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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 678]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final Rule.

SUMMARY: Regulation 678 establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 310,000 cartons during the period August 13 through August 19, 1989. Such action is needed to balance the supply of fresh lemons with market demand for the period specified, due to the marketing situation confronting the lemon industry.

DATES: Regulation 678 (§ 910.978) is effective for the period August 13 through August 19, 1989.

FOR FURTHER INFORMATION CONTACT: Beatriz Rodriguez, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523, South Building, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 475-3861.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory action to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 85 handlers of lemons grown in California and Arizona subject to regulation under the lemon marketing order and approximately 2500 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of handlers and producers of California-Arizona lemons may be classified as small entities.

This regulation is issued under Marketing Order No. 910, as amended (7 CFR part 910), regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act (the "Act," 7 U.S.C. 601-674), as amended. This action is based upon the recommendation and information submitted by the Lemon Administrative Committee (Committee) and upon other available information. It is found that this action will tend to effectuate the declared policy of the Act.

This regulation is consistent with the California-Arizona lemon marketing policy for 1989-90. The Committee met publicly on August 8, 1989, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and unanimously recommended a quantity of lemons deemed advisable to be handled during the specified week. The Committee reports that overall demand for lemons is fair.

Pursuant to 5 U.S.C. 553, it is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purpose of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary, in order to effectuate the declared purposes of the Act, to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

For the reasons set forth in the preamble, 7 CFR part 910 is amended as follows:

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

1. The authority citation for 7 CFR Part 910 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

2. Section 910.978 is revised to read as follows:

Note: This section will not appear in the Code of Federal Regulations.

§ 910.978 Lemon Regulation 678.

The quantity of lemons grown in California and Arizona which may be handled during the period August 13, 1989, through August 19, 1989, is established at 310,000 cartons.

Dated: August 9, 1989.

Charles R. Brader,

Director, Fruit and Vegetable Division.

[FR Doc. 89-18967 Filed 8-10-89; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 1126

[DA-89-025]

Milk in the Texas Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action continues, for the months of August 1989 through July 1990, a suspension of portions of the pool plant and producer milk definitions of the Texas order. The continuation of the suspension, was requested by Associated Milk Producers, Inc., and

Mid-America Dairymen, Inc., cooperative associations that represent a substantial proportion of the producers who supply milk to the market. The action is necessary because the marketing conditions that resulted in granting the current suspension continue due to production increases in Texas.

EFFECTIVE DATE: August 11, 1989.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 447-4829.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding.

Notice of Proposed Suspension: Issued June 20, 1989; published June 26, 1989 (54 FR 26780).

The Regulatory Flexibility Act (5 U.S.C. 601-612) requires the Agency to examine the impact of a rule on small entities.

Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under the criteria contained therein.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and of the order regulating the handling of milk in the Texas marketing area.

Notice of proposed rulemaking was published in the **Federal Register** on June 26, 1989 (54 FR 26780) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon. No opposing views were received.

After consideration of all relevant material, including the proposal in the notice, the comments received, and other available information, it is hereby found and determined that for the months of August 1989 through July 1990 the following provisions of the order do not tend to effectuate the declared policy of the Act.

1. In § 1126.7(d) introductory text, the words "during the months of February through July" and the words "under paragraph (b) or (c) of this section".

2. In § 1126.7(e) introductory text, the words "and 60 percent or more of the producer milk of members of the cooperative association (excluding such milk that is received at or diverted from pool plants described in paragraphs (b), (c), and (d) of this section) is physically received during the month in the form of a bulk fluid product at pool plants described in paragraph (a) of this section either directly from farms or by transfer from plants of the cooperative association for which pool plant status under this paragraph has been requested".

3. In § 1126.13, paragraph (e)(1), the words "and further, during each of the months of September through January not less than 15 percent of the milk of such dairy farmer is physically received as producer milk at a pool plant".

4. In § 1126.13(e)(2), the paragraph references "(a), (b), (c), and (d)".

5. In § 1126.13(e)(3), the sentence, "The total quantity of milk so diverted during the month shall not exceed one-third of the producer milk physically received at such pool plant during the month that is eligible to be diverted by the plant operator;"

Statement of Consideration

This action continues, for the months of August 1989 through July 1990, the suspension of portions of the pool plant and producer milk definitions of the Texas order. Specifically, the action continues the suspension of the 60-percent delivery standard for pool plants operated by cooperatives, the restrictions on the types of pool plants at which milk must be received to establish the maximum amount of milk that a cooperative may divert to nonpool plants, and the limits on the amount of milk that a pool plant operator may divert to nonpool plants. In addition, for the same time period, the action continues to suspend the shipping standards that must be met by supply plants to be pooled under the order and the individual producer performance standards that must be met in order for a producer's milk to be eligible for diversion to a nonpool plant.

The order provides for pooling a cooperative association plant located in the marketing area if at least 60 percent of the producer milk of members of the cooperative association is physically received at pool distributing plants during the month. Also, a cooperative association may divert to nonpool plants up to one-third of the amount of milk that the cooperative causes to be physically received at pool distributing and supply plants during the month. In addition, the order provides that the operator of a pool plant may divert to nonpool plants not more than one-third of the milk that is physically received during the month at the handler's pool plant. This action will continue to inactivate the 60-percent delivery standard for plants operated by a cooperative association, allow a cooperative's deliveries to all types of pool plants to be included as a basis from which the diversion allowance would be computed, and remove the diversion limitation applicable to the operator of a pool plant.

The order also provides for regulating a supply plant each month in which it ships a sufficient percentage of its receipts to distributing plants. The order provides for pooling a supply plant that ships 15 percent of its milk receipts during August and December and 50 percent of its receipts during September through November and January. A supply plant that is pooled during each of the immediately preceding months of September through January is pooled under the order during the following months of February through July without making qualifying shipments to distributing plants. This action continues to remove these performance standards for an additional 12 months for August 1989 through July 1990 for supply plants that were regulated under the Texas order during each of the immediately preceding months of September through January.

The order also specifies that the milk of each producer must be physically received at a pool plant each month in order to be eligible for diversion to a nonpool plant. During the months of September through January, 15 percent of a producer's milk must be received at a pool plant for diversion eligibility. This action also continues the suspension of these requirements for an additional 12 months.

The continuation of the current suspension was requested by two cooperative associations (Associated Milk Producers, Inc., and Mid-America Dairymen, Inc.) that represent a substantial proportion of the dairy farmers who supply the Texas market. Associated Milk Producers operates two supply-balancing plants that are pooled under the Texas order and a new supply-balancing plant will begin operation in June 1989, but will not reach its capacity until late in 1989. Mid-America Dairymen operates a supply plant in southwestern Missouri that has historically been pooled under the Texas order and a designated supply plant in Texas used strictly to assemble

milk for shipment to nonpool plants for use in manufactured dairy products.

Based on the information submitted by the cooperatives, this additional 12-month continuation of the current suspension is necessary because the marketing conditions that resulted in the granting of the current suspension continue due to production increases in Texas. The continued substantial production increases have not made it possible to project production levels in 1990 and beyond with any degree of a certainty, thereby making any amendatory action at this time impractical. Moreover, the suspension continuation is necessary to give handlers the flexibility to dispose of excess milk in the most efficient manner. Thus, the suspension will allow handlers to eliminate costly and inefficient movements of milk that otherwise would be made solely for the purpose of pooling the milk of dairy farmers who have historically supplied the Texas market.

The notice of proposed suspension published June 26, 1989 (54 FR 26780) contained an inadvertent error in that it indicated that the entire paragraph (e)(1) of § 1126.13 was proposed to be suspended. The purpose of the proposal was to continue through July 1990 the suspension of portions of the pool plant and producer milk definition that had been in effect since August 1988. The suspenson provisions which were in effect at the time of the proposal suspended only a portion of § 1126.13(e)(1). The error is corrected in this rulemaking by suspension of only that portion of § 1126.13(e)(1) which was previously suspended.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) The suspension is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing area in that such action will eliminate unnecessary milk movements and ensure that dairy farmers who have been supplying the market's fluid requirements will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension. No opposing views were received.

Therefore, good cause exists for making this order effective upon publication in the Federal Register.

List of Subjects in 7 CFR Part 1126

Milk marketing orders, Milk, Dairy products.

It is therefore ordered, That the following provisions of the Texas order are hereby suspended for August 1989 through July 1990.

PART 1126—MILK IN THE TEXAS MARKETING AREA

1. The authority citation for 7 CFR Part 1126 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

§ 1126.7 [Temporarily suspended in part]

2. In § 1126.7(d) (introductory text) the words "during the months of February through July" and the words "under paragraph (b) or (c) of this section".

3. In § 1126.7(e) (introductory text) the words "and 60 percent or more of the producer milk of members of the cooperative association (excluding such milk that is received at or diverted from pool plants described in paragraphs (b), (c), and (d) of this section) is physically received during the month in the form of a bulk fluid product at pool plants described in paragraph (a) of this section either directly from farms or by transfer from plants of the cooperative association for which pool plant status under this paragraph has been requested".

§ 1126.13 [Temporarily suspended in part]

4. In § 1126.13, paragraph (e)(1), the words "and further, during each of the months of September through January not less than 15 percent of the milk of such dairy farmer is physically received as producer milk at a pool plant".

5. In § 1126.13(e)(2), the paragraph references "(a), (b), (c), and (d)".

6. In § 1126.13(e)(3), the sentence, "The total quantity of milk so diverted during the month shall not exceed one-third of the producer milk physically received at such pool plant during the months that is eligible to be diverted by the plant operator;".

Signed at Washington, DC, on August 7, 1989.

Jo Ann R. Smith,

Assistant Secretary.

[FR Doc. 89–18853 Filed 8–10–89; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Part 1864

Debt Settlement

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule; correction.

SUMMARY: The Farmers Home Administration (FmHA) corrects a final rule regarding debt settlement published September 23, 1988, (53 FR 36954). This final rule changed a form number to accurately reflect a regulation change. The intended effect of this action is to remove a reference which is not published.

Accordingly, Amendment No. 2 on page 36955 is corrected by removing the words, "Exhibit B, under column heading 'Form Used' (5 places)."

EFFECTIVE DATE: August 11, 1989.

FOR FURTHER INFORMATION CONTACT: Betty Throne, Realty Specialist, Property Management Branch, Single Family Housing Servicing and Property Management Division, Farmers Home Administration, USDA, Room 5309, South Agriculture Building, Washington, DC 20250, Telephone (202) 382–1452.

Dated: July 24, 1989.

Neal Sox Johnson,

Acting Administrator, Farmers Home Administration.

[FR Doc. 89–18740 Filed 8–10–89; 8:45 am]

BILLING CODE 3410-07-M

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Regulation Z; Docket No. R-0654]

Truth in Lending; Credit and Charge Card Disclosures; Corrections

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; corrections.

SUMMARY: The Board is making corrections to its final rule revising Regulation Z to implement the Fair Credit and Charge Card Disclosure Act amendments to the Truth in Lending Act, which appeared in the Federal Register on April 6, 1989 (54 FR 13856).

FOR FURTHER INFORMATION CONTACT: The following attorneys in the Division of Consumer and Community Affairs, at (202) 452–2412 or 452–3867: Michael S. Bylsma or Adrienne D. Hurt, Senior Attorneys, or Jane Ahrens, Staff Attorney; for the hearing impaired *only*, contact Earnestine Hill or Dorothea

Thompson, Telecommunications Device for the Deaf at (202) 452-3544, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: The Board is making corrections to the **Federal Register** notice that contains its final rule revising Regulation Z to implement the Fair Credit and Charge Card Disclosure Act amendments to the Truth in Lending Act, including technical revisions to §§ 226.5a(a)(3), 226.5a(g), 226.9(e), and 226.9(f) of the regulation.

Section 226.5a(a)(3) currently provides that the disclosures under § 226.5a are not required for applications and solicitations to open home equity lines of credit accessed by a credit or charge card that are "subject to" § 226.5b of Regulation Z (which implements the Home Equity Loan Consumer Protection Act). Paragraphs (e) and (f) of § 226.9 state that the requirements of those paragraphs are applicable to credit or charge card accounts "subject to" section 226.5a. A literal reading of this language could too narrowly construe the exception in § 226.5a(a)(3) and the requirements in § 226.9(e) and § 226.9(f). Therefore the phrase "subject to" is being changed to "of the type subject to."

The technical revisions to the above mentioned sections are intended to clarify that these provisions apply to the *type* of plans or card accounts referred to in the relevant provisions. Therefore, the exception from coverage for home equity lines of credit accessed by a credit or charge card applies to the general types of plans that will be subject to § 226.5b of Regulation Z including those entered into before November 7, 1989, the mandatory effective date of the home equity line disclosure amendments (see 54 FR 24670).

The renewal notice requirements of § 226.9(e) apply to all of a card issuer's "traditional" credit and charge card accounts used primarily to purchase goods and services for which a fee to renew the account is imposed, including those in existence before the effective date of the new rule. Beginning on August 31, 1989, card issuers must give renewal disclosures in one of the two ways the regulation permits. For example, if a card issuer that bills monthly follows the notice requirements of § 226.9(e)(1)—advance notice of renewal—the issuer must provide renewal notices to all cardholders who will be billed for renewal on or after September 30, 1989. If the card issuer follows the notice requirements of § 226.9(e)(2), it must provide renewal notices to all cardholders that receive a periodic statement reflecting a renewal fee on or after August 31, 1989. Also, in accordance with § 226.9(f), on or after August 31, 1989, a card issuer must provide notice if it changes the company providing credit insurance on any existing "traditional" credit card account.

Technical revisions also are being made to paragraphs (g)(2)(i) and (ii) of § 226.5a, which describe the "two-cycle average daily balance" method of computing finance charges on credit card accounts. Both sections currently provide that, in a two-cycle method, the balance for the billing cycle preceding the current cycle is figured "in the same way" as the balance for the current cycle. The language is too limiting insofar as it would unnecessarily exclude too many plans from these categories. The categories were intended to include not only those card accounts in which the balance for the prior cycle is figured in exactly the same way as that for the current cycle, but also those accounts in which the balance for the prior cycle is an average daily balance but is figured differently from the balance for the current cycle. Deletion of the phrase "and is figured in the same way as the first balance" clarifies the broad coverage intended for the two-cycle average daily balance descriptions. With the revisions, for example, it will be clear that the name "two-cycle average daily balance (excluding new purchases)" should be used to describe a method in which the finance charge for the current cycle, figured on an average daily balance (excluding new purchases), will be added to the finance charge for the prior cycle, figured on an average daily balance of only new transactions during that prior cycle.

Corrections

The following corrections are made in FR Doc. 89-8225, Truth in Lending; Credit and Charge Card Disclosures:

1. On page 13855, third column, third full paragraph, line 7, "a" should be inserted after "to."

2. On page 13862, first column, first full paragraph, line 6, "cards" should read "card."

3. On page 13864, first column, first full paragraph, line 1, "sectin" should read "section."

4. On page 13864, first column, last paragraph, line 3, "regulated" should read "related."

5. On page 13864, first column, last paragraph, line 18, "from" should read "form."

6. On page 13864, second column, fourth full paragraph, line 2, "provide" should read "provided."

7. On page 13864, third column, line 31, "card" should be inserted after "credit."

§ 226.5a [Corrected]

8. On page 13865, third column, under § 226.5a(a)(3), line 4, "of the type" should be inserted before "subject to."

9. On page 13866, first column, under § 226.5a(d)(2), line 3, "need not be given if the card issuer either" should be inserted after "section."

10. On page 13866, third column, under § 226.5a(g)(2)(i), the words "and is figured in the same way as the first balance" should be removed from the end of the last sentence.

11. On page 13867, first column, under § 226.5a(g)(2)(ii), the words "and is figured in the same way as the first balance" should be removed from the end of the last sentence.

§ 226.9 [Corrected]

12. On page 13867, first column, under § 226.9(e)(1), line 7, "of the type" should be inserted before "subject to."

13. On page 13867, second column, under § 226.9(f)(1), line 7, "of the type" should be inserted before "subject to."

§ 226.28 [Corrected]

14. On page 13868, first column, line 6, under § 226.28(a), "consistency" should read "inconsistency."

By order of the Board of Governors of the Federal Reserve System, dated August 7, 1989.

William W. Wiles,

Secretary of the Board.

[FR Doc. 89-18806 Filed 8-10-89; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 545

[No. 89-2216]

RIN 3068-AA98

Preapproved Securities Brokerage Service Corporation Activities

Date: August 4, 1989.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board ("Board") is amending 12 CFR 545.74, its service corporation regulations, by inserting a new § 545.74(c)(4) entitled "Securities brokerage activities" and renumbering

subsequent paragraphs. The amendments enable service corporations to commence certain types of securities brokerage activities more quickly than under current procedures and regulations, by designating certain types of securities brokerage and investment advisory activities as preapproved service corporation activities.

EFFECTIVE DATE: September 11, 1989.

FOR FURTHER INFORMATION CONTACT: Dean V. Shahinian, Deputy Director for Corporate Activities, (202) 906–7289; V. Gerard Comizio, Director, (202) 906–6411, Corporate and Securities Division, or Julie L. Williams, Deputy General Counsel for Securities and Corporate Structure, (202) 906–6459, Office of General Counsel; Cynthia Miller, Financial Analyst, (202) 906–7492, Kathleen V. Willard, Assistant Director, (202) 906–6789, Patrick G. Berbakos, Director, (202) 906–6720, Office of District Banks, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

I. Background

A. General

Section 5(c)(4)(B) of the Home Owners Loan Act of 1933, 12 U.S.C. 1464(c)(4)(B), provides that a Federal association may invest up to three percent of its assets in a corporation chartered in the state where the association has its home office, provided that at least one-half of the investments in excess of one percent are for community development purposes. The Board has implemented this authority in 12 CFR 545.74, which authorizes Federal associations to invest in various types of "service corporation" subsidiaries.

The Board considers service corporations an important adjunct to traditional association activities and recognizes that they can make significant profit contributions. The Board also seeks to ensure, however, that associations conduct activities in ways that do not entail undue risk to institutional safety and soundness and that do not result in financial loss or damage to the reputation of insured institutions.

In recent years, the Board has received numerous applications for service corporations to conduct different types of securities brokerage activities. The application process for these filings entails review by the Supervisory Agent at the District Bank; transmittal to and review by the Board's Office of District Banks, Office of General Counsel, and Office of Regulatory Activities; and submission to the Board.

The staff has noted that while certain applications raise legal and/or safety and soundness concerns or present unusual or problematic facts, many applications present similar facts and seek permission to conduct activities structured in a way that either does not raise legal or supervisory concerns or that raise concerns that can be and have been addressed by the Board, *e.g.*, by imposing conditions on the approvals, or by limiting the scope of the activity approved.

The Board is sensitive to the importance of expediting the processing and review of applications in the minimum time period necessary to satisfy the Board's interests in assuring the safety, soundness, and legality of a proposed service corporation activity. As a result of this concern, the Board has in the past delegated authority to the Supervisory Agents of the Board at the District Banks to approve certain applications which are modelled upon those previously approved by the Board. In these cases, the SA reviews the documents, analyzes the materiality of any differences between the application approved by the Board, and (if there are no material differences) may approve the application subject to the conditions that the Board has specified.

B. Summary of the Current Proposal

The Board proposed amendments to 12 CFR 545.74(c) in Board Resolution No. 89–1044 (March 28, 1989), published at 54 FR 14091 (April 7, 1989) ("Current Proposal"). Section 545.74(c) lists activities in which service corporations may engage without prior approval. The Current Proposal would add certain securities brokerage activities to those that are preapproved, creating a new paragraph (c)(4), "Securities brokerage activities," which includes certain securities brokerage and investment advisory services, and make corresponding technical changes.

Section 545.74(c)(4), as proposed, sets forth requirements relating to the manner in which the preapproved service corporation brokerage activities could be conducted. These are contained in two paragraphs: (i) (A)–(E), relating to the manner in which the business is conducted, and paragraphs (ii) (A)–(G), identifying activities in which the service corporation may engage only with express Board approval. Paragraph (i) states, essentially, that the preapproved service corporation must offer securities services in a separated area, provide proper supervision to prevent and cure violations of securities regulations, advertise as an independent entity, be indemnified, along with the parent association, in appropriate respects by the broker-dealer, and not condition the provision of brokerage services on the use of any services of affiliated entities. 12 CFR 545.74(c)(4)(ii) specifies that the preapproval does not apply where a service corporation seeks to make markets in, underwrite, and engage in certain other securities activities; if association employees receive payments for referring association customers to the broker-dealer absent a "no-action" letter from the U.S. Securities and Exchange Commission ("SEC"); to solicitation of transactions in particular securities; to provision of certain indemnifications; to extension of margin credit by the parent association; to contracts directly between an association and a broker-dealer; and if the association has non-registered persons performing other than ministerial or clerical tasks.

The Current Proposal also delegates to the Office of District Banks, with the concurrence of the Office of General Counsel, the authority to approve service corporation applications that do not raise a significant issue of law or policy or would not establish a precedent of national significance. This delegation provision applies to all types of service corporation applications.

The Current Proposal is a revision of the Board's earlier proposed amendments to 12 CFR 545.74(c), set forth in Board Resolution No. 88–303 (April 28, 1988) and published at 53 FR 16147 (May 5, 1988) ("First Proposal"). The First Proposal consisted of many of the provisions of the Current Proposal except for the delegation to the Office of District Banks and certain other requirements. For example, § 545.74(c)(4)(i) of the First Proposal included as additional requirements: A certification that the association and service corporation were separate corporate entities; a projection that the service corporation would receive a profit within the upcoming twelve-month period; a prohibition on the dissemination of association customers' account balances and deposit maturity dates to service corporations and to broker-dealers engaged in joint ventures with the service corporations ("joint-venture broker-dealers"); and disclosure of whether a joint-venture broker-dealer had been sanctioned by a court, governmental agency, or self-regulatory organization for securities violations. Section 545.74(c)(4)(ii) of the First Proposal contained essentially the same prohibitions as in the Current Proposal as well as a few additional ones. These included requiring Board approval for certain investment advisory services, all

referral fees, and certain indemnification arrangements. The Board is not adopting these provisions of the First Proposal for reasons set forth at 54 FR 14093–14095.

