethnic minorities, women, persons with physical disabilities, or elderly persons. One commenter argued that the proposed § 643.21(e)(1)(iii) was too broad and open to too much interpretation by field readers. Another commenter argued that the provision was discriminatory.

Discussion: Other sources of Federal law prohibit employment discrimination based on race, ethnicity, age, gender, or disability. The provision set out in § 643.21(e)(1)(iii) is an evaluation criterion designed to encourage Talent Search applicants to develop strategies for hiring persons who have experienced the same kinds of difficulties as those being faced by Talent Search participants. It is the Secretary's experience that successful Talent Search projects have these types of individuals on their staffs.

Changes: None.

How Does the Secretary Evaluate Prior Experience? (§ 643.22)

Comment: One commenter suggested that the Secretary change § 643.22(a) of the proposed regulations, which provides for an evaluation of the prior experience of a grantee under the Talent Search program during the three fiscal years immediately preceding the year in which the grantee submits a new application. The commenter suggested that the Secretary consider the prior experience of grantees who administered programs within a six-year period before the competition. The commenter noted that a six-year limit would allow the Secretary to evaluate and award prior experience points to more applicants.

The commenter pointed out that applicants with prior experience administering a Talent Search project may not have been funded during the last three years and asked that the Secretary consider the experience of those applicants.

Discussion: The Secretary has reviewed proposed § 643.22(a) and has changed the

language of the provision. Section 643.22(a) is designed to obtain and use the most recent data available to judge a current grantee's performance and to promote the continuity of successful projects. It recognizes the strong working relationships the project may have established within a community, the growing attachment that disadvantaged youth may have to the project, and the disruption that might occur if the project were discontinued. The underlying rationale for providing points for prior experience is to promote continuity in appropriate cases—not to reward previously-funded projects.

Inasmuch as the project period for expiring Talent Search projects does not always coincide with fiscal years, the language of the proposed regulations has been revised to delete references to fiscal years and provide for a review of the applicant's performance under the entire project period of the expiring project.

Changes: The language of paragraph (a) of this section has been modified as follows: "* * * the Secretary reviews information relating to an applicant's performance under its expiring Talent Search project."

Comment: Several commenters suggested that the Secretary change § 643.22(b) of the proposed regulations because the proposed section was unbalanced. The commenters argued that the proposed regulations awarded a disproportionately high number of points to an applicant based on the applicant's prior experience in promoting secondary school retention, reentry, and graduation. The commenters contended that an equal number of points should be awarded to an applicant who can show successful prior experience in enrolling or re-enrolling participants in postsecondary education.

Discussion: The Secretary is persuaded by the commenters and has revised the section accordingly.

Changes: The Secretary has changed § 643.22(b) to provide for a maximum of six points for the project's success in meeting its secondary school objectives and six points for its success in meeting its postsecondary school objectives. Minor editorial changes to this paragraph have also been made.

Comment: Many commenters suggested that a fourth criterion be added to the prior experience section. The fourth criterion would take into account an applicant's success in achieving other objectives.

Discussion: The Secretary believes the three criteria in the proposed regulations are sufficiently inclusive to cover the essential outcomes of a Talent Search project. The Secretary believes that the criterion suggested by the commenters that would allocate points to applicants who have achieved "other" objectives is too vague to be used in evaluating the performance of an applicant.

Changes: None.

What Are Allowable Costs? (§ 643.30)

Comment: Many commenters suggested the Secretary amend § 643.30 of the proposed regulations to include lodging for project participants for college visits in the list of allowable costs. The commenters suggested that permitting lodging costs would allow many Talent Search projects greater flexibility in exposing participants to college campuses.

Discussion: The Secretary has determined that some Talent Search projects are prevented from bringing their participants to visit colleges because they cannot complete the trip to and from the college or university campus in one day. The Secretary believes that college visits help Talent Search participants learn about postsecondary opportunities. The Secretary has, therefore, determined that lodging may be an allowable cost.

Changes: The Secretary has changed § 643.30 so that the list of allowable costs includes transportation, meals, and, if necessary lodging for participants and staff for (1) visits to postsecondary educational institutions to obtain information relating to the admission of participants to those institutions; (2) participation in "College Day" activities; and (3) field trips to observe and meet with people who are employed in various career fields in the target area and who can act as role models for participants.