C. Summary of Comments

In response to the proposal, the Board received four public comments, including one from a federal association, two from broker-dealers, and one from an industry association. The federal association commented on the limitation on soliciting transactions in particular securities and recommended that the provision exempt solicitations of general investment advice and solicitations to institutional investors. The broker-dealers objected to the requirement of obtaining an SEC no-action letter in order to pay referral fees and to the limitations on the soliciting transactions in specific securities. They also requested clarification of the indemnification restriction and of the process for associations seeking approval pursuant to existing delegations. These points are discussed in context below. The industry association noted that the Current Proposal incorporated comments made to the First Proposal and had no further comments other than to request speedy adoption.

II. Amendments to the Service Corporation Regulations

A. Overview

Under the amendments, the types of securities brokerage and investment advice activities that the Board has routinely approved on a case-by-case basis now are approved under a preapproval procedure. For example, an association may invest in a service corporation that executes transactions in securities on an agency or "riskless principal" basis under the preapproval. In addition, to qualify for preapproval, brokerage services must be provided in areas clearly identified and distinguished from the areas in which the association conducts its depository activities. The advertisements for the services also must distinguish the service corporation from the insured institution in order to minimize the opportunities for investor confusion between federally-insured savings accounts and stocks and other securities that are not federally-insured.

These amendments do not preapprove other securities activities not described in the new preapproval provisions, such as making a market in securities, underwriting stocks and bonds, and investment banking.

The Board has in the past approved on a case-by-case basis applications to provide various types of investment advice to individuals and certain institutions. The Board has no evidence that these activities have not been carried on responsibly and, accordingly, believes it appropriate also to preapprove such financial advisory services.

B. Description of Amendment Subsections

The requirements for the preapproval under the new amendments are as follows:

1. *Section 545.74(c)(4)(i)(A).* The service corporation must conduct its securities brokerage and investment advisory services in an area that maintains a distinction in the minds of association customers between federally-insured deposits and non-insured securities products and services and that appropriately reflects the separate corporate identities of the Federal association and the service corporation.

2. *Section 545.74(c)(4)(i)(B).* Any advertising of the service corporation's securities brokerage or investment advisory services must be distinguishable from that of the association and not indicate or imply that the securities sold or transactions executed by the service corporation are federally-insured deposits. Advertisements must indicate that it is the service corporation and the broker-dealer, and not the association, that is providing the brokerage services. In order further to prevent customer confusion, the name of the broker-dealer providing the securities brokerage services must be disclosed, and the logo of the service corporation's parent insured institution may not be used in the text of any advertisement prepared or distributed by the service corporation or by the broker-dealer or in any advertisement for specific securities products.

3. *Section 545.74(c)(4)(i)(C).* A service corporation that contracts with a third-party broker-dealer to provide securities brokerage services must obtain a contractual commitment from the broker-dealer for full indemnification to the service corporation and to the parent association with respect to liability arising from the negligence, recklessness, or intentional conduct of the broker-dealer and its employees.

In addition, the service corporation must evidence the contractual agreement with any broker-dealer with an executed written contract that sets forth operating, marketing, compensation, and other relevant terms. The Board is not preapproving activities based upon oral understandings of material terms.

4. *Section 545.74(c)(4)(i)(D).* The service corporation must file initially with the Supervisory Agent an opinion of counsel to the broker-dealer or the senior securities principal that the brokerage program has adequate supervisory controls and these controls will be applied to detect and prevent securities regulatory violations. Thereafter, on an annual basis, the senior securities principal must file a certification that he or she has discharged his responsibilities under the supervisory system and does not know and has no reason to know of improper conduct or other regulatory violations. Supervisory systems must exist when operations commence. It is unsatisfactory to represent that supervisory systems will be implemented or that manuals will be written in the future.

5. *Section 545.74(c)(4)(i)(E).* A service corporation may not predicate the execution of securities transactions on the customer's use of any safekeeping or other services by the federal association, service corporation, the broker-dealer, or any of their affiliates. To the extent such arrangements are legally permissible, they require express Board approval.

6. *Section 545.74(c)(4)(ii)(A).* The service corporation may not execute securities transactions on a principal basis, except a "riskless principal" basis, and may not underwrite or make a market in a security within the scope of the preapproved activities.

7. *Section 545.74(c)(4)(ii)(B).* The preapproval is applicable where association employees receive referral fees only if the association has in advance: (1) Obtained a "no-action" letter from the SEC to the effect that the association would not be required to register as a broker-dealer pursuant to Section 15(a) of the Securities Exchange Act of 1934 [1] and (2) provides advance

[1] Section 15(a) of the Securities Exchange Act of 1934 requires any broker or dealer to register prior to conducting any business. Sections 3(a)(4) and 3(a)(5) of the Exchange Act define "broker" and "dealer" both to exempt "banks," but do not mention savings and loan associations. The SEC has never interpreted the term "banks" in Section 3 to include savings and loan associations or exempted them from registration. However, the SEC, on a case-by-case basis, has issued "no-action" letters permitting savings and loan associations to conduct brokerage activities through service corporation subsidiaries provided that the operations of the subsidiary were sufficiently separated from those of its parent.

notice to the Supervisory Agent of the type and amount of referral fees to be paid, together with a copy of the "no-action" letter.

8. *Section 545.74(c)(4)(ii)(C).* To qualify for preapproval, a service corporation may not solicit a transaction in a particular security. A service corporation may, however, solicit interest in an overall securities or investment advisory services program. The service corporation also may make recommendations in response to a request by an existing customer. Under the new preapproval, transactions may be solicited from institutional investors.

9. *Section 545.74(c)(4)(ii)(D).* A service corporation is permitted to indemnify a third-party broker-dealer to an extent no greater than the extent to which the third-party broker-dealer indemnifies the service corporation, without express Board approval. A service corporation may negotiate to provide a lower level of indemnification, and many have done so. The association is prohibited from indemnifying a third-party broker-dealer.

10. *Section 545.74(c)(4)(ii)(E).* The parent Federal association may not extend margin credit to the customers of the service corporation or the joint-venture broker-dealer, without express Board approval.

11. *Section 545.74(c)(4)(ii)(F).* To qualify for preapproval, the parent Federal association may not sign or otherwise enter a contract directly with the third-party broker-dealer. Any contract for brokerage services to be performed through a service corporation must be between the service corporation and the broker-dealer. It should not include the Federal association as a signatory or obligate the Federal association.

12. *Section 545.74(c)(4)(ii)(G).* Persons who participate in offering the service corporation brokerage services but who are not registered representatives, such as association employees, may perform only clerical or ministerial tasks. Such tasks can include directing inquiring customers to the brokerage kiosk or telephone "hot line" to the broker-dealer, filling promotional pamphlet racks, and distributing forms and publicity related to the securities services.

13. *Section 545.74(c)(4)(iii).* An association intending to invest in a service corporation engaging in preapproved securities brokerage activities must send a notice to its Supervisory Agent prior to the commencement of operations. The required notice must include a full description of the brokerage service to be provided and copies of all executed contracts between the service corporation and broker-dealers, investment advisors, and their affiliates, and the association, such as the operating agreement with a broker-dealer, a lease for space with the association, and a contract for clerical and ministerial services with the association. If referral fees will be paid to association employees, the notice should include a no-action letter from the SEC. The notice should also include pro forma income and expense statements for the first three years of operations and any required professional opinions, such as that required pursuant to § 545.74(c)(4)(i)(D). A reasoned legal opinion that the service corporation activities qualify as preapproved also must accompany the notice.

The Board is amending the Current Proposal to require that the notice be submitted no later than 30 days and no earlier than 180 days prior to the commencement of operations. Thus, the notice will be filed reasonably close in time to the commencement of operations, in order for the Supervisory Agent to review the proposed activities in accordance with the contemporary condition of the insured institution. If a Supervisory Agent receives a notice and six months passes without commencement of the activity, the notice is deemed withdrawn.

14. *Section 545.74(c)(1)(4)(iv).* The Supervisory Agent may request additional information at any time regarding the operations of the service corporation. The Supervisory Agent also may limit or prohibit activities for supervisory reasons, pursuant to 12 CFR 545.74(b)(5).

15. *Section 545.74(f).* The Board is delegating authority to the Board's Office of District Banks ("ODB") to approve service corporation applications for activities that are not preapproved under § 545.74(c). ODB, with the concurrence of the Board's Office of General Counsel and Office of Regulatory Activities, is authorized to approve or deny any service corporation application that does not present a significant issue of law or policy. This delegation can further improve the processing of service corporation applications, reserving for the Board's attention only those applications that have significant legal or policy implications or precedential impact.

III. Supplemental Information

The Board wishes to note certain additional issues that have presented questions in connection with service corporations offering securities brokerage and investment advisory services:

A. *Compensation of Registered Representatives.* The service corporation may compensate its employees by salary, salary plus bonus, or commissions, or any other reasonable manner.

B. *Opinion of Counsel.* Where the preapproval requires an opinion of counsel, any licensed, practicing attorney in good standing, including counsel to the association, the service corporation or the broker-dealer, may provide the opinion.

C. *Previous Delegations.* This preapproval does not affect previous Board approvals or delegations. An association that wants to invest in a service corporation that would contract with a broker-dealer that is the subject of an existing delegation may apply to its Principal Supervisory Agent for approval under that delegation. The Board recommends that the applicant file with the necessary application materials a cover letter identifying all differences between the current application and the contracts that the Board has approved in the delegation.

D. *Corporate Separateness.* The Board is not requiring the submission of certifications that the service corporation and the association are separate corporate entities and that both are in conformity with applicable regulations as a precondition of the preapproval, because the obligation of service corporations and associations to comply with 12 CFR 563.37 and 570.10 is not altered by this preapproval. The Board continues to require that the service corporation be adequately capitalized as a separate corporation in the light of normal obligations reasonably foreseeable in a business of its size and character, maintain separate accounts and records, and be held out to the public as a separate enterprise. An institution would fail to meet the Board's separate corporate identities requirement if it dominates the service corporation to the extent that the latter is treated as a mere department of the former.

E. *Customer Lists.* Although these amendments do not address the association's distribution of information about its customers to the service corporation and to outside third parties, the Board does not permit the unrestricted dissemination of customer list information. The association and its service corporation must follow applicable Bank Board policy regarding the release of customer information.

F. *Pending Applications.* These amendments will be effective 30 days

after publication in the **Federal Register**. As of the effective date, the Board will be in the process of reviewing pending applications. At effectiveness, however, the delegation of authority to the Office of District Banks to approve certain brokerage and investment advisory service corporation applications will take effect. All pending applications will be subject to § 545.74(f). With respect to the applicable § 571.12 timeclocks, all applications that have been deemed complete on or before the effectiveness date of this regulation will be acted upon within 90 days from the date when the application was deemed complete.

An applicant may choose to withdraw an application and submit a notice under the preapproval regulation. This notice must be filed no later than thirty days prior to the commencement of operations. During this period, the Supervisory Agent will review the notice to determine whether it is complete, satisfies the preapproval criteria, and raises any supervisory concerns. Therefore, certain pending applications that have been deemed complete as of the effectiveness date will be approved pursuant to delegated authority at an earlier date than would applications deemed complete on the same date that are withdrawn, with a preapproval notice filed, and thirty day review period observed.

Final Regulatory Flexibility Analysis

Pursuant to section 3 of the Regulatory Flexibility Act, 5 U.S.C. 604, the Board is providing the following final regulatory flexibility analysis.

1. *Reasons, objectives, and legal bases underlying the regulation.* These elements have been discussed elsewhere in the **SUPPLEMENTARY INFORMATION** regarding the amendments.

2. *Small entities to which the regulation would apply.* The regulation would apply to all insured institutions.

3. *Impact of the regulation on small institutions.* To the extent that the regulation would affect small institutions, this has been discussed elsewhere.

4. *Overlapping or conflicting federal rules.* There are no other federal regulations which duplicate, overlap, or conflict with the final regulation.

5. *Alternatives to the regulation.* Other alternatives, such as present regulations, may tend to prolong the waiting for permission to engage in brokerage activities. More liberal provisions may raise questions of statutory authority.

List of Subjects in 12 CFR Part 545

Accounting, Consumer protection, Credit, Electronic funds transfers, Investments, Manufactured homes, Mortgages, Reporting and recordkeeping requirements, Savings and loan associations.

Accordingly, the Board hereby amends part 545, subchapter C, Chapter V, Title 12, Code of Federal Regulations, as set forth below.

PART 545—OPERATIONS

Subchapter C—Federal Savings and Loan System

1. The authority citation for Part 545 continues to read as follows:

Authority: Sec. 5A, 47 Stat. 727 as added by sec. 1, 64 Stat. 256 as amended (12 U.S.C. 1425a); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); secs. 402–403, 407, 48 Stat. 1256–1257, 1260, as amended (12 U.S.C. 1725–1726, 1730); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943–1948 Comp., p. 1071.

2. Amend § 545.74 by redesignating existing paragraphs (c)(4), (c)(5), and (c)(6) as new paragraphs (c)(5), (c)(6), and (c)(7); by adding a new paragraph (c)(4); by revising new paragraph (c)(5)(v); revising new paragraph (c)(7); and by adding new paragraphs (f) and (g) to read as follows:

§ 545.74 Service corporations.

* * * * *

(c) *Permitted activities.* * * *

(4) *Securities brokerage services.* (i) Execution of securities transactions on an agency or riskless principal basis solely upon the order of and for the account of customers, and the provision of standardized and individualized investment advice to individuals and entities, provided that the service corporation:

(A) Conducts securities brokerage and investment advisory activities in an area that is clearly identified and distinguished from the areas where the association's depository functions are performed;

(B) Distinguishes advertising by the service corporation from that of the association, such that advertising does not confuse securities transactions executed, securities purchased, or investment advice provided by the service corporation with federally-insured deposits; that advertising indicates that the service corporation and broker-dealer, and not the association, is providing the securities brokerage or investment advisory services, identifies the broker-dealer in advertising, and does not use the logo of the parent association in the text of any advertisement prepared or distributed by the service corporation or the broker-dealer or in the text of any advertisement for specific securities products;

(C) Where the service corporation contracts with a third-party broker-dealer, has a written contract with the broker-dealer that provides that the broker-dealer agrees to indemnify fully the service corporation and the association for any liability arising from the negligence, recklessness, or intentional conduct of the broker-dealer or its employees, and that sets forth operating, marketing, compensation, and other relevant terms;

(D) Provides to the Supervisory Agent an initial opinion of counsel or an opinion from the senior securities principal responsible for overseeing the subject brokerage program that the program has been established pursuant to operational procedures that are intended to ensure that the program is conducted in conformity with applicable securities laws and regulations and that such procedures include internal controls and supervisory systems that have been established and are to be applied to detect and prevent violations of federal securities statutes, the rules adopted thereunder, and the rules of self-regulatory organizations applicable to broker-dealers, including but not limited to those provisions designed to prevent churning, unsuitable recommendations, charging excessive prices, and the making of fraudulent representations in connection with the offer, sale, or purchase of securities ("the regulations"); and on an annual basis thereunder provides a certification by the senior securities principal responsible for supervising and overseeing the subject brokerage program that he or she has discharged the obligations incumbent upon him or her by reason of such procedures and systems previously described and has no reasonable belief or cause to believe that such procedures and systems have not been and are not being complied with or that a violation of the regulations has occurred; and

(E) Does not condition the provision of securities services to a customer on the customer's utilizing services of any affiliate of the association, the service corporation, or a broker-dealer;

(ii) Service corporation activities authorized under this paragraph may not include the following activities:

(A) Execution of securities transactions on a principal basis, including market-making and underwriting, except on a riskless

principal basis, and except as permitted under § 545.74(c)(3);

(B) Payment to any employee of the association of referral fee, bonus, or any incentive compensation, in cash or in kind, for referring any customer to the service corporation except as may be consistent with a "no-action" letter received by the association from the U.S. Securities and Exchange Commission ("SEC"), stating that the SEC will not recommend enforcement action if association employees receive the planned referral fee but do not register with a broker-dealer and the association does not register as a broker-dealer;

(C) Solicitation of a person to execute a transaction in a specific security by any registered representative;

(D) Indemnification by the service corporation to a degree greater than that indemnification provided to it by the third-party broker-dealer of a third-party broker-dealer or by the service corporation; and the association is prohibited from indemnifying a third-party broker–dealer;

(E) Extension of margin credit by the association to customers of the service corporation or broker-dealer;

(F) Entry into any third-party contract with a broker-dealer, directly by the association; and

(G) Non-registered representatives who are dual or sole employees of the association performing tasks other than clerical or ministerial tasks; prohibited activities include accepting or delivering money or securities and taking orders to execute securities transactions.

(iii) Any association that intends to acquire or establish a service corporation to engage in preapproved securities brokerage activities shall furnish to the Supervisory Agent, no earlier than 180 days and no later than 30 days prior to the commencement of operations, written notice containing a full description of the brokerage services to be provided, together with copies of all executed contractual agreements and memoranda between the service corporation and broker-dealers, investment advisors, the parent insured institution, and their affiliates, pro forma income statements for a three-year period, any required professional opinions, and a reasoned legal opinion from counsel that the securities brokerage service qualify as preapproved under this paragraph (c)(4)(iii).

(iv) The Supervisory Agent may request additional information at any time regarding the operations of the service corporation if he has supervisory concerns about the activity, has evidence that the activity may not be in the best interest of the association or service corporation, or has questions as to whether the activities are being conducted in a manner that is preapproved.

(5) *Other investments.* * * *

(v) Investing in the capital of a small business investment company or minority enterprise small business investment company licensed pursuant to section 302(d) of the Small Business Investment Act of 1958 by the U.S. Small Business Administration to invest in small businesses engaged exclusively in the activities listed in paragraph (c) (1) through (6) of this section;

* * * * *

(7) Activities reasonably incident to those listed in paragraphs (c) (1) through (6) of this section.

* * * * *

(f) *Delegation of authority.* Unless an application of a federal association to invest in a service corporation involves a significant issue of law or policy or would establish a precedent of national significance, the Director of the Office of District Banks, with the concurrence of the General Counsel and the Office of Regulatory Activities, or their respective designees, is authorized (1) to approve an application filed pursuant to this section, if it is complete and in compliance with regulatory requirements and (2) to deny an application that does not satisfy the approval criteria. If the Director of the Office of District Banks, the General Counsel, or the Office of Regulatory Activities, or their respective designees, is of the opinion that the application involves considerations of law or policy that warrant resolution by the Board, the Director shall submit the application to the Board for its determination and notify the applicant. If the Director fails to obtain the concurrence of the General Counsel and the Director of the Office of Regulatory Activities, or their designees, the Director shall present the application to the Board for its determination and notify the applicant.

(g) *Appeals.* Denial of an application by the Office of District Banks pursuant to paragraph (f) of this section may be appealed to the Board under the following procedure. Within 30 days after notification of the Office of District Bank's decision as provided in this section, the applicant must file a written request for review with the Board stating the applicant's desire to appeal the Office of District Bank's decision. The request for review must identify the party seeking review and describe with specificity the action taken for which review is sought and the reasons why the Office of District Bank's denial is contended to be erroneous. Three copies of such request for review shall be submitted to the Office of District Banks, Applications Division, Federal Home Loan Bank Board, 1700 G Street NW., Washington, DC 20552. One copy of such request should be addressed to the attention of "Office of District Banks;" one copy to the attention of "Office of General Counsel, Corporate and Securities Division;" and one copy to the attention of "Office of Regulatory Activities, Corporate Activities Section." Also, one copy shall be sent to the appropriate Principal Supervisory Agent. The Office of District Banks shall forward to the Board its record, or a copy thereof, used as a basis for the determination together with any other information believed by the Office of District Banks to be useful in reviewing the determination. If an applicant does not file a request for review within the time permitted under this section, any objection to the initial determination by the Office of District Banks is waived. A timely filing of a request for review in accordance with the provisions of this section shall be mandatory for securing judicial review of an initial determination.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 89–18782 Filed 8–10–89; 8:45 am]

BILLING CODE 6720–01–M

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12 CFR Part 574

[No. 89–2208]

RIN 3068–AA79

Acquisition of Control of Insured Institutions

Date: August 8, 1989.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board ("Board"), as operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC" or the "Corporation"), is adopting amendments to its regulations concerning the processing of certain applications filed with the Board for approval of the creation of savings and loan holding companies by insured institutions. The amendments provide for the automatic approval of such applications, subject to specified conditions. The Board is taking this action in order to expedite the processing of routine holding company

reorganization applications filed by insured institutions.

EFFECTIVE DATE: August 11, 1989.

FOR FURTHER INFORMATION CONTACT: Howard C. Bluver, Assistant Deputy Director, (202) 906–7504; Kevin A. Corcoran, Deputy Director for Corporate Transactions, (202) 906–6962; V. Gerard Comizio, Director, (202) 906–6411, Corporate and Securities Division; Julie L. Williams, Deputy General Counsel for Securities and Corporate Structure, (202) 906–6549, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street NW., Washington, DC 20552; or Robyn Dennis, Financial Analyst, (202) 331–4572, Office of Regulatory Activities, Federal Home Loan Bank Board, 801 17th Street NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION: On January 27, 1989, (54 FR 4040), the Board, in Resolution No. 89–32, proposed certain amendments to its regulations designed to expedite and streamline the processing of routine holding company reorganization applications by providing for the automatic approval of such applications, subject to specified conditions. Written comments were solicited by the Board, with the comment period ending March 28, 1989.