Comment: Many commenters suggested that the Secretary amend § 643.30 of the proposed regulations to include college admission fees and college entrance examination fees in the list of allowable costs.

Discussion: The Secretary has found that college admission application fees are often barriers that prevent students from low-income families from filing applications to postsecondary schools. The Secretary has also found that waivers of college admission application fees are not always available to low-income students. Some State-supported institutions are legally prohibited from waiving admission application fees, and private institutions may or may not waive admission application fees for low-income applicants. The high cost of admission application fees and the unavailability of fee waivers have the detrimental effect of preventing Talent Search participants from completing applications to certain four-year colleges and universities. The Secretary has concluded that admission fees should be included in the list of allowable costs under certain circumstances described in the regulations.

Talent Search participants have historically benefitted from having testing materials available in order to prepare students for the SAT, ACT, and other standardized tests. The Secretary believes that it is appropriate to allow Talent Search projects to pay for testing even when the examination will be administered by a third party. Therefore, the Secretary has included entrance examination fees in the circumstances described in the regulations in the list of allowable costs.

Changes: The Secretary has changed § 643.30 so that the list of allowable costs includes fees required for college admissions applications or entrance examinations if (1) a waiver of the fee is unavailable; and (2) the fee is paid by the grantee to a third party on behalf of a participant.

Comment: Several commenters suggested that allowable costs include specific fees and services not listed in § 643.30 of the proposed regulations. Among the items suggested were (1) the price of tickets to cultural events, (2) fees for various types of academic programs, (3) tutorial activities, (4) workshop fees, (5) student leadership conference fees, (6) entrance fees for cultural enhancement activities, (7) stipends, and (8) monetary incentives or awards for participants.

Discussion: The list of costs in § 643.30 is intended to provide examples of the types of expenses that a grantee may cover with a Talent Search grant. The list is only illustrative; it is not exhaustive. Most expenses that are directly related to the provision of an allowable service may be covered by a Talent Search grant. However, the Secretary does not allow direct payments to participants.

Changes: None.

Comment: One commenter requested that the Secretary change the list of allowable costs in § 643.30 so that the list would include costs associated with the translation of materials or the purchase of translated materials for students or parents of limited English proficiency.

Discussion: The Higher Education Act authorizes programs and activities designed for students of limited English proficiency as permissible services. This legislative mandate is reflected in § 643.4(j) of the regulations, which specifically allows a Talent Search project to tailor its services to meet the specific needs of students of limited English proficiency. Although the costs of translation are not specifically listed under § 643.30, a project may expend grant monies on translations if these costs are necessary to effectively serve participants of limited English proficiency.

Changes: None.

What Are Unallowable Costs? (§ 643.31)

Comment: Many commenters suggested that the provision regarding duplicative services contained in § 643.31(d) of the proposed regulations be eliminated in view of section 402A(c)(6) of the Higher Education Act, which provides that "[t]he Secretary shall not limit an entity's eligibility to receive funds * * * because such entity sponsors a program similar to the program to be assisted * * *, regardless of the funding source of such program."

Discussion: The Secretary agrees that proposed § 643.31(d), relating to duplicative services, is not necessary and that it is better to accentuate the positive impact of effective coordination and cooperation. If this coordination takes place, unnecessary duplication of services will be prevented.

Changes: The Secretary has removed costs for services that duplicate services available from other sources from the list of unallowable costs.

What Other Requirements Must a Grantee Meet? (§ 643.32)

Comment: Some commenters suggested that the Secretary change § 643.32(a)(1) to make it more clear that grantees do not have to reestablish a participant's eligibility for services each year.

Discussion: The Secretary finds the suggested change unnecessary. The pertinent language in § 643.32(a)(1) provides that: "a grantee shall determine the eligibility of each

participant * * * at the time that the individual is selected to participate." Under this language, a grantee does not have to revalidate a participant's eligibility each year.

Changes: None.

Comment: One commenter requested that the Secretary change the proposed regulations to allow project staff to request and use free lunch lists as documentation of a potential participant's low-income status.

Discussion: Under section 402(A)(e) of the HEA, project staff may use verification from another governmental source to determine low-income status. Free lunch lists qualify as verification from another governmental source and may be used as documentation of a participant's low-income status.

Changes: None.