The Board invited commenters to address all aspects of the proposal, including the conditions that should apply to automatically approved applications. Specifically, the Board solicited comment on whether such conditions should be included at all, whether the proposed rules should be expanded, modified, or deleted in part, and whether any requirements should be promulgated in the form of supervisory guidance.

The Board received a total of 3 comments in response to the proposal, all of which expressed support for the proposal. Of the comments received, two came from law firms that represent thrift institutions and one came from a national thrift trade organization. While each of the comments expressed support for the proposal, several suggested certain modifications in the conditions that should apply to automatically approved applications. After carefully considering the issues raised by the commenters, the Board has determined to adopt the proposal with certain modifications and clarifications.

The final regulations provide for automatic approval of applications by insured institutions for approval of routine reorganizations involving the creation of savings and loan holding companies, subject to specified requirements. Such applications will be automatically approved 45 calendar days after the filing of the application unless the Board or its delegate has either requested additional information from the applicant in writing, notified the applicant that the application is materially deficient and will not be processed, or denied the application. Given the types of transactions and other conditions established for the availability of the automatic approval process, it is the Board's expectation that any requests for additional information that would prolong the 45 day decision period would be extremely rare. The new regulations also provide for a corresponding streamlined approval for permission to organize and insurance of accounts, and for the merger of a disappearing interim institution that is used as a component of the reorganization transaction.

While the proposal published in January 1989 envisioned automatic approval of holding company reorganization applications 30 calendar days after filing, the Board notes that applications filed under 12 CFR 574.3(a) require public notice and are subject to a public comment period that may be extended to 40 calendar days after filing pursuant to 12 CFR 574.6(e). Thus, holding company reorganization applications, in order to be automatically approved 30 calendar days after filing, would need to be exempted from the public notice requirement, or, alternatively, the automatic approval date would have to be tied to the end of the public comment period. After considering this issue, the Board, in an effort to maximize public participation in the application process consistent with existing regulations and to maintain certainty with respect to the automatic approval date, has determined to extend the automatic approval date to 45 calendar days after filing. The Board wishes to emphasize, however, that, notwithstanding the automatic approval mechanism in the new regulations, the Board's staff will process holding company reorganization applications expeditiously and, where appropriate, will notify applicants in writing that the application has been approved prior to the expiration of the 45 day period for automatic approval.

In order to qualify for automatic approval under the new regulations, an application must involve only the creation of a holding company by an insured institution and no other transaction incident thereto (other than the creation of an interim institution that will disappear upon consummation of the reorganization and the merger of the insured institution with such interim institution), and the applicant company must not be seeking any regulatory waivers, regulatory forbearances, or resolution of legal or supervisory issues. In addition, the application must not present any significant policy issues pursuant to applicable Board policies.

One comment letter asked for further clarification as to what would constitute an "other transaction" within the meaning of the rule and thus render the automatic approval mechanism unavailable. It is the Board's intent that any transaction that is not a direct component of the reorganization transaction or would otherwise normally require another approval from the Board or its delegate, would generally cause the automatic approval mechanism to become unavailable. Examples of transactions that would have such an effect, if intended to be accomplished as part of the reorganization or shortly after consummation, would include the payment of management fees to the holding company by the insured institution, the incurrence of debt by the holding company, transactions involving the purchase, sale, or lease of property or assets between the holding company and the insured institution, and other affiliate transactions that may be prohibited or restricted. Any inquiries relating to specific transactions and whether engaging in such transactions as part of a reorganization would render the automatic approval mechanism unavailable should be directed to the Corporate and Securities Division of the Board's Office of General Counsel in Washington, DC.

The Board wishes to point out, however, that the automatic approval mechanism would be available to an institution whose reorganization is part of a standard conversion from the mutual to the stock form of organization. In this regard, a converting institution also is required to file a Form AC to obtain approval to convert. The Form AC, among other things, is required to describe the complete transaction in detail and must include as exhibits all of the documents prepared in connection with the conversion. Accordingly, many of the issues presented in a holding company, application required for a holding company conversion will be reviewed and passed upon by the Board in its review of the Form AC. Accordingly, the Board believes that expedited processing of a holding company application filed as part of a holding company conversion is appropriate. Notwithstanding the foregoing, the Board urges converting institutions that are contemporaneously reorganizing into the holding company form to file their holding company

applications and their Forms AC concurrently, or file their holding company applications before their Forms AC. In several instances in the past, converting institutions have filed required holding company applications well after the Forms AC have been filed, resulting in a delay in the conversion process while the processing of the holding company application was completed. To avoid such a possibility, converting institutions are urged to file holding company applications as early as possible, even in cases where the automatic approval process is available.

Another condition of qualifying for automatic approval under the new regulations is that the initial capitalization of the holding company (to the extent that the capital is provided by the insured institution itself) must not exceed the amount that the insured institution could pay in dividends to its holding company as of the date of the reorganization pursuant to applicable regulations, or, in the absence of such regulations, pursuant to the then current Board policy guidelines issued by the Board's Office of Regulatory Activities ("ORA") (*See e.g.*, Office of Regulatory Activities, Thrift Bulletin No. 5 (October 19, 1988)). While the proposal published in January 1989 envisioned an initial capitalization standard based on the lesser of the amount that the insured institution could pay in dividends or the amount that the institution could invest in a service corporation, the Board, after considering several comments on this issue, has determined to adopt an initial capitalization standard based on the ability of an institution to pay dividends since this standard is more directly relevant to the holding company transaction that is occurring. The Board, among other things, does not wish to preclude healthy, well-capitalized institutions from reorganizing into holding company form pursuant to the automatic approval mechanism simply because such institutions may have fully utilized their service corporation investment authority. Such a result could occur under the initial capitalization standard set forth in the original proposal. Accordingly, the Board believes a dividend-based initial capitalization standard is appropriate.

In addition to the foregoing, to qualify for automatic approval under the new regulations, the board of directors and executive officers of the new holding company must be composed of persons who are, at the time of the reorganization, executive officers and directors of the insured institution, although they need not hold the same positions, and all executive officers and directors of the institution need not also be executive officers and directors of the holding company.

In a policy statement dated August 2, 1988 (*See* 53 FR 31761 (August 19, 1988)), the Board provided guidance on the extent to which savings and loan holding companies should be required to contribute financial assistance to their subsidiary insured institutions and, in particular, whether a proposed acquiror of an insured institution would be required to execute a regulatory capital maintenance agreement as a condition to receiving approval of a proposed acquisition. For the reasons set forth in the policy statement, a proposed acquiror has the option of executing either (i) a regulatory capital maintenance agreement providing for a specified dollar cap on the amount of the acquiror's maintenance obligation, or (ii) a so-called "prenuptial" agreement, which provides for the transfer to the Board of the right to vote the securities of the institution, remove the board of directors of the institution, cause additional securities of the institution to be issued to the Board, or dispose of any or all of the securities of the institution owned by the acquiror, in the event the institution's capital level declines below a specified level. At the direction of the Board, the Board's Office of Regulatory Activities, in Thrift Bulletin No. 5, dated October 19, 1988, issued policy guidelines on, among other things, the amount of the dollar cap that will generally be required in a regulatory capital maintenance agreement and, with respect to prenuptial agreements, the minimum capital level that must be maintained by the institution in order to avoid triggering the transfer to the Board of the various powers described above. Agreements that exceed the scope of these guidelines are considered to present significant policy issues that warrant consideration by the Board itself. Accordingly, in order to qualify for automatic approval under the new regulations, the reorganization transaction must not raise a significant policy issue as described in the Board's August 12, 1988 policy statement or the ORA Guidelines of October 19, 1988. The proposed holding company in the reorganization would, therefore, generally be required to submit, prior to consummation of the reorganization, either a "dollar capped" regulatory capital maintenance agreement or a "prenuptial" agreement that, in either case, is consistent with the Board's policy statement and the ORA guidelines. We note in this regard, however, that, pursuant to the ORA Guidelines, if an institution would meet its fully-phased in capital requirement following consummation of the reorganization transaction, neither the regulatory capital maintenance agreement nor the prenuptial agreement would be required. The proposed holding company would be required, however, to enter into a dividend limitation agreement described in the ORA Guidelines prior to consummation of the reorganization transaction in all cases and would, in the future, be subject to any general regulations adopted by the Board to set standards for payment of dividends and other "capital distributions" by insured institutions.

In addition to the foregoing requirements, the new regulations require the holding company to file certain certifications and opinions with the insured institution's Supervisory Agent within a specified time before or after the consummation of the acquisition. These certifications and opinions are customarily required to be filed by holding companies completing the prior approval process under current Board regulations. These requirements are as follows:

(1) On the business day prior to the date of consummation of the acquisition, the chief financial officers of the holding company and the insured institution shall certify to the Supervisory Agent in writing that no material adverse events or material adverse changes have occurred with respect to the financial condition or operations of the holding company or the insured institution since the date of the financial statements submitted with the application;

(2) No later than thirty days from the date of consummation of the acquisition, the holding company shall file with the Supervisory Agent a certification by legal counsel stating the effective date of the acquisition, the exact number of shares of stock of the insured institution acquired by the holding company, and that the acquisition has been consummated in accordance with the provisions of all applicable laws and regulations and the application;

(3) No later than thirty days from the date of consummation of the acquisition, the holding company shall file with the Supervisory Agent an opinion from its independent auditors certifying that the transaction was consummated in accordance with generally accepted accounting principles; and

(4) No later than thirty days from the date of consummation of the acquisition, the holding company shall file with the Supervisory Agent a certification stating that the holding company will not cause the insured institution to deviate materially from the business plan submitted in connection with the application, unless prior written

approval from the Supervisory Agent is obtained.

Similar standard certifications are required to be furnished by the resulting institution in the event an interim institution is organized to facilitate the reorganization transaction.

The new regulations also require that the proposed acquisition be consummated within 120 days after the application is automatically approved.

Finally, the Board notes that the new regulations provide that in cases where the insured institution has converted from mutual to stock form, the institution's newly formed holding company will become subject to certain post-conversion requirements that are applicable to the institution itself pursuant to various sections of the Board's mutual to stock conversion regulations. This treatment of the holding company simply insures that creation of a holding company will not be used as a route to evade such post-conversion safeguards. These safeguards, which pertain to post-conversion acquisitions of an institution's stock, purchases and sale of conversion stock by the institution's officers and directors, registration of the stock under the Securities Exchange Act of 1934, the existence of market-makers in the institution's stock, and restrictions on certain stock repurchases, have customarily been imposed as conditions of approval of holding company applications where converted institutions reorganize into holding company structure. Treatment of this area in the regulation avoids the need for such a cumbersome conditioning process.

The Board believes that the new regulations further expedite and streamline the application process under Part 574 by reducing substantially the processing period for routine holding company reorganization applications.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605, the Board certifies that these changes will not have a significant economic impact on a substantial number of small entities. Accordingly, a final Regulatory Flexibility Analysis is not required.

List of Subjects in 12 CFR Part 574

Administrative practice and procedure, Savings and loan associations, Securities, Holding companies.

Accordingly, the Board hereby amends part 574, Subchapter D, Charter V, Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 574—ACQUISITION OF CONTROL OF INSURED INSTITUTIONS

The authority citation for Part 574 continues to read as follows:

Authority: Sec. 407, 48 Stat. 1260, as amended (12 U.S.C. 1730); sec. 408, 82 Stat. 5, as amended (12 U.S.C. 1730a).

(2) Amend § 574.7 by redesignating paragraph (a) as paragraph (a)(1) and adding new paragraphs (a)(2) and (a)(3) to read as follows:

§ 574.7 Determination by the corporation.

(a) *Acquisition by a company.* * * *

(2) An application filed pursuant to 574.6(a)(1) by an insured institution solely for the purpose of obtaining approval for the creation of a savings and loan holding company by such insured institution, and related applications for permission to organize an interim federal institution, for insurance of accounts, for Federal Home Loan Bank membership, and for merger with such interim institution, shall be deemed to be approved 45 calendar days after such applications are properly filed in accordance with the procedures set forth herein, unless, prior to such date:

(i) The Corporation has requested additional information of the applicant in writing;

(ii) Notified the applicant that the application is materially deficient and will not be processed; or

(iii) Denied the application prior to that time; provided that to be eligible for approval under this paragraph:

(A) The holding company shall not be capitalized initially in an amount exceeding the amount the insured institution is permitted to pay in dividends to its holding company as of the date of the reorganization pursuant to applicable regulations or, in the absence thereof, pursuant to the then current policy guidelines issued by the Board's Office of Regulatory Activities;

(B) The creation of the savings and loan holding company by the institution is the sole transaction contained in the application, and there are no other transactions requiring Corporation approval incident to the creation of the holding company (other than the creation of an interim institution that will disappear upon consummation of the reorganization and the merger of the insured institution with such interim institution to effect the reorganization), and the holding company is not also seeking any regulatory waivers, regulatory forbearances, or resolution of legal or supervisory issues;

(C) The board of directors and executive officers of the holding company are composed of persons who, at the time of acquisition, are executive officers and directors of the institution;

(D) The acquisition raises no significant issues of law or policy under then current Board policy;

(E) Prior to consummation of the reorganization transaction, the holding company shall enter into any dividend limitation, regulatory capital maintenance, or prenuptial agreement required by Board regulations, or in the absence thereof, required pursuant to policy guidelines issued by the Board's Office of Regulatory Activities;

(F) The holding company shall furnish the following information in accordance with the specified time frames:

(*1*) On the business day prior to the date of consummation of the acquisition, the chief financial officers of the holding company and the insured institution shall certify to the Supervisory Agent in writing that no material adverse events or material adverse changes have occurred with respect to the financial condition or operations of the holding company or the insured institution since the date of the financial statements submitted with the application;

(*2*) No later than thirty days from the date of consummation of the acquisition, the holding company shall file with the Supervisory Agent a certification by legal counsel stating the effective date of the acquisition, the exact number of shares of stock of the insured institution acquired by the holding company, and that the acquisition has been consummated in accordance with the provisions of all applicable laws, and regulations and the application;

(*3*) No later than thirty days from the date of consummation of the acquisition, the holding company shall file with the Supervisory Agent an opinion from its independent auditors certifying that the transaction was consummated in accordance with generally accepted accounting principles; and

(*4*) No later than thirty days from the date of consummation of the acquisition, the holding company shall file with the Supervisory Agent a certification stating that the holding company will not cause the insured institution to deviate materially from the business plan submitted in connection with the application, unless prior written approval from the Supervisory Agent is obtained;

(G) In the event an interim institution is utilized to facilitate the reorganization transaction, the resulting institution shall, no later than 30 days from the date of consummation of the

reorganization transaction, furnish a certification by legal counsel stating:

(1) The effective date of the merger involving the interim institution and that the merger has been consummated in accordance with the Agreement and Plan of Reorganization or similar document pursuant to which the transaction was accomplished;

(2) The interim institution has not opened for business:

(3) The merger was consummated within 120 calendar days of the date of approval; and

(4) After completion of the organization of the interim institution, the board of directors of the interim institution ratified the Agreement and Plan of Reorganization or similar document: and

(H) The proposed acquisition shall be consummated within 120 days after the application is automatically approved under this § 574.7(a)(2).

(3) To the extent that an institution reorganizing into holding company form is subject to provisions relating to its mutual to stock conversion imposed by 12 CFR 563b.3(i), (c)(9),(c) (17), (c)(18), (c)(19) or (g)(1), such provisions shall be applicable to any holding company approved automatically pursuant to paragraph (a)(2) of this section.

* * * * *

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 89-18783 Filed 8-10-89; 8:45 am]

BILLING CODE 6720-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1221

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

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: NASA is amending 14 CFR part 1221 by revising two paragraphs in subpart 1221.1, "NASA Seal, Insignia, Logotype Insignia, Program and Astronaut Badges, and Flags, and the Agency's Unified Visual Communications System." These revised paragraphs correct a position title in paragraph (d) of § 1221.110 and insert words that were inadvertently omitted from paragraph (b)(1) of § 1221.112.

EFFECTIVE DATE: August 11, 1989.

ADDRESS: Public Services Division, NASA Headquarters, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Robert Schulman, (202) 453-8315.

SUPPLEMENTARY INFORMATION: The position title of Assistant Associate Administrator for Headquarters Administration in 14 CFR 1221.110(d) is changed to Assistant Administrator for Headquarters Operations. The words "cloth or other material, a decal, or" were mistakenly omitted from 14 CFR 1221.112(b)(1) and are now being inserted.

Since this revision is internal, administrative, and editorial in nature, notice and public comment are not 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.

For reasons set out in the Preamble, 14 CFR Part 1221 is amended as follows:

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

1. The authority citation for 14 CFR Part 1221 continues to read as follows:

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

2. Section 1221.110 is amended by revising paragraph (d) to read as follows:

§ 1221.110 Establishment of the NASA Unified Visual Communications System.

* * * * *

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

* * * * *

3. Section 1221.112 is amended by revising paragraph (b)(1) to read as follows:

§ 1221.112 Use of the NASA program and astronaut badges.

* * * * *

(b) * * *

(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

* * * * *

Richard H. Truly,

Administrator.

[FR Doc. 89-18799 Filed 8-10-89; 8:45 am]

BILLING CODE 7510-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Salinomycin and Chlortetracycline; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a final rule that amended the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by the American Cyanamid Co. providing for the use of previously approved salinomycin and chlortetracycline Type A medicated articles to make Type C medicated feeds for broilers (54 FR 25115; June 13, 1989). In codifying the limitations, the sentences "In feeds containing 0.8 percent dietary calcium. Not to be fed for more than 5 days." were inadvertently published as one sentence. This document corrects that error.

FOR FURTHER INFORMATION CONTACT: J. Taylor Madill, Center for Veterinary Medicine (HFV-231), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3336.

In FR Doc. 89-13969, appearing at page 25115 in the **Federal Register** of Tuesday, June 13, 1989, the following correction is made.

§ 558.550 [Corrected]

On page 25116, in the first column, under § 558.550(b)(1)(xvi)(*c*), the second sentence is corrected to read "In feeds containing 0.8 percent dietary calcium. Not to be fed for more than 5 days."

Dated: August 4, 1989.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 89-18818 Filed 8-10-89; 8:45 am]

BILLING CODE 4160-01-M

UNITED STATES INFORMATION AGENCY

22 CFR Part 514

[Rulemaking No. 3]

Citizenship of Responsible Officers and Sponsors Exchange-Visitor Program

AGENCY: United States Information Agency.

ACTION: Final rule.

SUMMARY: On May 29, 1987, the Agency published a notice of proposed rulemaking at 52 FR 20097 to provide that Responsible Officers of designated sponsors be citizens of the United States and that designated sponsors be United States organizations and corporations. By this notice a final rule is adopted wherein the longstanding requirement of United States citizenship is further defined.

The final rule shall become effective August 11, 1989. At that time the Agency will begin to review files of designated organizations and ask every designated organization to submit documentation that it is in compliance with this rule. Failure to come into compliance within 90 days of receipt of such request will result in withdrawal of the designation. Applications for new designations for organizations not meeting the requirements will not be approved.

EFFECTIVE DATES: August 11, 1989.

ADDRESS: Merry Lynn, Assistant General Counsel, Office of the General Counsel, Room 700, United States Information Agency, 301 4th Street SW., Washington, DC 20547.

FOR FURTHER INFORMATION CONTACT: Merry Lynn, Assistant General Counsel, Office of the General Counsel, Room 700, United States Information Agency, 301 4th Street SW., Washington, DC 20547, (202) 485-8829.

SUPPLEMENTARY INFORMATION: The definition of "sponsor" was first published at 14 FR 4592, July 22, 1949. It appeared at 22 CFR 68.1 (b) as follows:

> As used in this part, the term "sponsor" means any existing reputable United States agency or institution, public or private, which makes application, as hereinafter prescribed, to the Secretary of State for designation of a program under its sponsorship as an "Exchange-Visitor Program."

The regulation was intended to mean and was interpreted to mean organizations of United States citizenship. The definition has been modified over the years, but the requirement that the sponsor be a United States agency or institution remained. (The only exception in the definition, which was inserted subsequently, is an international organization of which the United States Government is a member, e.g. the United Nations.) While it has come to the Agency's attention that a few administrative errors were committed, and that some non United States organizations were designated, for the most part, the requirement that sponsors be United States organization was honored.

The Agency began to review its regulations shortly after the passage of three new immigration statutes in November, 1986: The Immigration Reform and Control Act of 1986, Pub. L. 99-603; The Immigration Marriage Fraud Amendments of 1986, Pub. L. 99-639; and The Immigration and Nationality Act Amendments of 1986, Pub. L. 99-653.

Upon reveiw of the exchange visitor regulations, the Agency found that there was no requirement that Responsible Officers of designated organizations be United States citizens. Additionally, because the definition of sponsor did not specify what was meant by United States organization, the Agency found that there was some confusion. Consequently, on May 29, 1987 the Agency published a notice of proposed rulemaking setting forth the following proposed definitions and seeking public comment:

> "Responsible Officer" means the official of an organization sponsoring an Exchange-Visitor Program who has been listed with the agency as being responsible for administering the program and carrying out the obligations which the organization assumes in undertaking to sponsor a program (See § 514.14). The designation of an Alternate Responsible Officer is permitted and encouraged. The Responsible Officer and all Alternate Responsible Officers must be United States Citizens.
>
> "Sponsor" means any reputable U.S. agency or organization or recognized international agency or organization having U.S. membership and offices which makes application as hereinafter prescribed to the Director for designation of a program under its sponsorship as an Exchange-Visitor Program and whose application is approved. Other corporations or organizations which are not incorporated under United States law may not be designated as a sponsor.