Comment: Many commenters suggested that the Secretary eliminate § 643.32(c)(2) of the proposed regulations, which required a grantee to maintain a record of "[t]he basis for the grantee's determination that the participant is able to benefit from one or more services available from the project." The commenters argued that the proposed regulations were subjective, unnecessary, and burdensome.

Discussion: The Secretary agrees that the proposed regulations imposed an unnecessary burden and has changed the provision. In the final regulations, § 643.32(c)(2) does not require an elaborate assessment of need. The section requires only that project personnel exercise reasonable professional judgment in deciding whether an individual needs the services of the project.

Changes: The Secretary has changed § 643.32(c)(2) so that it requires a grantee to maintain a record of "[t]he grantee's needs assessment for the participant."

Comment: Some commenters suggested that the Secretary change § 643.32(c)(4) of the proposed regulations, which required that a grantee keep a record of the specific educational benefits to the participant that resulted from the services. The commenters asserted that the proposed provision was too vague and that the educational benefits should be specified by the Department.

Discussion: The Secretary believes that the purposes of the Talent Search program are best served when grantees are free to exercise their professional judgment in evaluating whether a project has been helpful to a participant. The Secretary has therefore changed the wording in § 643.32(c)(4) to require that grantees keep a record of the specific educational progress being made by Talent Search participants as a result of services under the project.

The regulations do not require an elaborate record. The regulations do require that project personnel exercise reasonable professional judgment in deciding what facts indicating educational progress should be recorded.

Changes: Section 643.3(c)(4) has been changed to require that for each participant, a grantee shall maintain a record of the specific educational progress made by the participant as a result of the services.

Comment: Many commenters requested that the Secretary amend § 643.32 to include a regulatory provision that would ensure project directors sufficient authority to conduct their projects effectively. The commenters suggested that the project director's authority be described in the regulations.

Discussion: In 1992, the Secretary removed several provisions of the Education Department General Administrative Regulations (EDGAR), including a provision that required that the grantee give its project director sufficient authority to conduct the project effectively. See 34 CFR 75.510(c) (1991). The Secretary has determined that some Talent Search grantees may have misinterpreted this action. By eliminating § 75.510(c) of EDGAR, the Secretary did not intend to imply that grantees could refrain from providing project directors with sufficient authority to conduct projects effectively. Therefore, the Secretary has added a provision to the Talent Search regulations that expressly states that Talent Search grantees must give sufficient managerial authority to Talent Search project directors.

Changes: The Secretary has added the following provision to § 643.32(d): "(2) The grantee shall give the project director sufficient authority to administer the project effectively." *Should Talent Search grants be proportionate to the number of participants served by a project?*

Comment: One commenter suggested that funding be proportionate to the number of participants that a project serves. According to the commenter, if a project serves 600 participants and is awarded $180,000, it would be unfair to award only $250,000 to a project that serves 1500 participants. The commenter requested that the Secretary create a regulation that would equalize the amount of money that all projects could spend on each participant. The commenter suggested that uniformity in expenditures would ensure a more consistent level of quality.

Discussion: Each Talent Search applicant indicates how many participants it intends to serve and how much money it will need to serve that number. The Secretary believes that numerous variables such as cost of living, availability of community support, and target area size uniquely influence the cost of services at different project sites. The Secretary has concluded, therefore, that a formula would not be an equitable means of determining either the size of the grant or the number of participants to be served.

Changes: None.

[FR Doc. 93-27314 Filed 11-4-93; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

[CFDA No.: 84.044]

Talent Search Program; Inviting Applications for New Awards Under the Talent Search Program for Fiscal Year (FY) 1994

Purpose of Program: To provide grants to enable applicants to conduct projects designed to (1) identify qualified youths who are low-income and potential first-generation college students and to encourage them to complete high school and enroll in postsecondary education; (2) publicize the availability of student financial assistance at the postsecondary level; and, (3) encourage persons who have not completed secondary or postsecondary education to reenter these programs. This program supports the National Education Goals. Specifically, the program funds projects designed to improve high school graduation rates (Goal #2) and to improve academic competency of program participants (Goal #3).

Eligible Applicants: Institutions of higher education, public and private agencies and organizations, combinations of institutions, agencies, and organizations, and, in exceptional cases, secondary schools, if there are no other applicants capable of providing a Talent Search project in the proposed target area.