The Comments

The Agency received nine coments from the public. A list of the parties is found in appendix A. All comments were carefully considered, however, not all comments are specifically discussed. Comments received from the Department of State and the Immigration and Naturalization Service support the proposed modification. All of the other comments oppose either one or both of the provisions.

For the most part those opposing the requirement that only United States citizens be Responsible Officers argue that the sponsoring organization should have the right to appoint whomever it so chooses, and that this is especially important because the Responsible Officer often has duties unrelated to the exchange visitor program. Further, they assert that non citizens understand the exchange visitor program and can administer it. The National Association for Foreign Student Affairs (NAFSA) suggests that the proposal is unconstitutional. It also asserts that the Agency must document actual examples of problems arising because a Responsible Officer is a non citizen. One party states that there is no objection to the requirement, but suggests that it be amended to (1) allow permanent residents to serve as Responsible Officers, and (2) allow the Responsible Officer to appoint an alternate, who may be (and who, in many cases, is) stationed in a foreign country. Several parties point out that Agency's reference to Responsible Officers being agents of the United States Government is incorrect. They point out that the Responsible Officers are, in fact, employees and agents of the sponsoring organization. In the words of the University of Colorado at Boulder: "We are employed to protect the interests of our institutions, and it is our professional responsibility to serve our institutions, not our government."

The University of Colorado at Boulder also objects to the requirement that organizations be incorporated in the United States as being impossible or redundant. First, it points out that corporations are incorporated under state laws not United States law. Second, some organizations, such as the universities, are not incorporated but chartered or established by state constitutions. One party contends that none of the other business visas, such as the E (Treaty Traders and Treaty Investors), H (Temporary Workers and Trainees), and L (Intracompany Transferees) require foreign corporations with a U.S. presence to be incorporated in the United States. It argues that foreign entities should qualify as sponsors if they have a bona fide U.S. presence. It asserts that failure to allow foreign entities to sponsor exchange visitors may conflict with numerous treaties of Friendship, Commerce and Navigation which were established to provide for reciprocal benefits to nationals of each country who invest in the other country or who conduct trade between the countries Further, it argues that the modification

would undermine public and foreign policy goals of the United States Government. It suggests that the test of whether an organization should be designated should be whether it is subject to the jurisdiction of U.S. courts, tax laws, is stable, is registered to do business, and has bona fide offices in the United States. Additionally, this party asserts that designation is an "entitlement."

The Immigration and Naturalization Service and the Department of State support the proposed modification. However, the Department of State points out that the modification, as proposed, will not necessarily achieve its aim. It stated: "It has been the Department's experience that a corporation or other organization incorporated in the United States may, not infrequently, be controlled or wholly owned by foreign persons or entities."

Discussion

The statutory basis under which the United States Information Agency can designate programs as sponsors for a J-visa classification is found in 8 U.S.C. 1101(a)(15)(J). That subsection was added to the Immigration and Nationality Act in 1961 by section 109 of the Mutual Educational and Cultural Exchange Act of 1961. By placing the provision in the Immigration and Nationality Act, Congress intended to make it part of the overall statutory scheme. Consequently any interpretation of that section, must harmonize with that statute as a whole. No interpretation or application can be given which would undermine or circumvent the Immigration and Nationality Act, taken as a totality.

According to the legislative history (1961 U.S. Code Cong. & Admin. News, p. 2774) the new subsection "creates and incorporates into the basic law a special new nonimmigrant visa designed to serve solely the purposes of the Mutual Educational and Cultural Exchange Act of 1961." The purpose of that Act is to strengthen international understanding. The exchange program is an instrument of foreign policy. Decisions as to which exchange programs should be pursued is a foreign policy determination. Accordingly, it is not an "entitlement" program as alleged, but rather, subject to the Agency's discretion in its implementation of foreign policy. The exchange program was set up in the Department of State and later in USIA in order "to provide coordination with U.S. foreign relations" (1961 U.S. Cong. Code & Admin. News 2760). That the decision regarding the designation of exchange organizations is a foreign relations decision should be intuitively obvious, since the task has been conferred upon a foreign affairs agency.

> * * * The Bureau of Educational and Cultural Affairs has been set up in the Department of State to provide coordination with U.S. foreign relations. (1961 U.S. Cong. & Admin. News 2760).

Congress determined that:

> In modern international relations a positive U.S. Government program promoting educational and cultural cooperation is essential to the welfare of the American people. (1961 U.S. Cong. Code & Admin. News 2760.)

See also the testimony of Walter Laves, Chairman of the Department of Government of the University of Indiana, (Hearings before the Committee on Foreign Relations, United States Senate on S. 1154, March 29 and April 27, 1961 p. 74.) wherein he stated:

> * * * the area which encompasses education, science, culture, knowledge, skills, technical assistance, and information * * * how significant this big area of foreign relations really is, and to what extent our welfare as a nation * * * may depend upon the effectiveness with which this aspect of our foreign relations is conducted.

Additionally, the exchanges (which are not conducted on a strictly reciprocal basis) are to be undertaken "only when it is considered that they will 'strengthen international cooperative relations'." (Senate Report o. 372, Report from the Committee on Foreign Relations to accompany S. 1154, June 1961, p. 8) Consequently, all persons entering the United States on A J-visa must enter pursuant to a program, the purpose of which is to strengthen international understanding and cooperation—as determined by the Agency. The Agency, in fulfilling its foreign relations obligations, is to promote exchange activities, when the exchange activities coincide with foreign relations determinations.

8 U.S.C. 1101(a)(15)(J) merely refers to the designation function of the Agency by describing an exchange visitor as a "participant in a program designated by the Director of the United States Information Agency." No criteria are set forth requiring the Agency to designate certain programs. The criteria are left to Agency discretion. Because of the nature of foreign relations, the agency has been given broad authority to implement its legislation. The courts have found that this authority is—broader than that given to domestic agencies. Promulgation of regulations consistent with the Act and its legislative history are not considered an abuse of agency discretion. (See *Zemel* v. *Rusk*, 381 U.S. 1 (1965) and *Haig* v. *Agee*, 453 U.S. 280 (1981). See also *Slyper* v. *Attorney General*, 827 F.2d 821, 823 (D.C. Cir. 1987) wherein the court stated: "The statute contains no standard or criterion upon which to make or withhold a favorable recommendation. This broad delegation of discretionary authority is 'clear and convincing evidence' of congressional intent to restrict judicial review in cases such as those we now face.")

The Agency, in the exercise of its discretion, has determined that noncitizens should not be given excessive authority in making the foreign relations determination coupled with the strong visa issuance recommendation (which is inherent in the responsibility for filling out the IAP-66 forms) as to which aliens should be exchange visitors. The Agency has several reasons for its determination. First, the Agency believes that United States citizens are best equipped to further the purposes of the governmentally authorized exchange program. They are in a better position than aliens to understand and represent the United States and to "generat[e] goodwill for the United States abroad" (H.R. Rep. No. 130, 98th Cong., 1st Sess. 61, reprinted in 1983 U.S. Code Cong. & Admin. News 1484, 1544).[1]

Second, United States citizens owe allegiance to the United States. Noncitizens do not owe allegiance to the United States. While the comments point out that sponsors and responsible officers are not agents of the United States Government, they are in the position of carrying out United States foreign policy in selecting individual participants in the exchange visitor program in the place of the Agency making the appointments. Additionally, they are in the position of signing a United States Government document. The act of signing that document confers on them a shared responsibility with the Agency in carrying out its foreign relations obligations. As the University of Colorado at Boulder stated: "* * * it is not the job of a Responsible Officer to protect the interests of the United States Government. We are employed to protect the interests of our institutions, and it is our professional responsibility to serve our institutions, not the government." Since Responsible Officers are not serving the interests of

[1] Even where the Agency's formal decision making process includes noncitizens, such as in a binational board, there is always representation of American citizens in an at least an equal number on the board. Furthermore, such input is undertaken only pursuant to a government to government agreement. The responsibility for signing the IAP-66 forms rests with the USIS officers at the Agency Posts abroad.

the United States Government but rather their institutions, and the interests of the institution may not always coincide with the interests of the United States Government, indeed may sometimes conflict, and these Responsible Officers are entrusted with review of participants in a foreign relations program to ensure that the selection conforms with the designation, the Agency must impose certain restrictions on the programs. Where the organization is foreign, the Agency runs too high a risk that the interests of the organization are not in concert with those of the United States Government, and that individuals selected to participate in exchange programs are not in keeping with the intent of the program, but rather that the participants are selected to further the interests of the foreign organization. With regard to Responsible Officers who are citizens, and who owe allegiance to the United States, the Agency believes that they are more likely than aliens to weigh their actions carefully when their employers' interests conflict with those of the United States Government.

Third, the designation of a sponsor confers a grave responsibility on that sponsor. Upon designation, the sponsor is issued blank controlled United States Government forms. The forms in the hands of the wrong persons can do great damage to the interests of the United States. Moreover, the scheme set forth in the Immigration and Nationality Act expresses the intent of Congress that it would define who could come to the United States, and under what circumstances. Because Congress provided that different terms and conditions would apply to the different visas, it is important that the Agency administer the exchange program in such a way as to limit its access to only those aliens Congress intended to be included in the program. The Agency believes it can best ensure the integrity of the program and the proper use of the forms if access to the forms is confined to United States citizens.

The assertion that the Agency's proposal is inconsistent with other visas used for business purposes is inapposite. The J visa is not a business visa. It is not to be used for business purposes. It is a visa exclusively for educational and cultural exchange. Furthermore, to qualify for the visas to which the party refers, the E, L, and H, the prospective sponsor must petition directly to the Immigration and Naturalization Service on behalf of the individual alien. The alien in possession of a form IAP-66, stating that he/she is eligible for a J visa is not subjected to the strenuous screening applicants for the other named visas are subjected. In the other visas, for example, each petition by a sponsor on behalf of an alien is put through several levels of review, on a case by case basis, in the United States before the alien abroad is issued a document which can be presented to the Consul abroad. In the exchange program, only the sponsor makes the determination prior to presentation to the Consul abroad. Consequently, a higher standard of review must be applied to the sponsor at the outset. Thus this assertion that the proposal will jeopardize other treaties is, again, inapposite. The referenced treaties are related to business and commerce. There are adequate visas for implementation of these treaties. The J visa implements educational and cultural agreements.

The Agency is concerned about preserving the integrity of the J visa program and maintaining control over the program itself, the sponsors, and the forms. The Agency apprehends that if certificates of eligibility for J visas are controlled by aliens who are in turn subject to control by aliens in other countries, the Agency will experience considerably diminished effective control over the administration of its exchange programs and over compliance by sponsors, their responsible officers and even exchange visitors with U.S. labor and immigration laws. The Agency questions whether the alien responsible officers and other officials of foreign corporate sponsors will be adequately motivated to observe the purpose and intent of the Exchange Visitor Program. Consequently, the Agency is persuaded that there exists a legitimate governmental purpose in restricting both sponsorship and the control of certificates of eligibility to American citizens.

Some parties argue that such a proposal is unconstitutional. In order to pass constitutional muster, the proposed regulation must meet two tests: USIA may exclude noncitizens from designations as sponsors and Responsible Officers if (1) the justification for such an action is rationally related to a federal interest, and (2) that federal interest is properly the concern of the USIA. (See *Mathews* v. *Diaz*, 426 U.S. 67 (1976); *Chevron U.S.A.* v. *Natural Resources Defense Council*, 467 U.S. 837, 865 (1984); *Hampton* v. *Mow Sun Wong*, 426 U.S. 88 (1976); and 2 R. Rotunda, J. Nowak & J. Young, Treatise on Constitutional Law: Substance and Procedure section 18.12, at 481 (1986). The justification is rationally related to a federal interest. The Agency has shown that the involved decisions are the implementation of foreign policy. Foreign policy is indeed a federal interest. Further, that federal interest is properly the concern of the USIA. Under the Mutual Educational and Cultural Exchange Act of 1961 the Agency is required to strengthen international cooperative relations, by educational and cultural exchanges. Thus, the Agency has shown that the federal interest is properly the concern of the USIA. Accordingly, the Agency must exercise its discretion in determining "who" will best assist in its mission. Further, the Agency has given a rational basis for its decision to exclude aliens from designations. Consequently, the Agency believes its decision is constitutional.

This situation is distinguishable from that in *Hampton* v. *Mow Sun Wong*, 96 S.Ct. 1985, 1910 (1976) wherein the Court stated:

> It is the business of the Civil Service Commission to adopt and enforce regulations which will best promote the efficiency of the federal civil service. That agency has no responsibility for foreign affairs, for treaty negotiations, for establishing immigration quotas or conditions of entry, or for naturalization policies. Indeed, it is not even within the responsibility of the Commission to be concerned with the economic consequences of permitting or prohibiting the participation by aliens in employment opportunities in different parts of the national market. On the contrary, the Commission performs a limited specific function.

On the contrary, the Agency does have responsibility for foreign affairs, for treaty negotiations, for establishing conditions of entry for participants in the exchange program. Indeed, it is even within the responsibility of the Agency to be concerned with the economic consequences of permitting or prohibiting the participation by exchange visitors in employment opportunities. Accordingly, the Agency believes it has met the test as to the protection of a national interest within the realm of the Agency's responsibility.

In researching the discover precedents to help the Agency define with greater precision what it means by the term "United States citizen," the Agency discovered the following definition in the Federal Aviation Act (49 U.S.C. 1301 (13)):

> (13) "Citizen of the United States" means (a) an individual who is a citizen of the United States or of one of its possessions, or (b) a partnership of which each member is such an individual, or (c) a corporation or association created or organized under the laws of the United States or of any state, territory, or possession of the United States, of which the president and two-thirds or

more of the board of directors and other managing officers thereof are such individuals and in which at least 75 per centum of the voting interest is owned or controlled by persons who are citizens of the United States or of one of its possessions.

This definition responds closely to the Agency's perceived needs.

Findings and Conclusions

For the reasons stated above, the Agency finds that the exclusion of noncitizens from serving as sponsors and responsible officers is rationally related to a federal interest and that the federal interest is properly the concern of the USIA. Furthermore, the agency has determined that such exclusion is necessary to ensure the integrity of the exchange visitor program. Accordingly, the Agency is modifying the definition of citizen found in the Federal Aviation Act and inserting the modification into the Agency's regulations.

This decision does not significantly affect the quality of the human environment and is not a major or regulatory action under the Energy and Conservation Act of 1975.

This rule does not constitute a 'major rule' as that term is defined in section 1 (b) of the Executive Order on Federal Regulations issued by the President on February 17, 1981. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State of local government agencies or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation or on the ability of the United States-based enterprises in domestic or export markets.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (42 U.S.C. 3501–3520) and have been assigned OMB Control Number 3116–0009.

List of Subjects in 22 CFR Part 514

Cultural exchange programs, Reporting and recordkeeping requirements.

Accordingly, 22 CFR part 514 is amended as follows:

PART 514—[AMENDED]

1. The authority citation for 22 CFR part 514 continues to read:

Authority: U.S. Information and Educational Exchange Act of 1948, as amended, Pub. L. 80–402, as amended (22 U.S.C. 1431–1442): Mutual Educational and Cultural Exchange Act of 1961, as amended, Pub. L. 87–256, 75 Stat. 527, 634, 535 (8 U.S.C. 1101, 1104, 1182, 1258 and 22 U.S.C. 2451–2460); Pub. L. 97–241, 96 Stat. 1291; 66 Stat. 166, 182, 184, 204 (8 U.S.C. 1101(a)(15)(j), 1182(e), 1182(j), 1258); Pub. L. 91–225, 84 Stat. 116, 117, (8 U.S.C. 1101, 1182); Pub. L. 97–116, 95 Stat. 1611, 1612, 1613, (8 U.S.C. 1101, 1182); Reorg. Plan No. 2 of 1977; E.O. 12048 of March 27, 1978; USIA Delegation Order No. 85–5 (50 FR 27393).

2. Section 514.1 is amended by adding a definition of "Citizen of the United States" and revising the definitions of "Responsible Officer" and "Sponsor" as set forth below.

§ 514.1 Definitions.

* * * * *

Citizen of the United States means (a) an individual who is a citizen of the United States or of one of its possessions, or (b) a partnership of which each member is a United States citizen, or (c) a corporation or association created or organized under the laws of the United States, of which the chief executive officer, president, chairman of the board of directors, and 75 per centum of the members of the board and its other managing officers are United States citizens and in which at least 75 per centum of the stock or voting interest in owned or controlled by persons who are citizens of the United States or of one of its possessions.

* * * * *

Responsible Officer means the official of an organization sponsoring an Exchange-Visitor Program who has been listed with the Agency as being responsible for administering the program and carrying out the obligations which the organization of an Alternate Responsible Officer is permitted and encouraged. The Responsible Officer and all Alternate Responsible Officers must be United States citizens.

Sponsor means any reputable United States federal, state or local government agency or recognized international agency or organization of which the United States government is a member and has offices in the United States or a reputable organization which is a "citizen of the United States" as that term is defined by this regulation which makes application as prescribed to the Director of the United States Information Agency for designation of a program under its sponsorship as an Exchange-Visitor Program and whose application is approved. Other corporations or organizations which are not citizens of the United States as herein defined may not be designated as a sponsor.

* * * * *

Dated: July 17, 1989.

R. Wallace Stuart,

Acting General Counsel.

Appendix A

Comments on Rulemaking No. 3—Citizenship for Responsible Officers and Sponsors

Jones, Day, Reavis & Pogue
Ohio University
National Association for Foreign Students Affairs
Liaison Group for International Educational Exchange
Department of Justice, Immigration and Naturalization Service
The University of Iowa
Tony Cook Associates
University of Colorado
Department of State

[FR Doc. 89–18820 Filed 8–10–89; 8:45 am]
BILLING CODE 8230–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

National Highway Traffic Safety Administration

23 CFR Part 659

[FHWA Docket No. 88–5]

Certification of Speed Limit Enforcement; Revision of Procedures

AGENCY: Federal Highway Administration (FHWA)/National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Correction to final rule.

SUMMARY: The Final Rule concerning the procedure for determining State compliance with the provisions of Federal law regarding maximum speed limits was issued on June 7, 1989, and published in the **Federal Register** at 54 FR 25565 on June 16, 1989. This rule amended the current regulation, 23 CFR Part 659, "Certification of Speed Limit Enforcement." The Rule, as issued, contained an erroneous definition at § 659.5(e), relating to the definition of "an area of 50,000 population or more." The addition of this definition to the regulation is incorrect and differs from the definition of the underlying statute, 23 U.S.C. 101(a). This action makes the

editorial correction of removing the provision at § 659.5(e).

EFFECTIVE DATE: August 11, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Harry Skinner, HTO-30, (202) 366-2186, Federal Highway Administration, or Ms. Kathleen DeMeter, General Law Division, (202) 366-1834, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590.

In consideration of the foregoing, FHWA and NHTSA make the following correction:

PART 659—CERTIFICATION OF SPEED LIMIT ENFORCEMENT

§ 659.5 [Corrected]

In FR Doc. 89-14232, published on page 25565 in the **Federal Register** of Friday, June 16, 1989, § 659.5 is corrected by removing paragraph (e).

Issued on August 3, 1989.

R.D. Morgan,

Executive Director, Federal Highway Administration.

Jeffrey R. Miller,

Acting Administrator, National Highway Traffic Safety Administration.

[FR Doc. 89-18708 Filed 8-10-89; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

24 CFR Parts 200, 203, 204, 213, 220, 221, 222, 226, 227, 235, 237, and 240

[Docket No. R-89-1357, FR 2382]

RIN 2502-AE09

Mortgage Insurance for the Allegheny Reservation of the Seneca Nation of Indians

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: Section 203(q) of the National Housing Act authorizes the Secretary of HUD to insure mortgages on certain leased property in Salamanca, New York, within the Allegheny Reservation of the Seneca Nation of Indians. The leases terminate in February 1991 unless renewed, and the terms of renewal are uncertain. This rule explains the conditions under which the Secretary will insure mortgages on the leased property.

EFFECTIVE DATE: October 5, 1989.

FOR FURTHER INFORMATION CONTACT: Stephen A. Martin, Director, Office of Insured Single Family Housing, Department of Housing and Urban Development, Room 9266, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 755-3046. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The information collection requirements contained in this rule have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980 and have been assigned OMB control number 2502-0370. Public reporting burden for each of these collections of information is estimated to include the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Information on the estimated public reporting burden is provided under the Preamble heading, Findings and Certifications. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing burden, to the Department of Housing and Urban Development, Rules Docket Clerk, 451 Seventh Street SW., Washington, DC 20410; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

Section 203(q) of the National Housing Act (12 U.S.C. 1709(q)) was enacted as part of Pub. L. 99-601, November 5, 1986, and amended by Pub. L. 100-242, February 5, 1988. This provision authorizes the Secretary of HUD to insure mortgages on certain leased property within the Allegheny Reservation of the Seneca Nation of Indians, primarily in Salamanca, NY. Section 203(q) was needed before mortgage insurance could be granted because the property in question involves ground leases with terms expiring in February 1991 (with certain rights of extension).

On December 21, 1987, the Department published an interim rule to implement section 203(q) (52 FR 48197). Subsequently, the Department announced an effective date of March 28, 1988 for the interim rule. A correction to the interim rule was published on April 25, 1988 (53 FR 13404), to provide that certain provisions in the rule were not dependent upon publication of an effective date for the independent rule, published on March 5, 1987, relating to Temporary Mortgage Assistance Payments (TMAP). The Department began insuring mortgages upon the interim rule taking effect.

An extensive description of the background of section 203(q) and the reasons for the provisions of the interim rule may be found in the preamble to that interim rule. They will not be repeated here. However, a brief summary is needed here in order to provide a framework for discussion of the public comments.

The properties covered by section 203(q) are single family residential properties subject to ground leases given by the Seneca Nation of Indians under authority of Federal statutes enacted in 1875 and 1890. The leases are scheduled to expire in February 1991; the lessees have a right to renewal for up to 99 years on such conditions as may be agreed upon with the Seneca Nation, or on terms fixed by arbitrators. (Each party would select one arbitrator; the arbitrators would select a third arbitrator if needed.) Mortgage financing for the affected properties became unavailable as the lease termination date approached without renegotiated lease renewals of appointment or arbitrators.

HUD was required under section 203(q) to make mortgage insurance available in order that prudent mortgage lenders could extend financing on the basis of current leases and the associated rights of mortgagors/lessees to lease renewals. The interim rule required several steps to increase the likelihood of timely renewal of leases which secure insured mortgages. Special language was to be added to each insured mortgage which would permit foreclosure if the mortgagor failed to take the necessary steps to obtain renewal (in particular, if the mortgagor failed to appoint an arbitrator by September 19, 1989) or permit the mortgagee to seek lease renewal on behalf of the mortgagor. Each mortgagor was also required to enter into a separate agreement with HUD, in which the mortgagor would promise to seek lease renewal (including appointment of an arbitrator by September 19, 1989) and empower HUD to seek lease renewal on behalf of the mortgagor. The rule allowed the Seneca Nation also to be a party to the HUD agreement. The rule limited mortgage insurance to purchase money mortgages for owner occupants and specifically excluded refinancing mortgages.

Comments were received from the City of Salamanca, New York (which includes most of the property affected by the interim rule), legal counsel for the Seneca Nation of Indians, and one individual. Representatives of the

Department met with representatives of the City and the Seneca Nation before program implementation began and the Department's initial responses to their comments have been previously communicated to them. As a result of the Department's review and evaluation of the comments, this final rule contains one substantive change from the interim rule.

The City of Salamanca questioned whether February 1991 was the outside date for insurance under the interim rule. Section 203(q) was specifically intended to make mortgage insurance available under special terms because of the short remaining lease terms, and HUD does not interpret the statute as authorizing insurance for mortgages signed after the leases should have been extended (i.e., after February 1991). However, any insurance granted before the scheduled lease termination date will be incontestable for the life of the mortgage, in the absence of mortgagee fraud or misrepresentation, as provided in section 203(e) of the National Housing Act. The City also objected to allowing the Seneca Nation to be a party to the separate agreement between HUD and the mortgagor, on the grounds that each mortgagor had rights (including arbitration) which were not subject to agreement by the Seneca Nation. HUD continues to believe that an advance requirement between interested parties on the specific arbitration arrangements would be useful. However, the Department's contacts with the Seneca Nation regarding possible terms of such an agreement have not been fruitful to date and the Department expects to continue using its current HUD-mortgagor agreement. No change in rule language is needed to continue the current practice.

In a further comment, the City expressed concern over the indefiniteness in the interim rule regarding when HUD might exercise remedies against the mortgagor for inadequate efforts regarding lease renewal. We agree with the City that failure specifically to describe the required actions could have been a problem; however, the loan documents drafted by HUD and currently in use do specify the actions, and we believe that repetition of those specific actions in this final rule text is not needed.

The City also questioned how HUD would estimate future lease payments for underwriting purposes. The preamble to the interim rule stated: "* * * HUD expects initially to use * * * the highest level proposed by the Seneca Nation in negotiations until HUD has reason to conclude that a lesser rent level is a likely outcome of negotiations or arbitration" (52 FR 48199). Before HUD began insuring mortgages under the interim rule, the HUD Buffalo Office did receive additional information enabling it to make better projections of reasonable future lease payments. The rule text does not specify the method of estimating payments and does not need modification.

The interim rule provided for possible suspension of the section 203(q) program where actual experience showed an unacceptable default or claim rate. The City suggested that HUD should not act if the default rate occurs due to "outside influences which are temporary and correctable." HUD does not expect to suspend the program unless it is clear that the actual risks significantly exceed those anticipated by Congress when it enacted section 203(q). It is the Department's understanding, however, that section 203(q) is not designed to require the Department to accept special risks other than those associated with possible lease termination, and that it is also consistent with the law for the Department to react to specific indications that lease renewals are not occurring or will not occur as expected.

The City also argued that the program should not be limited to financing home purchases, but that home mortgage refinancing, apartment financing and home equity loans were other important needs for mortgage money which the rule should address. The statute only authorizes mortgage insurance under section 203(b) of the National Housing Act (as modified by section 203(q)); as a result, insurance is only legally available for first mortgages on homes. However, the law does allow insurance of refinancing mortgages on owner-occupied homes. The City's comments state: "Refinancing is * * * important because we have a number of past home purchasers who mortgaged with the seller and the mortgages will balloon. Such persons so mortgaged in anticipation that the lease situation would be resolved or that the Federal government would do something in aid of the well-known situation." The Department agrees that it is appropriate to use the special section 203(q) insurance authority to address the balloon mortgage situation, since persons with such mortgages are in immediate danger of losing their homes because of the lack of available uninsured financing. The final rule contains a change to 24 CFR 203.43j(e) to address this problem.

Finally, the City commented that determination of value should be made in the usual manner for insured leasehold mortgages. HUD agrees, with the exception that the assumed, rather than actual, rent must be used. No rule change is needed.

The individual who submitted comments urged withdrawal of the entire rule, and stated that the right to negotiate the future of Salamanca should be left to the City of Salamanca and the Seneca Nation. HUD is required to implement the statute, and the statutory scheme is sufficiently general that validly promulgated regulations are needed to fill in the details of the program. While HUD has attempted to minimize interference with negotiations, it believes it must require that mortgagors negotiate or otherwise assert their legal rights as leaseholders in order to preserve value in the insured mortgages.

The Seneca Nation also commented on the interim rule. It suggested that steps which a mortgagor must take toward lease renewal to avoid default should be spelled out in the rule. We do not agree that this level of detail is necessary in the rule. At closing, each mortgagor signs documents explaining his or her responsibilities. In particular, the mortgagor must sign a letter to the Seneca Nation giving notice that the mortgagor is exercising his or her option to renew the lease, and an agreement with HUD providing, in part, that the mortgagor will name an arbitrator by September 19, 1989, if there is no agreement on the terms of renewal by then. (HUD may review and adjust these requirements as September 19, 1989 gets nearer.) The Seneca Nation also indicated interest in joining as a party in the agreement between HUD and the mortgagor, as allowed by § 203.43j(c). No form of agreement including the Seneca Nation has been reached to date, but the final rule will allow such an agreement. The Seneca Nation agreed that § 203.43j(f) should be implemented, as suggested in the interim rule preamble, by using the highest rent level proposed in negotiations as the estimated future rent level for underwriting purposes, and requested that this approach be included in the rule text. As discussed above, HUD has now received better information to use in estimating future rents.

Finally, with reference to § 203.350(d), which authorizes HUD to accept assignment of mortgages in default, the Seneca Nation requested that it be given notice of default and a first option to acquire the mortgage. HUD does not regard these requests as relevant to the basic purpose of § 203.350(d). As explained in the preamble to the interim rule, HUD concluded that it should

provide for the possibility of assignment so that mortgages would have some protection from involvement in complex lease renewal problems beyond those a mortgagee could reasonably be expected to handle.

Findings and Certifications

This rule does not constitute a "major rule" as that term is defined in section (b) of the Executive Order on Federal Regulation issued by the President on February 17, 1981. Analysis of the rule indicates that it does not (1) have an annual effect on the economy on $100 million or more; (2) cause a major increase in cost or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States based enterprises to compete with foreign-based enterprises in domestic or export markets.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50 which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General, Room 10276, 451 Seventh Street SW., Washington, DC 20410.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule only provides for a limited number of mortgages on homes in Salamanca, New York, to be insured during a limited period of time. It should provide new economic opportunities equally to large and small entities by enabling them to obtain mortgage loans on a financially feasible basis for the first time in recent years.

The collection of information requirements contained in this rule have been submitted to OMB for review under section 3504(h) of the Paperwork Reduction Act of 1980. Sections 203.666 (b) and (c) of this rule have been determined by the Department to contain collection of information requirements. Information on these requirements is provided as follows:

Description of information	Section of 24 CFR affected	Number of respondents	Total annual responses	Hours per responses	Total hours
Information needed for assignments	203.606 (b) and (c)	10	5	50	27.5

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this rule do not have federalism implications and, thus, are not subject to review under the Order. The rule, pursuant to a statutory mandate, implements a special mortgage insurance program limited to a specific geographical area. Except where required by the statute, the special program operates within the existing, established framework of the FHA insurance programs. While it should have a significant impact on one, peculiarly situated, political subdivision of a state, the effect of the rule is to provide special relief of that subdivision as mandated by the Congress. The rule does not in any way preempt state law nor does it require use of the special mortgage insurance program it provides for.

The General Counsel, as the Designated Official under Executive Order 12606, the Family, has determined that this rule does not have a potentially significant impact on family formation, maintenance, and general well-being, and thus, is not subject to review under the Order. The rule is very limited in scope, being confined to a specific geographical area. It provides special relief to mortgagor families within that area by making otherwise unavailable Federal mortgage insurance available to families within the area for a limited period of time.

This rule was listed in the Department's Semiannual Agenda of Regulations published on April 24, 1989 (54 FR 16710, 16728) under Executive Order 12291 and the Regulatory Flexibility Act at sequence number 954.

The mortgage insurance program is listed in the Catalog of Federal Domestic Assistance under the following number: 14.117.

List of Subjects

24 CFR Part 200

Administrative practice and procedures, Mortgage insurance.

24 CFR Part 203

Home improvement, Loan program; Housing and community development; Mortgage insurance; Solar energy.

24 CFR Part 204

Mortgage insurance.

24 CFR Part 213

Mortgage insurance; Cooperatives.

24 CFR Part 220

Home improvement; Mortgage insurance; Urban renewal; Rental housing; Loan programs; Housing and community development; Projects.

24 CFR Part 221

Condominiums; Low and moderate income housing; Mortgage insurance; Displaced families; Single family housing; Projects; Cooperatives.

24 CFR Part 222

Condominiums; Military personnel; Mortgage insurance.

24 CFR Part 226

Government employees; Mortgage insurance; Single family housing.

24 CFR Part 227

Federally affected areas; Defense housing; Mortgage insurance.

24 CFR Part 234

Condominiums; Mortgage insurance; Homeownership; Projects; Units.

24 CFR Part 235

Condominiums; Cooperative; Low and moderate income housing; Mortgage insurance; Homeownership; Grant programs; Housing and community development.

24 CFR Part 237

Low and moderate income housing, Mortgage insurance.

24 CFR Part 240

Mortgage insurance; Fee title purchase.

Accordingly, the Department adopts all of the revisions contained in the interim rule of December 21, 1987 (52 FR 48197) and the correction to the interim rule of April 25, 1988 (53 FR 13404), without change, except § 203.43j(e).

PART 203—MUTUAL MORTGAGE INSURANCE AND REHABILITATION LOANS

1. The authority citation for Part 203 continues to read as follows:

Authority: Secs. 203 and 211, National Housing Act (12 U.S.C. 1709, 1715(b)); 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)). In addition, Subpart C is issued under Sec. 230, National Housing Act (12 U.S.C. 1715u).

2. Section 203.43j(e) is revised to read as follows:

§ 203.43j Eligibility of Mortgages on Allegheny Reservation of Seneca Nation of Indians

* * * * *

(e) *Owner-occupant purchase or refinance.* The mortgagor must be either a purchaser intending to occupy the property as a principal residence, or a current owner-occupant refinancing a mortgage which is now due or which will become due before the lease termination date in February 1991.

* * * * *

Dated: July 18, 1989.

John R. Ambrogne, Jr.,

Acting General Deputy, Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc. 89-18765 Filed 8-10-89; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 146

[CGD 84-098b]

Emergency Evacuation Plans for Manned OCS Facilities

AGENCY: Coast Guard, DOT.

ACTION: Notice of Effective Date of Information Collection Requirements.

SUMMARY: The Office of Management and Budget (OMB) has approved the information collection requirements in §§ 146.140 and 146.210 of the final rule on Emergency Evacuation Plans for manned OCS facilities published in the **Federal Register** on May 18, 1989 (54 FR 21566) and has assigned OMB Control Number 2115-0580. OMB approval of information collection requirements is required before those requirements may be made effective. The provisions approved concern the development of emergency evacuation plans and their submission to the Coast Guard for review. Emergency evacuation plans for OCS facilities existing on June 19, 1989, including mobile offshore drilling units, must be submitted to the Coast Guard before December 18, 1989.

These provisions are being made effective on the date of publication of this notice because they were published as part of a final rule on May 18, 1989, more than 30 days ago.

In a separate document to be published at a later date, the Coast Guard will amend 33 CFR part 4 to include this approval number.

EFFECTIVE DATE: August 11, 1989.

FOR FURTHER INFORMATION CONTACT: LCDR Anthony Dupree or LCDR Steve Ciccalone, Merchant Vessel Inspection and Documentation Division, (202) 267-2307.

Dated: August 3, 1989.

M. J. Schiro,

Captain, U.S. Coast Guard, Acting Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 89-18666 Filed 8-10-89; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-1-FRL-3627-1]

Approval and Promulgation of Air Quality Implementation Plans; New Hampshire; Early Delegation of Authority for the Nitrogen Dioxide Increment Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is advancing the effective date of the prevention of significant deterioration (PSD) increments for nitrogen dioxide (NO_2) found at 40 CFR 52.21 to October 17, 1989, in New Hampshire's State Implementation Plan. The intended effect of this action is to advance the effective date of the NO_2 increments provisions of 40 CFR 52.21 from November 19, 1990, to October 17, 1989, in the State of New Hampshire by amending 40 CFR Part 52, Subpart EE—New Hampshire, § 52.1529. This notice also announces that the State of New Hampshire has negotiated an amendment to its delegation agreement with EPA to implement the PSD requirements of 40 CFR 52.21 including protection of the NO_2 increments as a criterion for PSD issuance effective October 17, 1989.

EFFECTIVE DATE: This action will become effective October 10, 1989, unless notice is received within 30 days that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register.**

ADDRESSES: Comments may be mailed to Louis F. Gitto, Director, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, JFK Federal Building, Room 2313, Boston, MA 02203. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, JFK Federal Building, Room 2313, Boston, MA 02203; and Air Resources Division, Department of Environmental Services, 64 North Main Street, Caller Box 2033, Concord, NH 03302-2033.

FOR FURTHER INFORMATION CONTACT: Lynne A. Hamjian, (617) 565-3246; FTS 835-3246.

SUPPLEMENTARY INFORMATION: On October 17, 1988 (53 FR 40656), EPA promulgated ambient air quality increments for NO_2 under the PSD regulations at 40 CFR Part 51 and 40 CFR Part 52. The effective date promulgated for the NO_2 increments in Part 51 is October 17, 1989. However, the effective date promulgated for the NO_2 increments in Part 52 is November 19, 1990.

This means that a State which adopted PSD regulations pursuant to 40 CFR Part 51, and had those regulations approved by EPA as revisions to its State Implementation Plan (SIP) can adopt and implement requirements to protect the NO_2 increments as early as October 17, 1989 (12 months from the October 17, 1988 promulgation date). Such a State may wait to revise the PSD regulations in its SIP for up to nine months after the effective date. The implementation of protection of the NO_2 increments could, therefore, occur as late as November 19, 1990, in such a State (25 months after the November 17, 1988 promulgation date). However, many States implement the requirements for PSD via authority delegated to them by EPA to implement 40 CFR 52.21. EPA federally promulgated the provisions of 40 CFR 52.21 into these States SIPs because they did not adopt and submit State regulations for incorporation into their SIPS pursuant to 40 CFR Part 51 requirements. These federal promulgations are codified in each State's respective subpart of 40 CFR Part 52 (in New Hampshire's case at 40 CFR Part 52, Subpart EE—New Hampshire, § 52.1529).

Because the effective date of the NO_2 increments promulgated in 40 CFR 52.21 is November 19, 1990, States with PSD

authority via delegation of the provisions of 40 CFR 52.21 (e.g., New Hampshire) cannot, in general, implement protection of NO_2 increments until that date. In recognition that protection of the NO_2 increments is available as early as October 17, 1989, to a State which adopted PSD regulations pursuant to Part 51 and had them incorporated into its SIP, EPA stated in the **Federal Register** notice promulgating the NO_2 increments that it will advance the general effective date of Part 52 on a case-by-case basis pursuant to a State's request.

On February 15, 1989, EPA's Office of Air Quality Planning and Standards issued a guidance memorandum entitled, "Guidance on Early Delegation of Authority for the Nitrogen Dioxide (NO_2) Increments Program." This memorandum outlines the requirements that a State must include in its amended delegation agreement and the procedure which EPA must follow to advance the general effective date of 40 CFR Part 52 NO_2 increment regulations. The State must submit an amended delegation agreement to EPA for review and approval. The amended PSD delegation agreement must—

(1) Explain how the State plans to meet the new NO_2 increment requirements,

(2) Demonstrate that the State has adequate legal authority under State law to accept the delegation,

(3) Address how the State will determine increment consumed since February 8, 1988, and how it will correct possible exceedances,

(4) Address how the State will track increment consumption in the future, and

(5) Contain a stipulation by the appropriate State official that it does not intend to submit the necessary Part 51 State Implementation Plan (SIP) revisions within 21 months of the promulgation of the NO_2 increment regulations.

These criteria and how they are met in New Hampshire's amended delegation agreement are detailed in a memorandum dated July 18, 1989 entitled, "Technical Support Document—Advancement of the Effective Date of the PSD Nitrogen Dioxide Increment Program in the State of New Hampshire at 40 CFR 52.1529." Copies of this document are available, upon request, from the EPA Regional Office listed in the ADDRESSES section of this notice. EPA has evaluated New Hampshire's request and has determined that the New Hampshire's May 2, 1989 submittal meets all of the criteria in EPA's guidance.

EPA is advancing the effective date of the NO_2 increments regulations in the State of New Hampshire without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective 60 days from the date of this **Federal Register** notice unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted. If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdrawn the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective on October 10, 1989.

Final Action

EPA is advancing the effective date of the PSD increment provisions for NO_2 in 40 CFR 52.21(b) through (w) from November 19, 1990 to October 17, 1989 in the State of New Hampshire by amending 40 CFR part 52, subpart EE—New Hampshire, § 52.1529 to include the advanced date.

Under 5 U.S.C. section 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 10, 1989. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Nitrogen dioxide, Prevention of significant deterioration.

Dated: July 28, 1989.

Stephen F. Ells,

Acting Regional Administrator Region I.

Subpart EE, Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

Subpart EE—New Hampshire

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.1529 is amended by adding paragraph (c) to read as follows:

§ 52.1529 Significant deterioration of air quality

* * * * *

(c) The revisions promulgated on October 17, 1988 (53 FR 40671) to §§ 52.21 (b) through (w) including increment provisions for nitrogen dioxide are hereby incorporated and made a part of the applicable State Implementation Plan for the State of New Hampshire. The effective date of the revisions promulgatged on October 17, 1988 to §§ 52.21 (b) through (w) are hereby advanced from November 19, 1990 to October 17, 1989 in the State of New Hampshire.

[FR Doc. 89–18835 Filed 8–10–89; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 60

[AD–FRL–3625–6]

Standards of Performance for New Stationary Sources: Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels); Correction and Clarification

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction and clarification.

SUMMARY: This document clarifies and corrects several aspects of the new source performance standards for volatile organic liquid (VOL) storage vessels (including petroleum liquid storage vessels) subpart Kb which was promulgated April 8, 1987 (52 FR 11420).

EFFECTIVE DATE: April 8, 1987.

FOR FURTHER INFORMATION CONTACT: Doug Bell or Laura Butler, Standards Development Branch, ESD (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541–5568 or (919) 541–5267, respectively.

SUPPLEMENTARY INFORMATION: This action is necessary in order to make the following corrections and clarifications:

(1) To correct typographical errors in §§ 60.110b(c) and 60.113b(a)(2).

(2) To clarify that the regulation applies only to stored liquids that are VOL's stored in the volume range and at the vapor pressure range specified in § 60.112b of the standards. This has been clarified by adding the words "VOL's to the definition of "maximum true vapor pressure" in § 60.111b of the standards.

(3) To clarify the visual inspection requirements of an internal floating roof storage vessel in § 60.113b of the regulation that was published in the **Federal Register** on April 8, 1987 (52 FR 11420). This notice clarifies that an owner or operator of a storage vessel who chooses to install a double-seal system as specified in § 60.112b(a)(1)(ii)(B) and then chooses to conduct an annual visual inspection of the double-seal system must also conduct an internal inspection at intervals no greater than 10 years. This section also clarifies that an owner or operator who chooses to install a double-seal system may conduct an internal inspection at intervals no greater than 5 years, instead of the annual visual inspection. If the operator equips the storage vessel with a double-seal system and conducts an internal inspection every 5 years, the controls are considered equivalent to a single seal system and annual visual inspection.

These corrections and clarifications do not change the requirements of the regulation. They primarily clarify minor technical ambiguities that have been identified during the implementation of the standards.

List of Subjects in 40 CFR Part 60

Air pollution control, Environmental protection, Petroleum.

Dated: August 4, 1989.

Don R. Clay,

Acting Assistant Administrator for Air and Radiation.