Deadline for Transmittal of Applications: December 22, 1993.

Deadline for Intergovernmental Review: February 20, 1994.

Applications Available: November 8, 1993.

Available Funds: $70 million.

Estimated Range of Awards: $180,000–$450,000.

Estimated Average Size of Awards: $240,000.

Note: The Department is not bound by any estimates in this notice.

Estimated Number of Awards: 300.

Project Period: Up to 60 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 82, 85, and 86; and (b) the regulations for this program in 34 CFR part 643, as amended in this issue of the **Federal Register**.

For Applications or Information Contact: Prince O. Teal, U.S. Department of Education, 400 Maryland Avenue, SW., room 5065, Washington, DC 20202–5249. Telephone: (202) 708–4804. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Dated: October 22, 1993.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 93–27313 Filed 11–4–93; 8:45 am]

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federal register

Friday
November 5, 1993

Part VIII

The President

Proclamation 6620—National Health Information Management Week, 1993

Federal Register
Vol. 58, No. 213
Friday, November 5, 1993

Presidential Documents

Title 3—

The President

Proclamation 6620 of November 3, 1993

National Health Information Management Week, 1993

By the President of the United States of America

A Proclamation

Over the course of the next months, the people of the United States and their elected Members of Congress will have the opportunity to participate in one of the most important processes of our times: the implementation of health care reform. As the proposals have been developed, the authors have relied on extensive information that has been collected regarding the well-being of the people of our Nation and the efficiency of our health care delivery system. Those working on plans for health care reform were extremely fortunate that they could draw upon the vast fund of knowledge contained in some of the most comprehensive health management systems in the world.

Our Nation's status as a world leader in this field is largely due to the role of professional health information managers as they continually investigate and apply new technologies to advance their administrative expertise.

America's 35,000 health information management leaders have a tradition of commitment to excellence and competence, which have become increasingly important components of the health care delivery system of our country.

At the heart of the profession's information management responsibilities are medical history records, both computer-based and paper-generated. On a daily basis, health information managers must take into consideration patients' privacy rights and, at the same time, protect the integrity, accuracy, consistency, reliability, and validity of health information. The professional health information manager orchestrates the collection of many kinds of documentation from a variety of sources, monitors the integrity of the information, and ensures appropriate access to medical records. This professional also collects health care data by abstracting and encoding information, by using computer programs to interpret data, and by putting in place quality control procedures to guarantee the validity of the information.

Throughout the ongoing health care reform discussions, there has been a strong consensus about the need to lessen the bureaucracy of our Nation's current health care delivery system and to streamline and simplify administrative operations. During this very important time in our Nation's history, health information management professionals are key players in our efforts to reshape the existing system. These dedicated experts are working hard to computerize patient record systems in order to reduce health care costs by decreasing the logjam of unnecessary paperwork confronting hospitals and other health facilities.

We want to recognize the devotion of those who are working to decrease the cost and improve the quality of our health care system. Their past efforts have contributed immeasurably to the health care delivery system and to the medical research community. As health care reform is implemented, the challenges will be quite substantial, but so will the opportunities for demonstrating the creativity and commitment to quality that characterize these important professionals. I urge all Americans to join me in saluting this determined group of men and women, who work as professional health information managers.

The Congress, by House Joint Resolution 205, has designated the week of October 31 through November 6 1993, as "National Health Information Management Week" and has authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim the week of October 31 through November 6, 1993, as National Health Information Management Week. I call upon all Americans to observe this week by demonstrating their respect and gratitude for all those professionals who have dedicated their careers to consistently improving our systems of health information management.

IN WITNESS WHEREOF, I have hereunto set my hand this third day of November, in the year of our Lord nineteen hundred and ninety-three, and of the Independence of the United States of America the two hundred and eighteenth.

William J. Clinton

[FR Doc. 93-27465
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H.R. 3123/P.L. 103-129

Rural Electrification Loan Restructuring Act of 1993 (Nov. 1, 1993; 107 Stat. 1356; 12 pages)

S. 1548/P.L. 103-130

To amend the National Wool Act of 1954 to reduce the subsidies that wool and mohair producers receive for the 1994 and 1995 marketing years and to eliminate the wool and mohair programs for the 1996 and subsequent marketing years, and for other purposes. (Nov. 1, 1993; 107 Stat. 1368; 2 pages)

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