For reasons set out in the preamble, 40 CFR Part 60 is amended as follows:

PART 60—[AMENDED]

1. The authority citation for Part 60 continues to read as follows:

Authority: 42 U.S.C. 7411 and 7601(a).

2. Section 60.110b is amended by revising paragraph (c) to read as follows:

§ 60.110b Applicability and designation of affected facility.

* * * * *

(c) Except as specified in paragraphs (a) and (b) of § 60.116b, vessels either with a capacity greater than or equal to 151 m^3 storing a liquid with a maximum true vapor pressure less than 3.5 kPa or with a capacity greater than or equal to 75 m^3 but less than 151 m^3 storing a liquid with a maximum true vapor pressure less than 15.0 kPa are exempt from the General Provisions (Part 60, Subpart A) and from the provisions of this subpart.

* * * * *

3. Section 60.111b is amended by revising paragraph (f) introductory text to read as follows:

§ 60.111b Definitions.

* * * * *

(f) "Maximum true vapor pressure" means the equilibrium partial pressure exerted by the stored VOL at the temperature equal to the highest calendar-month average of the VOL storage temperature for VOL's stored above or below the ambient temperature or at the local maximum monthly average temperature as reported by the National Weather Service for VOL's stored at the ambient temperature, as determined:

* * * * *

4. Section 60.113b is amended by revising paragraph (a)(2) to read as follows:

§ 60.113b Testing and procedures.

* * * * *

(a) * * *

(2) For Vessels equipped with a liquid-mounted or mechanical shoe primary seal, visually inspect the internal floating roof and the primary seal or the secondary seal (if one is in service) through manholes and roof hatches on the fixed roof at least once every 12 months after initial fill. If the internal floating roof is not resting on the surface of the VOL inside the storage vessel, or there is liquid accumulated on the roof, or the seal is detached, or there are holes or tears in the seal fabric, the owner or operator shall repair the items or empty and remove the storage vessel from service within 45 days. If a failure that is detected during inspections required in this paragraph cannot be repaired within 45 days and if the vessel cannot be emptied within 45 days, a 30-day extension may be requested from the Administrator in the inspection report required in § 60.115b(a)(3). Such a request for an extension must document that alternate storage capacity is unavailable and specify a schedule of actions the company will take that will assure that the control equipment will be repaired or the vessel will be emptied as soon as possible.

* * * * *

5. Section 60.113b is amended by revising paragraph (a)(4) to read as follows:

§ 60.113b Testing and procedures.

* * * * *

(a) * * *

(4) Visually inspect the internal floating roof, the primary seal, the secondary seal (if one is in service), gaskets, slotted membranes and sleeve seals (if any) each time the storage vessel is emptied and degassed. If the internal floating roof has defects, the primary seal has holes, tears, or other openings in the seal or the seal fabric, or the secondary seal has holes, tears, or other openings in the seal or the seal fabric, or the gaskets no longer close off the liquid surfaces from the atmosphere, or the slotted membrane has more than 10 percent open area, the owner or operator shall repair the items as necessary so that none of the conditions specified in this paragraph exist before refilling the storage vessel with VOL. In no event shall inspections conducted in accordance with this provision occur at intervals greater than 10 years in the case of vessels conducting the annual visual inspection as specified in paragraphs (a)(2) and (a)(3(ii) of this section and at intervals no greater than 5 years in the case of vessels specified in paragraph (a)(3)(i) of this section.

* * * * *

[FR Doc. 89-18598 Filed 8-10-89; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 271

[FRL-3526-7]

Guam; Final Authorization of Territorial Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: The Territory of Guam has applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has reviewed Guam's application and has made a decision, subject to public review and comment, that Guam's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA intends to approve Guam's hazardous waste programs revisions. Guam's application for program revision is available for public review and comment.

DATES: Final authorization for Guam shall be effective October 10, 1989 unless EPA publishes a prior **Federal Register** action withdrawing this immediate final rule. All comments on Guam's program revision application must be received by the close of business September 10, 1989.

ADDRESSES: Copies of Guam's program revision application are available during the business hours of 9:00 a.m. to 5:00 p.m. at the following addresses for inspection and copying:

Guam Environmental Protection Agency, I T & E Harmon Plaza, Complex Unit D-107, 130 Rojas Street,

Harmon, Guam 96911 Phone: 671/646-8865.

U.S. EPA Headquarters Library, PM 211A, 401 M Street, SW., Washington, DC 20460 Phone: 202/382-5926.

U.S. EPA Region IX Library-Information Center, 215 Fremont Street, San Francisco, CA 94105 Phone: 415/974-8076.

Written comments should be sent to April Katsura, U.S. EPA Region IX (T-2-5), 215 Fremont Street, San Francisco, CA 94105 Phone: 415/974-0771.

FOR FURTHER INFORMATION CONTACT: April Katsura at the above address, Phone: 415/974-0771.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under section 3006(b) of the Resource Conservation and Recovery Act ("RCRA" or "the Act"), 42 U.S.C. 6929(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. In addition, as an interim measure, the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98-616, November 8, 1984, hereinafter "HSWA") allows States to revise their programs to become substantially equivalent instead of equivalent to RCRA requirements promulgated under HSWA authority. States exercising the latter option receive "interim authorization" for the HSWA requirements under section 3006(g) of RCRA, 42 U.S.C. 6926(g), and later apply for final authorization for the HSWA requirements.

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

B. Guam

Guam initially received final authorization on January 27, 1986. Guam received final authorization for revisions to its program on May 22, 1989. On May 9, 1989, Guam submitted a program revision application for additional program approvals. Today, Guam is seeking approval of its program revision in accordance with 40 CFR 271.21(b)(3).

EPA has reviewed Guam's application, and has made an immediate final decision that Guam's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant final authorization for the additional program modifications to Guam. The public may submit written comments on EPA's immediate final decision up until September 10, 1989. Copies of Guam's application for program revision are available for inspection and copying at the locations indicated in the "**ADDRESSES**" section of this notice.

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

Guam is applying for authorization for the following Federal hazardous waste statute and regulations:

Federal requirement	Territory authority
● Listing of Spent Pickle Liquor (K062) (51 FR 29320, May 28, 1986), as amended (51 FR 33612, Sept. 22, (1986).	10 Guam Code Annotated (GCA) section 51103(a)(11); Hazardous Waste Management Regulations (HWMR) Part III.A.
● Regulation of the Hazardous Components of Radioactive Mixed Waste (51 FR 24504, July 3, 1986).	10 GCA section 51102(8) and (22) and section 51103(a)(11).
● Standards for Hazardous Waste Storage and Treatment Tank Systems (51 FR 25470, July 14, 1986) including portions promulgated under HSWA.	10 GCA section 51103(a)(11); HWMR parts II.A, B, C.20 and D.7; III.A and B; IV.A and B; VI.A, B and G; VII.A, B, and G-M; and IX.A and B.
● Liability Coverage (51 FR 25350, July 11, 1986).	10 GCA section 55103(a)(11); HWMR parts VI.A and VII.A
● Corrections to Listing of Commercial Chemical Products and Appendix VIII Constituents (51 FR 28296, August 6, 1986).	10 GCA section 51103(a)(11); HWMR part III.A.
● Revised Manual SW-846; Amended Incorporation by Reference (52 FR 8072, March 16, 1987).	10 GCA section 51103(a)(11); HWMR parts II.B and IX.A.
● Closure/Post-Closure Care for Interim Status Surface Impoundments (52 FR 8704, March 19, 1987).	10 GCA section 51103(a)(11); HWMR part VII.A and B.
● Definition of Solid Waste Technical Corrections (52 FR 21306, June 5, 1987).	10 GCA section 51103(a)(11); HWMR parts III.A and B and VIII.A.
● Amendments to Part B Information Requirements for Disposal Facilities (52 FR 23447, June 22, 1987).	10 GCA section 51103(a)(11); HWMR part IX.A and B.

Guam's program revision contains no Territorial requirements that are broader in scope than the relevant Federal requirements. Guam will not have issued any Territorial hazardous waste permits prior to being authorized for the above program revisions. The Territorial program does not include jurisdiction over Indian Lands, because there are no Indian Lands in Guam.

C. Decision

I conclude that Guam's application for program revision meets all of the statutory and regulatory requirements established by RCRA. Accordingly, Guam is granted final authorization to operate its hazardous waste program as revised. Guam has responsibility for permitting treatment, storage, and disposal facilities within its borders and carrying out other aspects of the RCRA-program, subject to the limitation of its revised program application and previously approved authorities. Guam also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under section 3007 of RCRA and to take enforcement actions under sections 3008, 3013 and 7003 of RCRA.

Compliance With Executive Order 12291

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

Certification Under The Regulatory Flexibility Act

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

List of Subjects in 40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials

transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

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

Dated: July 11, 1989.

John Wise,

Acting Regional Administrator.

[FR Doc. 89-18383 Filed 8-10-89; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF DEFENSE

48 CFR Part 215

[Defense Acquisition Circular 88-11]

Department of Defense Federal Acquisition Regulation Supplement (DFARS)

AGENCY: Department of Defense (DoD).

ACTION: Final rules; correction.

SUMMARY: This document corrects a final rule (Defense Acquisition Circular 88-11) which was published in the Federal Register on Wednesday, July 26, 1989, 54 FR 31035. This action is necessary to delete coverage which was inadvertently added and not part of the approved text.

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Lloyd, Executive Secretary, DAR Council, telephone (202) 697-7266.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

Accordingly, the Department of Defense is correcting 48 CFR part 215 as follows:

PART 215—[CORRECTED]

215.806-2 [Corrected]

215.806-3 [Corrected]

1. On page 31038, paragraph 5 of the amendatory language is corrected to read: "Section 215.806-3 is added to read as follows:", and section 215.806-2 is removed in its entirety.

[FR Doc. 89-18773 Filed 8-10-89; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018-AA24

Migratory Bird Hunting; Final Frameworks for Selecting Early Hunting Seasons on Certain Migratory Game Birds in the United States, Including Alaska, and Puerto Rico and the Virgin Islands, for the 1989-90 Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes final frameworks (i.e., the outer limits for dates and times when shooting may begin and end, hunting areas, and the numbers of birds which may be taken and possessed) for early-season migratory bird hunting regulations from which States and Puerto Rico and the Virgin Islands may select season dates and daily bag and possession limits for the 1989-90 season. These seasons may open prior to October 1, 1989.

DATE: Effective on August 11, 1989. Selected season dates are to be transmitted to the U.S. Fish and Wildlife Service (hereinafter the Service) for publication in the **Federal Register** as amendments to §§ 20.103 through 20.106 and 20.109 of 50 CFR Part 20.

ADDRESSES: Season selections from States and Territories are to be mailed to: Director (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Room 634—Arlington Square, Washington, DC 20240. Comments received are available for public inspection during normal business hours at the Service's office in Room 634, Arlington Square Building, 4401 North Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Byron K. Williams, Acting Chief, Office of Migratory Bird Management, Department of the Interior, Washington, DC 20240, telephone (703) 358-1714.

SUPPLEMENTARY INFORMATION: On March 27, 1989, the U.S. Fish and Wildlife Service published for public comment in the **Federal Register** (54 FR 12534) initial proposals to amend 50 CFR Part 20, with comment periods ending July 23, 1989, for early-season frameworks and August 28, 1989, for late-season frameworks. The March 27, 1989, document dealt with establishment of seasons, limits and shooting hours for migratory game birds under §§ 20.101 through 20.107, 20.109, and 20.110 of subpart K. A supplemental proposed rulemaking for both the early and late hunting season frameworks appeared in the **Federal Register** dated June 6, 1989 (54 FR 24290).

On June 22, 1989, a public hearing was held in Washington, DC, to review the status of woodcock, band-tailed pigeons, mourning, white-winged and white-tipped doves, sandhill cranes and other species. The meeting was announced in the **Federal Register** on March 27, 1989 (54 FR 12534) and June 6, 1989 (54 FR 24290). Proposed hunting regulations were discussed for these species and for rails; moorhens and gallinules; common snipe; sea ducks in the Atlantic Flyway; September teal; experimental September duck seasons in identified States; experimental and special September Canada goose seasons in portions of identified States; doves in Hawaii; migratory game birds in Alaska, Puerto Rico, and the Virgin Islands; and some extended falconry seasons. Public comments on these matters were received.

On July 13, 1989, the Service published in the **Federal Register** (54 FR 29640) a third document in the series of proposed and final rulemaking documents. The third document dealt specifically with proposed frameworks for the 1989-90 season. When published in a fourth document as final frameworks, wildlife conservation agency officials may select season dates and bag limits for hunting certain migratory birds in their respective jurisdictions during the 1989-90 season.

This rulemaking is the fourth in the series, and deals specifically with final frameworks for early-season migratory game bird hunting regulations from which wildlife conservation agency officials from the States, Pureto Rico, and the Virgin Islands may select season dates and daily bag and possession limits for the 1989-90 season. These seasons may open prior to October 1, 1989, and apply to mourning white-winged and white-tipped doves; band-tailed pigeons; rails; moorhens and gallinules; woodcock; common snipe; sea ducks in the Atlantic Flyway; experimental September duck seasons in identified States; experimental and special September Canada goose seasons in portions of identified States; sandhill cranes in the Central and Pacific Flyways; doves in Hawaii; migratory game birds in Alaska, Puerto Rico, and the Virgin Islands; and some extended falconry seasons. Late seasons include the general waterfowl seasons; coots; moorhens; gallinules and common snipe in the Pacific Flyway; and remaining extended falconry seasons.

Review of Public Comments

Public hearing and written comments received through July 23, 1989, relating to proposed early season frameworks are discussed and addressed here. The comments are discussed in the same order as the numbered items to which they apply. Only current numbered items are included. A continuous list of all the numbered items used in Service documents appeared in the March 27, 1989, **Federal Register** (54 FR 12534).

1. Shooting Hours

Public Hearing Comments: Mr. Ronnie R. George, representing the Central Flyway Council and the Texas Parks and Wildlife Department, presented a statement opposing restrictive shooting hours for early-season regulations.

Written Comments: The Atlantic, Central, and Pacific Flyway Councils; the Lower Region Regulations Committee of the Mississippi Flyway Council; the States of Alaska, Arizona, Arkansas, California, Colorado, Florida, Minnesota, Missouri, Montana, New York, Oklahoma, South Carolina, Tennessee, and Texas; North Dakota Tourism Promotion; Ducks Unlimited, Alaska Waterfowl Association, California Waterfowl Association, Louisiana Wildlife Federaton, National Rifle Association, Sportsman Conservationists of Texas, and South Carolina Waterfowl Association; 6 local organizations; and 22 individuals opposed restrictive shooting hours as originally proposed in the March 27, 1989, **Federal Register** (at 54 FR 12539), for the 1989–90 migratory bird hunting season. The State of Wisconsin and 2 individuals were in favor of restrictive shooting hours.

Response: After further review, the Service concluded that restrictive shooting hours were not warranted for early-season hunting seasons. Restrictive shooting hours for early season species would not benefit duck populations which are low in numbers and may further discourage hunters from participating in hunting seasons and reduce support for habitat and management efforts. Late-season shooting hours will be determined at the same time as other late-season regulations are set.

5. Sea Ducks

Written Comments: A sportsman's organization supported the proposal for the 107-day season and for a bag limit of 7 sea ducks.

Response: The Service will continue a 107-day season with a bag limit of 7 sea ducks.

6. September Teal Season

Public Hearing Comments: Mr. Ronnie R. George, representing the Central Flyway Council and the Texas Parks and Wildlife Department, presented a statement in support of the September teal season.

Written Comments: The Central Flyway Council; the Southern Region Regulations Committee of the Mississippi Flyway Council; the States of Arkansas, Colorado, and Louisiana; 2 organizations, 1 member of Congress, and 27 individuals from Texas; and 1 individual from Oklahoma requested that the September teal season be reinstated with restrictions as necessary. Arguments presented include:

a. Artificial wetland areas will not be provided due to lack of incentive.

b. Relatively low band recovery and harvest rates for blue-winged teal indicate there is little impact on the species.

c. Population level is only slightly below the average since 1981.

d. Breeding habitat conditions are similar to the conditions when these seasons were implemented.

e. Due to early migration of bluewings, suspension virtually precludes harvest in many States.

The State of Wisconsin and 3 individuals from Texas supported suspension of the September teal season.

Response: Blue-winged teal were on a downward trend through the 1980's, production has declined substantially, and the population is currently at a record low. The potential for population response is being diminished by substantial deterioration in the quality and quantity of wetlands and upland nesting cover on the breeding grounds. Habitat conditions are not much better than in 1988 and the outlook for the fall flight is poor. Although band recovery and harvest rates for bluewings are relatively low, we have little predictive information on the effects of harvest on the population when at this low level. The Service recognizes that the suspension will eliminate substantial portions of the harvest in some areas and this will result in some unmeasured amount of habitat that will not be provided. However, in view of the very poor population status and production outlook, reinstatement of the September teal season is not warranted and is not offered. The Service encourages private land managers to continue to provide habitat to benefit waterfowl at this time of the year, in anticipation of improved populations status in the future.

8. September Duck Seasons

a. *Written Comments:* The Atlantic Flyway Council and the State of Florida recommended that the bag limit during the experimental September duck season in Florida be 4 wood ducks only.

Response: A bag limit of 3 wood ducks only per day for the regular season was established in 1988 to limit the take of all ducks. Most special seasons were cancelled. Bag limits for early wood duck seasons were reduced to 2 per day in Kentucky and Tennessee, and 3 per day in Florida. The Service currently is reviewing harvest management strategies, such as September duck seasons and special wood duck seasons. The review of harvest management strategies likely will not be complete until next year. For this year, the Service believes a bag limit to include 3 wood ducks only for the 5-day September duck season in Forida is appropriate.

b. *Public Hearing Comments:* Mr. Lauren Schaaf, representing the Kentucky Department of Fish and Wildlife Resources, presented a statement in support of the experimental September duck season in Kentucky. Mr. John M. Anderson, representing the National Audubon Society, recommended that no liberalizations be allowed in these early wood duck seasons.

Written Comments: The States of Arkansas and Tennessee supported the proposal to continue the experimental September duck seasons.

Response: The Service believes continuation of the restrictive experimental 5-day season for wood ducks in Kentucky and Tennessee is warranted.

14. Frameworks for Geese and Brant in the Conterminous United States—Outside Dates, Season Length and Bag Limits

Atlantic Flyway

Written Comments: The Atlantic Flyway Council recommended that a 3-year experimental season be established for resident Canada geese in North Carolina. The season would include a daily bag limit of 2 geese from September 1 through September 10.

Response: These frameworks offer such a season for the 1989–90 hunting season.

Mississippi Flyway

Written Comments: The Mississippi Flyway Council recommended that 3-year experimental seasons be established in the Fergus-Alex zone and the Southwest Border zone of

Minnesota. The seasons would run from September 1 to September 10 and are designed to harvest local Canada geese. The States of Minnesota and Wisconsin supported this recommendation.

Response: These frameworks offer such seasons for the 1989–90 hunting season.

Pacific Flyway

Written Comments: The Pacific Flyway Council recommended that the special September Canada goose season in Wyoming be modified to include 160 permits, for 2 geese per season, to be allocated among three areas in 1989.

Response: These frameworks offer such a season for the 1989–90 hunting season.

16. Sandhill Cranes

Central Flyway

Public Hearing Comments: Mr. Ronnie R. George, representing the Central Flyway Council and the Texas Parks and Wildlife Department, and Mr. John M. Anderson, representing the National Audubon Society, presented statements in support of the proposed frameworks. Mr. George supported the expansion of the hunting area in north-central Texas. Mr. Anderson saw no apparent reason to oppose the expansion in Texas.

Written Comments: The Central Flyway Council recommended continuation of regular seasons without change, except to permit an expansion of the hunting area in north-central Texas.

Response: The Service believes that the expansion is warranted and that other frameworks should remain unchanged from those in effect during the 1988–89 seasons.

Pacific Flyway

Public Hearing Comments: Mr. Ronnie R. George, representing the Central Flyway Council and the Texas Parks and Wildlife Department, and Mr. John M. Anderson, representing the National Audubon Society, presented statements in support of the proposed frameworks. Mr. George specifically supported the option for Utah to initiate a sandhill crane season.

Written Comments: The Central and Pacific Flyways endorsed a recommendation that Utah be allowed a sandhill crane hunting season.

Response: The sandhill crane hunt in Utah was presented as an option to the State in 1988. The Service will again offer Utah that option for the 1989–90 hunting season. Other frameworks will remain unchanged from those in effect during the 1988–89 seasons.

17. Coots

The California Department of Fish and Game requested that frameworks for this species be separated from the duck frameworks to provide additional hunting opportunity.

Response: The Service notes that, nationally, coots and ducks are, and have been, regulated together, i.e., coot seasons are the same as regular duck seasons. The Service intends to continue to regulate coots and ducks together, but defers this issue to the late-season cycle.

20. Common Snipe

a. The California Department of Fish and Game requested that frameworks for this species be separated from the duck frameworks to provide additional hunting opportunity.

Response: The Service believes that this issue may be better handled through the late-season regulations process, and consideration of this issue is therefore deferred.

b. The Service notes that the paragraph dealing with hunting seasons for common snipe was misplaced under the heading rails in the July 13, 1989, Federal Register (at 54 FR 29647).

21. Woodcock

a. *Public Hearing Comments:* Mr. William Goudy expressed his opposition to February woodcock hunting, especially in Tennessee. He feels it is wrong to hunt at a time when birds are beginning to nest and migrate to northern breeding grounds. He further requests that the Service restrict the use of split seasons for woodcock. Mr. John M. Anderson, representing the National Audubon Society, strongly encouraged review of the effect of February hunting on nesting and population status. Mr. Charles Kelley, representing the Alabama Department of Conservation and Natural Resources, stated that February woodcock hunting was halted in Alabama because some woodcock were nesting in February. Mr. Robert L. Miles, submitted a letter on behalf of the Northeast Association of Fish and Wildlife Resources Agencies, expressing concern for woodcock populations and requesting careful monitoring and review of hunting regulations for southern wintering areas.

Written Comments: The State of Tennessee stated that this season probably has no significant impact on the population, but should data become available to the contrary, they would want to review and make appropriate changes to this season.

Response: The Service noted in the March 27, 1989, Federal Register (at 54 FR 12541), that it would discuss February hunting of woodcock with the Flyway Technical Committees. This was done and the Service intends to continue discussion and review of the issue with all interested parties. A preliminary proposal concerning February hunting of woodcock will appear in the March 1990 Federal Register.

b. *Written Comments:* The State of Wisconsin supported the proposed frameworks and one individual requested relaxation of woodcock frameworks in the northeast.

Response: The Service has continued the woodcock frameworks as they existed during the 1988–89 hunting season.

23. Mourning Doves

a. *Written Comments:* Tennessee requested the option of an 18-bird bag limit for mourning doves in the Eastern Management Unit.

Response: The Service notes that States may currently select an option that includes a 15-bird bag limit. The Service is not proposing a bag limit of 18 mourning doves in the Eastern Management Unit for the 1989–90 season.

b. *Public Hearing Comments:* Mr. Charles Kelley, representing the Alabama Department of Conservation and Natural Resources, supported the addition of Barbour County, Alabama, to the south zone in that State.

Response: The zone change requested by Alabama is reflected in the mourning dove frameworks.

c. *Public Hearing Comments:* Mr. John M. Anderson, representing the National Audubon Society, encouraged continuation of restrictive regulations initiated in 1987 for the Western Management Unit and also expressed concern about declines in some populations of the Central Management Unit.

Written Comments: The Pacific Flyway Council supported the mourning dove proposed frameworks.

Response: The Service will continue mourning dove frameworks as they existed during the 1988–89 season.

24. White-winged and White-tipped Doves

a. *Public Hearing Comments:* Mr. Ronnie R. George, representing the Central Flyway Council and the Texas Parks and Wildlife Department, supported the modified proposal for the experimental aggregate bag limit in Texas during the special 4-day white-winged dove season. Mr. John M. Anderson, representing the National Audubon Society, noted that white-winged dove regulations in Texas are

complicated and research should continue. He further noted that the proposed regulations for south Texas appear to be reasonable.

Written Comments: The State of Texas requested an experimental aggregate dove bag limit for the special 4-day white-winged dove season. The request was later modified by Texas and subsequently endorsed by the Central Flyway Council. This modified request is discussed in the July 13, 1989, **Federal Register** (54 FR 29640), and is contained in the frameworks part of this document.

Response: The experimental aggregate bag limit will be allowed in Texas for the 1989 season. Continuation of the study in subsequent years will be made on an annual basis.

b. *Written Comments:* The Pacific Flyway Council recommended continuation of last season's white-winged dove frameworks in the Western Management Unit.

Response: The 1989 frameworks for white-winged doves in the Western Management Unit are unchanged from those of 1988.

25. Migratory Bird Hunting Seasons in Alaska

Written Comments: The Pacific Flyway Council, the State of Alaska, and one sportsman's organization requested the same frameworks for 1989–90 as was in effect during the 1988–89 migratory bird seasons, especially that shooting hours beginning at one-half hour before sunrise be retained.

Response: The Service is not aware of any reason to change the frameworks from those of last year. No benefit could be expected from restrictive morning shooting hours in far northern latitudes and these frameworks are unchanged from those of 1988–89. The experimental tundra swan season is tentatively approved, although a petition against all swan hunting has been filed. The petition will be addressed with the late-season regulations.

27. Migratory Bird Seasons for Falconers

The State of Wisconsin, 6 falconry associations, and 3 falconers have supported the proposed falconry regulations.

Response: The Service is establishing falconry frameworks as discussed in the July 13, 1989, **Federal Register** (54 FR 29640).

NEPA Consideration

The "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES–75–54)" was filed with the Council on Environmental Quality (CEQ) on June 6, 1975, and notice of availability was published in the **Federal Register** on June 13, 1975 (40 FR 25241). A supplement to the FES, "Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSES 88–14)", was filed with the Environmental Protection Agency on June 9, 1988, and Notice of Availability was published in the **Federal Register** of June 16, 1988 (53 FR 22582), and June 17, 1988 (53 FR 22727).

Endangered Species Act Consideration

On June 22, 1989, the Division of Endangered Species and Habitat Conservation concluded that the proposed action is not likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of their critical habitats.

Hunting regulations are designed, among other things, to remove or alleviate chances of conflict between seasons for migratory game birds and the protection and conservation of endangered and threatened species and their habitats.

The Service's biological opinion resulting from its consultation under section 7 is considered a public document and is available for inspection in the Office of Endangered Species and Habitat Conservation and the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240.

Regulatory Flexibility Act, Executive Order 12291 and the Paperwork Reduction Act

In the **Federal Register** dated March 27, 1989 (54 FR 12534), the Service reported measures it had undertaken to comply with requirements of the Regulatory Flexibility Act and the Executive order. These included preparing a Determination of Effects and an updated Final Regulatory Impact Analysis, and publication of a summary of the latter. These regulations have been determined to be major under Executive Order 12291 and they have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act. This determination is detailed in the aforementioned documents which are available upon request from the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240. These regulations contain no collection of information subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980.

Memorandum of Law

In the **Federal Register** dated March 27, 1989, (54 FR 12534) the Service stated that it planned to publish its Memorandum of Law for the 1989–90 migratory bird hunting regulations with its first final rulemaking.

Memorandum of Law. Section 4 of the Executive Order 12291 requires that certain determinations be made before any final major rule may be approved. Section 4(a) specifies that the regulation must be clearly within the authority of law and consistent with congressional intent, and that a memorandum of law be provided to support that determination. Also, the agency must state that the factual conclusions upon which the law is based have substantial support in the agency record and that full attention has been given to public comments in general, and to comments of persons directly affected by the rule in particular.

The development of the annual migratory bird hunting regulations is provided for under section 3 of the Migratory Bird Treaty Act of July 3, 1918, as amended (40 Stat. 755; 16 U.S.C. 701–718h). Such regulations have been promulgated annually since 1918. They appear in 50 CFR part 20, subpart K. Congressional support for the development of these rules and ancillary activities involved in their development are reflected in the U.S. Fish and Wildlife Service's budget. Among these activities are biological surveys, hunter activity and harvest surveys, research investigations, law enforcement, and administrative costs associated with the development and publication of the proposed and final rules. Many other Service activities, such as the acquisition and management of habitats for migratory birds, indirectly assist in maintaining the migratory bird resource at levels which allow reasonable sport hunting harvest.

In developing its annual hunting rules for 1989–90, the Service has published three proposed rules for public comment and conducted one public hearing to facilitate public input into the rulemaking process. Four additional proposed and final rulemakings, and another public hearing, are included in the remaining schedule for establishing the annual hunting regulations for 1989–90. Numerous public comments summarized and responded to in **Federal Registers** listed in the preamble of this document describe the Service's consideration of the impacts of its proposed rules on the public. Many of

these comments originated from affected State conservation agencies, while others were submitted by the affected public. Comments in support of the Service's initial or supplementary regulatory proposals are noted. Comments which do not support proposed Service action have been adequately addressed. Additional public comments are invited and will be addressed in subsequent **Federal Register** documents. The complete administrative record, including copies of public comments, is available for inspection at the Office of Migratory Bird Management.

Consequently, the Department has determined that it has fulfilled requirements of section 4 of Executive Order 12291 and the Migratory Bird Treaty Act in developing the 1989–90 migratory bird hunting regulations which are adequately supported by the Service's records.

Authorship

The primary author of this final rulemaking is Morton M. Smith, Office of Migratory Bird Management, working under the direction of Byron K. Williams, Acting Chief.

Regulations Promulgation

The rulemaking process for migratory bird hunting must, by its nature, operate under severe time constraints. However, the Service is of the view that every attempt should be made to give the public the greatest possible opportunity to comment on the regulations. Thus, when the proposed rules were published March 27, June 6, and July 13, the Service established what it believed were the longest periods possible for public comment. In doing this, the Service recognized that at the periods' close, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the Service is of the opinion that States would have insufficient time to select their season dates, shooting hours and limits; to communicate those selections to the Service; and finally establish and publicize the necessary regulations and procedures to implement their decisions.

Therefore, the Service under authority of the Migratory Bird Treaty Act of July 3, 1918, as amended, (49 Stat. 755; 16 U.S.C. 701–718h), prescribes final frameworks setting forth the species to be hunted, the daily bag and possession limits, the shooting hours, the season lengths, the earliest opening and latest closing season dates, and hunting areas, from which State conservation agency officials may select hunting season dates and other options. Upon receipt of season and option selections from State officials, the Service will publish in the **Federal Register** a final rulemaking amending 50 CFR part 20 to reflect seasons, limits, and shooting hours for the contiguous United States, Alaska, Puerto Rico and the Virgin Islands for the 1989–90 season.

The Service therefore finds that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act and these frameworks will, therefore, will take effect immediately upon publication.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Transportation, Wildlife.

The rules that eventually will be promulgated for the 1989–90 hunting season are authorized under the Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755; 16 U.S.C. 701–718h); the Fish and Wildlife Improvement Act of 1978 (92 Stat. 3112; 16 U.S.C. 712); and the Alaska Game Act of 1925 (43 Stat. 739, as amended, 54 Stat. 1103–04).

Final Regulations Frameworks for 1989–90 Early Hunting Seasons on Certain Migratory Birds

Pursuant to the Migratory Bird Treaty Act, the Secretary of the Interior has approved final frameworks for season lengths, bag limits, shooting hours, and outside dates within which States may select seasons for mourning, white-winged and white-tipped doves; band-tailed pigeons; rails; moorhens and gallinules; American woodcock; common snipe; experimental September duck seasons in identified States; sea ducks in the Atlantic Flyway; September Canada goose seasons in portions of identified States; sandhill cranes in the Central and Pacific Flyways; extended falconry seasons; and migratory birds in Alaska, Puerto Rico and the Virgin Islands.

Notice

Any State desiring its hunting seasons for mourning doves, white-winged doves, white-tipped doves, band-tailed pigeons, rails, woodcock, common snipe, common moorhens and purple gallinules, sandhill cranes or extended falconry seasons to open in September must make its selection no later than August 9, 1989. States desiring these seasons to open after September 30 may make their selections at the time they select regular waterfowl seasons. Season selections for the seven States offered experimental September waterfowl seasons and Wyoming's special Canada goose season must also be made by August 14, 1989.

Atlantic Flyway coastal States desiring their seasons on sea ducks in certain defined areas to open in September must make their selection no later than August 14, 1989. Those desiring this season to open after September may make their selections when they select their regular waterfowl seasons.

Outside Dates: All dates noted are inclusive.

Shooting Hours: Between ½ hour before sunrise and sunset daily for all species except as noted below. The hours noted here and elsewhere also apply to hawking (taking by falconry).

Mourning Doves

Outside Dates: Between September 1, 1989, and January 15, 1990, except as otherwise provided, States may select hunting seasons and bag limits as follows:

Eastern Management Unit

(All States east of the Mississippi River and Louisiana)

Hunting Seasons, and Daily Bag and Possession Limits: Not more than 70 days with bag and possesson limits of 12 and 24, respectively,

or

Not more than 60 days with bag and possession limits of 15 and 30, respectively. Hunting seasons may be split into not more than 3 periods under either option.

Zoning: Alabama, Georgia, Louisiana and *Mississippi*, may elect to zone their States as follows:

A. Two zones per State having the following descriptions or division lines:

Alabama—South Zone: Mobile, Baldwin, Escambia, Covington, Coffee, Geneva, Dale, Houston, Barbour and Henry Counties. North Zone: Remainder of the State.

Georgia—North Zone: That portion of the State lying north of a line running west to east along U.S. Highway 280 from Columbus to Wilcox County, thence southward along the western border of Wilcox County, thence east along the southern border of Wilcox County to the Ocmulgee River, thence north along the Ocmulgee River to Highway 280, thence east along Highway 280 to the Little Ocmulgee River; thence southward along the Little Ocmulgee River to the Ocmulgee River; thence southwesterly along the Ocmulgee River to the western border of Jeff Davis County; thence south along the western border of Jeff Davis County; thence east along the sourhern border of Jeff Davis and Appling Counties; thence north along the eastern border of

Appling County to the Altamaha River; thence east to the eastern border of Tattnall County; thence north along the eastern border of Tattnall County; thence north along the western border of Evans to Candler County; thence east along the northern border of Evans to Bulloch County; thence north along the western border of Bulloch County to Highway 301; thence northeast along Highway 301 to the South Carolina line. South Zone: Remainder of the State.

Louisiana—Interstate Highway 10 from the Texas State line to Baton Rouge, Interstate Highway 12 from Baton Rouge to Slidell and Interstate Highway 10 from Slidell to the Mississippi State line.

Mississippi—U.S. Highway 84.

B. Within each zone, these States may select hunting seasons of not more than 70 days (or 60 under the alternative) which may be split into not more than 3 periods.

C. The hunting seasons in the South Zones of Alabama, Georgia, Louisiana and Mississippi may commence no earlier than September 20, 1989.

D. Regulations for bag and possession limits, season length, and shooting hours must be uniform within specific hunting zones.

Central Management Unit

(Arkansas, Colorado, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas and Wyoming)

Hunting Seasons and Daily Bag and Possession Limits: Not more than 70 days with bag and possession limits of 12 and 24, respectively,

or

Not more than 60 days with bag and possession limits of 15 and 30, respectively.

Hunting seasons may be split into not more than 3 periods under either option.

Texas Zoning: As an alternative to the basic frameworks, Texas may select hunting seasons for each of 3 zones described below.

North Zone—That portion of the State north of a line beginning at the International Bridge south of Fort Hancock; north along FM 1088 to State Highway 20; west along State Highway 20 to State Highway 148; north along State Highway 148 to Interstate Highway 10 at Fort Hancock; east along Interstate Highway 10 to Interstate Highway 20; northeast along Interstate Highway 20 to Interstate Highway 30 at Fort Worth; northeast along Interstate Highway 30 to the Texas-Arkansas State line.

South Zone—That portion of the State south and west of a line beginning at the International Bridge south of Fort Hancock; north along FM 1088 to State Highway 20; west along State Highway 20 to State Highway 148; north along State Highway 148 to Interstate Highway 10 at Fort Hancock; east along Interstate Highway 10 to Van Horn, south and east on U.S. 90 to San Antonio; then east on Interstate 10 to Orange, Texas.

Special White-Winged Dove Area in the South Zone—That portion of the State south and west of a line beginning at the International Bridge south of Fort Hancock; north along FM 1088 to State Highway 20; west along State Highway 20 to State Highway 148; north along State Highway 148 to Interstate Highway 10 at Fort Hancock; east along Interstate Highway 10 to Van Horn, south and east on U.S. Highway 90 to Uvalde, south on U.S. Highway 83 to State Highway 44; east along State Highway 44 to State Highway 16 at Freer; south along State Highway 16 to State Highway 285 at Hebbronville; east along State Highway 285 to FM 1017; southeast along FM 1017 to State Highway 186 at Linn; east along State Highway 186 to the Mansfield Channel at Port Mansfield; east along the Mansfield Channel to the Gulf of Mexico.

Central Zone—That portion of the State lying between the North and South Zones. Hunting seasons in these zones are subject to the following conditions:

A. The hunting season may be split into not more than 2 periods, except that, in that portion of Texas where the special 4-day white-winged dove season is allowed, a limited mourning dove season may be held concurrently with the white-winged dove season and with shooting hours coinciding with those for white-winged doves (see white-winged dove frameworks).

B. Each zone may have a season of not more than 70 days (or 60 under the alternative). The North and Central zones may select a season between September 1, 1989 and January 25, 1990; the South zone between September 20, 1989 and January 25, 1990.

C. Except during the special 4-day white-winged dove season in the South Zone, each zone may have an aggregate daily bag limit of 12 doves (or 15 under the alternative), no more than 2 of which may be white-winged doves and no more than 2 of which may be white-tipped doves. The possession limit is double the daily bag limit.

D. Regulations for bag and possession limits, season length, and shooting hours must be uniform within each hunting zone.

Western Management Unit

(Arizona, California, Idaho, Nevada, Oregon, Utah and Washington)

Hunting Seasons and Daily Bag and Possession Limits

Idaho, Nevada, Oregon, Utah and Washington—Not more than 30 consecutive days between September 1, 1989 and January 15, 1990. Bag and possession limits, 10/20 mourning doves (in Nevada, the daily bag and possession limits of mourning and white-winged dove may not exceed 10/20, respectively, singly or in the aggregate).

Arizona and California—Not more than 60 days to be split between two periods, September 1–15, 1989, and November 1, 1989–January 15, 1990. Bag and possession limits: in Arizona the daily bag limit is 10 mourning and white-winged doves in the aggregate of which no more than 6 may be white-winged doves. The possession limit is 20 mourning and white-winged doves in the aggregate of which no more than 12 may be white-winged doves. In California the bag and possession limits for mourning and white-winged doves are 10 and 20, singly or in the aggregate.

White-Winged Doves

Outside Dates: Arizona, California, Nevada, New Mexico, and Texas (except as shown below) may select hunting seasons between September 1 and December 31, 1989. Florida may select its hunting season between September 1, 1989 and January 15, 1990.

Arizona may select a hunting season of not more than 30 consecutive days running concurrently with the first segment of the mourning dove season. The daily bag limit may not exceed 10 mourning and white-winged doves in the aggregate, no more than 6 of which may be white-winged doves, and a possession limit twice the daily bag limit after the opening day.

In the Nevada counties of Clark and Nye, and in the California counties of Imperial, Riverside and San Bernardino, the aggregate daily bag and possession limits of mourning and white-winged doves may not exceed 10 and 20, respectively, and run concurrently with the season on mourning doves.

New Mexico may select a hunting season with daily bag and possession limits not to exceed 12 and 24 (or 15 and 30 if the 60-day option for mourning doves is selected) white-winged and mourning doves, respectively, singly or in the aggregate of the 2 species. Dates, limits, and hours are to conform with those for mourning doves.

Texas may select a hunting season of not more than 4 days for the special white-winged dove area of the South Zone. In that portion of the special area north and west of Del Rio, the daily bag limit may not exceed 10 white-winged, mourning, and white-tipped doves in the aggregate, of which no more than 2 may be white-tipped doves; the possession limit may not exceed 20 doves in the aggregate, of which no more than 4 may be white-tipped doves. In that portion of the special area south and east of Del Rio, the daily bag limit may not exceed 10 white-winged, mourning, and white-tipped doves in the aggregate, of which no more than 5 may be mourning doves and 2 may be white-tipped doves; the possession limit may not exceed 20 doves in the aggregate, of which no more than 10 may be mourning doves and 4 may be white-tipped doves.

and

In addition, Texas may also select a white-winged dove season of not more than 70 days (or 60 under the alternative for mourning doves) to be held between September 1, 1989, and January 25, 1990, and coinciding with the mourning dove season. The daily bag limit may not exceed 12 white-winged, mourning and white-tipped doves (or 15 under the alternative) in the aggregate, of which not more than 2 may be white-winged doves and not more than 2 may be white-tipped doves. The possession limit may not exceed 24 white-winged, mourning and white-tipped doves (or 30 under the alternative) in the aggregate, of which not more than 4 may be white-winged doves and not more than 4 may be white-tipped doves.

Florida may select a white-winged dove season of not more than 70 days (or 60 under the alternative for mourning doves) to be held between September 1, 1989, and January 15, 1990, and coinciding with the mourning dove season. The aggregate daily bag and possession limits of mourning and white-winged doves may not exceed 12 and 24 (or 15 and 30 if the 60-day option for mourning doves is selected); however, for either option, the bag and possession limits of white-winged doves may not exceed 4 and 8, respectively.

Band-Tailed Pigeons

Pacific Coast States and Nevada: California, Oregon, Washington and the Nevada counties of Carson City, Douglas, Lyon, Washoe, Humboldt, Pershing, Churchill, Mineral and Storey.
Outside Dates: Between September 15, 1989, and January 1, 1990.

Hunting Seasons, and Daily Bag and Possession Limits: Not more than 16 consecutive days, with a bag and possession limit of 4.

Zoning: California may select hunting seasons of 16 consecutive days in each of the following two zones:

1. In the counties of Alpine, Butte, Del Norte, Glenn, Humboldt, Lassen, Mendocino, Modoc, Plumas, Shasta, Sierra, Siskiyou, Tehama and Trinity; and

2. The remainder of the State.

Four-Corners States: Arizona, Colorado, New Mexico and Utah.

Outside Dates: Between September 1 and November 30, 1989.

Hunting Seasons, and Daily Bag and Possession Limits: Not more than 30 consecutive days, with bag and possession limits of 5 and 10, respectively.

Areas: These seasons shall be open only in the areas delineated by the respective States in their hunting regulations.

Zoning: New Mexico may be divided into North and South Zones along a line following U.S. Highway 60 from the Arizona State line east to Interstate Highway 25 at Socorro and south along Interstate Highway 25 from Socorro to the Texas State line. Hunting seasons not to exceed 20 consecutive days may be selected between September 1 and November 30, 1989, in the North Zone and October 1 and November 30, 1989, in the South Zone.

Rails

(Clapper, King, Sora and Virginia)

Outside Dates: States included herein may select seasons between September 1, 1989, and January 20, 1990, on clapper, king, and sora and Virginia rails as follows:

Hunting Seasons: The season may not exceed 70 days. Any State may split its season into two segments.

Clapper and King Rails

Daily Bag and Possession Limits

In Rhode Island, Connecticut, New Jersey, Delaware, and Maryland, 10 and 20 respectively, singly or in the aggregate of these two species.

In Texas, Louisiana, Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina, and Virginia, 15 and 30, respectively, singly or in the aggregate of the two species.

Sora and Virginia Rails

Daily Bag and Possession Limits: In the Atlantic, Mississippi and Central [1] Flyways and portions of Colorado, Montana, New Mexico and Wyoming in the Pacific Flyway [2] (the remainder of the Pacific Flyway is closed to rail hunting), 25 daily and 25 in possession, singly or in the aggregate of the two species.

American Woodcock

Outside Dates: States in the Atlantic Flyway may select hunting seasons between October 1, 1989, and January 31, 1990. States in the Central and Mississippi Flyways may select hunting seasons between September 1, 1989, and February 28, 1990.

Hunting Seasons, and Daily Bag and Possession Limits: In the Atlantic Flyway, seasons may not exceed 45 days, with bag and possession limits of 3 and 6, respectively; in the Central and Mississippi Flyways, seasons may not exceed 65 days, with bag and possession limits of 5 and 10, respectively. Seasons may be split into two segments.

Zoning: New Jersey may select seasons by north and south zones divided by State Highway 70. The season in each zone may not exceed 35 days.

Common Snipe

Outside Dates: Between September 1, 1989, and February 28, 1990. In Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland and Virginia the season must end no later than January 31.

Hunting Seasons, and Daily Bag and Possession Limits: Seasons may not exceed 107 days in the Atlantic, Mississippi and Central Flyways and 93 days in Pacific Flyway portions of Montana, Wyoming, Colorado and New Mexico. In the remainder of the Pacific Flyway the season shall coincide with the duck seasons. Seasons may be split into two segments. Bag and possession limits are 8 and 16, respectively.

Common Moorhens and Purple Gallinules

Outside Dates: September 1, 1989, through January 20, 1990, in the Atlantic

[1] The Central Flyway is defined as follows: Colorado (east of the Continental Divide), Kansas, Montana (east of Hill, Chouteau, Cascade, Meagher, and Park Counties), Nebraska, New Mexico (east of the Continental Divide but outside the Jicarilla Apache Indian Reservation), North Dakota, Oklahoma, South Dakota, Texas and Wyoming (east of the Continental Divide).

[2] The Pacific Flyway is defined as follows: Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington; those portions of Colorado and Wyoming lying west of the Continental Divide; New Mexico west of the Continental Divide plus the entire Jicarilla Apache Indian Reservation; and in Montana, the counties of Hill, Chouteau, Cascade, Meagher and Park, and all counties west thereof.

and Mississippi Flyways and September 1, 1989, through January 21, 1990, in the Central Flyway. States in the Pacific Flyway must select their hunting seasons to coincide with their duck seasons.

Hunting Seasons, and Daily Bag and Possession Limits: Seasons may not exceed 70 days in the Atlantic, Mississippi and Central Flyways; in the Pacific Flyway, seasons must be the same as the duck seasons. Seasons may be split into two segments. Bag and possession limits are 15 and 30 common moorhens and purple gallinules, singly or in the aggregate of the two species, respectively; except the daily bag and possession limits in the Pacific Flyway may not exceed 25 coots and common moorhens, singly or in the aggregate of the two species.

Sandhill Cranes

Regular Seasons in the Central Flyway

Seasons not to exceed 58 days between September 1, 1989, and February 28, 1990, may be selected in the following States: Colorado (the Central Flyway portion except the San Luis Valley); Kansas; Montana (the Central Flyway portion except that area south of I-90 and west of the Bighorn River); North Dakota (west of U.S. 281); South Dakota; and Wyoming (in the counties of Campbell, Converse, Crook, Goshen, Laramie, Niobrara, Platte and Weston).

For the remainder of the flyway, seasons not to exceed 93 days between September 1, 1989 and February 28, 1990, may be selected in the following States: New Mexico (the counties of Chaves, Curry, DeBaca, Eddy, Lea, Quay and Roosevelt); Oklahoma (that portion west of I-35); and Texas (that portion west of a line from Brownsville along U.S. 77 to Victoria; U.S. 87 to Placedo; Farm Road 616 to Blessing; State 35 to Alvin; State 6 to U.S. 290; U.S. 290 to I-35 at Austin; I-35 to I-35W; I-35W to the Texas-Oklahoma boundary).

Bag and Possession Limits: 3 and 6, respectively.

Permits: Each person participating in the regular sandhill crane seasons must obtain and have in his possession while hunting a valid Federal sandhill crane hunting permit.

Special Seasons in the Central and Pacific Flyways

Arizona, Colorado, Idaho, Montana, New Mexico, Utah and Wyoming may select seasons for hunting sandhill cranes within the range of the Rocky Mountain Population (as described in a management plan approved March 22, 1982 (revised July 28, 1987), by the Central and Pacific Flyway Councils) subject to the following conditions:

1. Outside dates are September 1–November 30, 1989 except September 1, 1989–January 31, 1990, in the Hatch-Deming Area (Zone) in New Mexico (Sierra, Luna, and Dona Ana Counties).
2. Season(s) in any State or zone may not exceed 30 days.
3. Daily bag limits may not exceed 3 and season limits may not exceed 9.
4. Participants must have in their possession while hunting a valid permit issued by the appropriate State.
5. Numbers of permits, areas open and season dates, protection plans for other species, and other provisions of seasons are consistent with the management plan and approved by the Central and Pacific Flyway Councils.
6. Seasons in Utah and in the Middle Rio Grande Valley zone and the Hatch-Deming Zone in New Mexico will be experimental.

Scoter, Eider, and Oldsquaw Ducks (Atlantic Flyway)

Outside Dates: Between September 15, 1989, and January 20, 1990.

Hunting Seasons, and Daily Bag and Possession Limits: Not to exceed 107 days, with bag and possession limits of 7 and 14, respectively, singly or in the aggregate of these species.

Bag and Possession Limits During Regular Duck Season: Within the special sea duck areas, during the regular duck season in the Atlantic Flyway, States may set, in addition to the limits applying to other ducks during the regular duck season, a daily limit of 7 and a possession limit of 14 scoter, eider and oldsquaw ducks, singly or in the aggregate of these species.

Areas: In all coastal waters and all waters of rivers and streams seaward from the first upstream bridge in Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut and New York; in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 1 mile of open water from any shore, island and emergent vegetation in New Jersey, South Carolina, and Georgia; and in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 800 yards of open water from any shore, island and emergent vegetation in Delaware, Maryland, North Carolina and Virginia; and provided that any such areas have been described, delineated and designated as special sea duck hunting areas under the hunting regulations adopted by the respective States. In all other areas of these States and in all other States in the Atlantic Flyway, sea ducks may be taken only during the regular open season for ducks and they must be included in the regular duck season daily bag and possession limits.

Special September Wood Duck Seasons

Florida: An experimental 5-consecutive-day wood duck season may be selected in September. The daily bag limit will be 3 wood ducks and the possession limit will be double the daily bag limit.

Tennessee and Kentucky: Experimental 5-consecutive-day wood duck seasons may be selected in September. The daily bag limit will be 2 wood ducks and the possession limit will be double the daily bag limit.

Special Early-September Canada Goose Seasons

Experimental Canada goose seasons of up to 10 consecutive days may be selected in September by Michigan, Illinois, North Carolina, and Minnesota subject to the following conditions:

1. Outside dates for the season are September 1–10, 1989.
2. The daily bag and possession limits will be no more than 5 and 10 Canada geese, respectively. In North Carolina, hunting will be by State permit to take not more than 2 Canada geese daily and 4 in possession.
3. Areas open to the hunting of Canada geese are as follows:

Michigan: Lower Peninsula—all areas except the Shiawassee River, Allegan, Lapeer and Muskegon State Game Areas (SGA), the Shiawassee National Wildlife Refuge, that portion of the Maple River SGA east of State Road, that portion of the Pointe Mouillee SGA south of the Huron River, Muskegon County Wastewater Area, and the Fish Point and Nayanquing Point Wildlife Areas.

Upper Peninsula—that area bounded by a line beginning at the Michigan/Wisconsin border in Green Bay and extending north through the center of Little Bay De Noc and the center of White Fish River to U.S. Highway 2, east along U.S. Highway 2 to Interstate Highway 75, north along Interstate Highway 75 to State Highway 28, west along State Highway 28 to State Highway 221, then north along State Highway 221 to Brimley, then north to the Michigan/Ontario border.

Illinois: McHenry, Lake, Kane, Du Page, Cook, Kendall, Grundy, Will, and Kankakee Counties.

North Carolina: That portion of the State west of Interstate 95; see State hunting regulations for area descriptions.

Minnesota: Twin Cities Metropolitan Zone—all or portions of Anoka,

Washington, Ramsey, Hennepin, Carver, Scott and Dakota Counties.

Fergus Falls/Alexandria Zone—all or portions of Pope, Douglas, Otter Tail, Wilkin, and Grant Counties.

Southwest Border Zone—all or portions of Martin and Jackson Counties.

4. Areas open to hunting must be described, delineated and designated as such in each State's hunting regulations.

Wyoming may select a September season for Canada geese subject to the following conditions:

1. The season must be concurrent with the September Sandhill crane season.

2. Outside dates for the season(s) are September 1–22, 1989.

3. Hunting will be by State permit.

4. No more than 160 permits, in total, may be issued for the Salt River (Star Valley) and Bear River Areas in Lincoln County and the Eden-Farson Agricultural Project Area in Sweetwater and Sublette Counties, combined.

5. Each permittee may take no more than 2 geese per season.

Special Falconry Regulations

Falconry is a permitted means of taking migratory game birds in any State meeting Federal falconry standards in 50 CFR 21.29(k). These States may select an extended season for taking migratory game birds in accordance with the following:

Extended Seasons: For all hunting methods combined, the combined length of the extended season, regular season, and any special seasons shall not exceed 107 days for any species or group of species in a geographical area. Each extended season may be divided into a maximum of 3 segments.

Framework Dates: Seasons must fall between September 1, 1989 and March 10, 1990.

Daily Bag and Possession Limits: Falconry daily bag and possession limits for all permitted migratory game birds shall not exceed 3 and 6 birds, respectively, singly or in the aggregate, during extended falconry seasons, any special seasons, and regular hunting seasons in all States, including those that do not select an extended falconry season.

Regular Seasons: General hunting regulations, including seasons and hunting hours, apply to falconry in each State listed in 50 CFR 21.29(k). Regular season bag and possession limits do not apply to falconry.

Note: Total season length for all hunting methods combined shall not exceed 107 days for any species or group of species in one geographical area. The extension of this framework to include the period from September 1 to March 10, and the option to split the extended falconry season into a maximum of 3 segments are considered tentative, and will be evaluated, in cooperation with States offering such extensions, after a period of several years.

Final Frameworks for Selecting Open Season Dates for Hunting Migratory Birds in Alaska, 1989–90

Outside Dates: Between September 1, 1989, and January 26, 1990, Alaska may select seasons on waterfowl, snipe, cranes, and tundra swans subject to the following limitations:

Shooting hours: One-half hour before sunrise to sunset daily.

Hunting Seasons

Ducks, geese and brant—107 consecutive days for ducks, geese, and brant in each of the following: North Zone (State Game Management Units 11–13 and 17–26); Gulf Coast Zone (State Game Management Units 5–7, 9, 14–16, and 10—Unimak Island only); Southeast Zone (State Game Management Units 1–4); Pribilof and Aleutian Islands Zone (State Game Management Unit 10—except Unimak Island); Kodiak Zone (State Game Management Unit 8). The season may be split without penalty in the Kodiak Zone. *Exceptions:* The season is closed on Canada geese from Unimak Pass westward in the Aleutian Island chain. Throughout the State there is open hunting season for Aleutian Canada geese, cackling Canada geese and emperor geese.

Snipe and sandhill cranes—An open season should be concurrent with the duck season.

Daily Bag and Possession Limits

Ducks—Except as noted, a basic daily bag limit of 5 and a possession limit of 15 ducks. Daily bag and possession limits in the North Zone are 8 and 24, and in the Gulf Coast Zone they are 6 and 18, respectively. The basic limits may not include more than 2 pintails daily and 6 pintails in possession. There is no open season on canvasback. In addition to the basic limit, there is a daily bag limit of 15 and a possession limit of 30 scoter, eider, oldsquaw, harlequin, and common and red-breasted mergansers, singly or in the aggregate of these species.

Geese—A basic daily bag limit of 6 and a possession limit of 12, of which not more than 4 daily and 8 in possession may be greater white-fronted or Canada geese, singly or in the aggregate of these species.

Brant—A daily bag limit of 2 and a possession limit of 4.

Common snipe—A daily bag limit of 8 and a possession limit of 16.

Sandhill cranes—A daily bag limit of 3 and a possession limit of 6.

Tundra swans—In Game Management Unit 22 an experimental open season for tundra swans may be selected subject to the following conditions:

1. No more than 300 permits may be issued, authorizing each permittee to take 1 tundra swan.

2. The season must be concurrent with the duck season.

3. The appropriate State agency must issue permits, obtain harvest and hunter participation data, and report the results of this hunt to the Service by June 1, 1990.

Final Frameworks for Selecting Open Season Dates for Hunting Migratory Birds in Puerto Rico, 1989–90

Shooting hours: Between one-half hour before sunrise and sunset daily.

Doves and Pigeons

Outside Dates: Puerto Rico may select hunting seasons between September 1, 1989, and January 15, 1990, as follows:

Hunting Seasons: Not more than 60 days for Zenaida, mourning, and white-winged doves, and scaly-naped pigeons.

Daily Bag and Possession Limits: Not to exceed 10 doves of the species named herein, singly or in the aggregate, not to exceed 5 scaly-naped pigeons.

Closed Areas

Municipality of Culebra and Desecheo Island—Closed under Commonwealth regulations.

Mona Island—Closed in order to protect the reduced population of white-crowned pigeon *(Columba leucocephala)*, known locally as "Paloma cabeciblanca."

El Verde Closure Area—Consisting of those areas of the municipalites of Rio Grande and Loiza delineated as follows: (1) all lands between Routes 956 on the west and 186 on the east, from Route 3 on the north to the juncture of Routes 956 and 186 (Km 13.2) in the south; (2) all lands between Routes 186 and 966 from the juncture on 186 and 966 on the north, to the Caribbean National Forest Boundary on the south; (3) all lands lying west of Route 186 for one kilometer from the juncture of Routes 186 and 956 south to KM 6 on Route 186; (4) all lands within Km 14 and Km 6 on the west and the Caribbean National Forest Boundary on the east; and (5) all lands within the Caribbean National Forest Boundary whether private or public. The purpose of this closure is to afford protection to the Puerto Rican parrot (*Amazona vittata)* presently listed as an endangered species under the Endangered Species Act of 1973.

Cidra Municipality and Adjacent Areas—Consisting of all of Cidra

Municipality and portions of Aguas Buenas, Caguas, Cayer, and Comerio Municipalities as encompassed within the following boundary: beginning on Highway 172 as it leaves the Municipality of Cidra on the west edge, north to Highway 156, east on Highway 156 to Highway 1, south on Highway 1 to Highway 765, south on Highway 765 to Highway 763, south on Highway 763 to the Rio Guavate, west along Rio Guavate to Highway 1, southwest on highway 1 to Highway 14, west on Highway 14 to Highway 729, north on Highway 729 to Cidra Municipality, and westerly, northerly, and easterly along the Cidra Municipality boundary to the point of beginning. The purpose of this closure is to protect the Plain pigeon *(Columba inornata wetmorei)*, locally known as "Paloma Sabanera," which is present in the above locale in small numbers and is presently listed as an endangered species under the Endangered Species Act of 1973.

Ducks, Coots, Moorhens, Gallinules and Snipe

Outside Dates: Between November 5, 1989, and February 28, 1990, Puerto Rico may select hunting as follows.

Hunting Seasons: Not more than 55 days may be selected for hunting ducks, common moorhens, and common snipe. The season may be split into two segments.

Daily Bag and Possession Limits

Ducks—Not to exceed 3 daily and 6 in possession, except that the season is closed on the ruddy duck *(Oxyura jamaicensis)*; the White-cheeked pintail *(Anas bahamensis)*; West Indian whistling (tree) duck *(Dendrocygna arborea)*; fulvous whistling (tree) duck *(Dendrocygna bicolor)*, and the masked duck *(Oxyura dominica)*, which are protected by the Commonwealth of Puerto Rico.

Common moorhens—Not to exceed 6 daily and 12 in possession; the season is closed on purple gallinules *(Porphyrula martinica)*.

Common snipe—Not to exceed 6 daily and 12 in possession.

Coots—There is no open season on coots, i.e., common coots *(Fulica americana)* and Caribbean coots *(Fulica caribaea)*.

Closed Areas: No open season for ducks, common moorhens, and common snipe is prescribed in the Municipality of Culebra and on Desecheo Island.

Final Frameworks for Selecting Open Season Dates for Hunting Migratory Birds in the Virgin Islands, 1989–90

Shooting Hours: Between one-half hour before sunrise and sunset daily.

Doves and Pigeons

Outside Dates: The Virgin Islands may select hunting seasons between September 1, 1989, and January 15, 1990, as follows.

Hunting Seasons: Not more than 60 days for Zenaida doves and scaly-naped pigeons throughout the Virgin Islands.

Daily Bag and Possession Limits: Not to exceed 10 Zenaida doves and 5 scaly-naped pigeons.

Closed Seasons: No open season is prescribed for ground or quail doves, or other pigeons in the Virgin Islands.

Local Names for Certain Birds

Zenaida dove *(Zenaida aurita)*—Mountain dove.

Bridled quail dove *(Geotrygon mystacea)*—Barbary dove, partridge (protected).

Common Ground dove *(Columba passerina)*—Stone dove, tobacco dove, rola, tortolita (protected).

Scaly-naped pigeon *(Columba squamosa)*—Red-necked pigeon, scaled pigeon.

Ducks

Outside Dates: Between December 1, 1989, and January 31, 1990, the Virgin Islands may select a duck hunting season as follows.

Hunting Seasons: Not more than 55 consecutive days may be selected for hunting ducks.

Daily Bag and Possession Limits: Not to exceed 3 daily and 6 possession, except that the season is closed on the ruddy duck *(Oxyura jamaicensis)*; the White-cheeked pintail *(Anas bahamensis)*; West Indian whistling (tree) duck *(Dendrocygna arborea)*; fulvous whistling (tree) duck *(Dendrocygna bicolor)*, and the masked duck *(Oxyura dominica)*.

Dated: August 1, 1989.

Susan Recce Lamson,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 89–18857 Filed 8–10–89; 8:45 am]

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Proposed Rules

Federal Register
Vol. 54, No. 154
Friday, August 11, 1989

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 AGRICULTURE

Office of the Secretary

7 CFR Part 1e

DEPARTMENT OF LABOR

29 CFR Part 503

RIN 1290-AA10

Methodology for Determining the Shortage Number Under Section 210A of the Immigration and Nationality Act

AGENCIES: Office of the Secretary, United States Department of Agriculture; Office of the Secretary, United States Department of Labor.

ACTION: Notice of proposed rulemaking.

SUMMARY: The United States Department of Agriculture (USDA) and the United States Department of Labor (DOL) are promulgating proposed regulations regarding the methodology to be used by the Secretaries of Agriculture and Labor (hereafter "the Secretaries") in determining the number (if any) of additional aliens who should be admitted to the United States or who should otherwise acquire the status of aliens lawfully admitted for temporary residence, under section 210A of the Immigration and Nationality Act (INA), as added by section 303 of the Immigration Reform and Control Act of 1986 (IRCA), to meet a shortage of workers to perform seasonal agricultural services, including calculation of the annual numerical limitation on such workers. These proposed regulations also will establish the procedure through which a group or association representing employers in seasonal agricultural services may appeal to the Secretaries for an increase in the shortage number. Further, these proposed regulations will set forth the procedure through which a group of agricultural workers, admitted or adjusted under section 210A of the INA, may petition the Secretaries for a decrease in the number of work-days of work required in order to maintain their temporary resident alien status.

DATE: Comments must be received on or before September 8, 1989.

ADDRESS: Send written comments to either:

Assistant Secretary for Economics, United States Department of Agriculture, Room 227-E, Fourteenth Street and Independence Avenue SW., Washington, DC 20250-1400, Attention: Coordinator of Agricultural Labor Affairs, or

Assistant Secretary for Policy, United States Department of Labor, Room S2114, 200 Constitution Avenue NW., Washington, DC 20210, Attention: Director, Office of Program Economics.

FOR FURTHER INFORMATION CONTACT:

Mr. Gary B. Reed, DOL, Telephone (202) 523-6007, or

Mr. Al French, USDA, Telephone (202) 447-4737

SUPPLEMENTARY INFORMATION: The INA was amended by the IRCA to (1) control illegal immigration into the United States and (2) make limited changes in the system for legal immigration. There was concern during consideration of the IRCA that employers in seasonal agricultural services, who had come to rely on unauthorized aliens to perform field work, would be unable to obtain sufficient legal workers to satisfy their needs.

To address this concern, the IRCA added section 210 to the INA to establish a program that grants temporary resident alien status to special agricultural workers (SAWs) who can demonstrate that they performed seasonal agricultural services for at least 90 man-days during the 12-month period ending May 1, 1986. The legislation specifies that individuals admitted under this provision are not required to continue working in agriculture, and in fact are free to seek employment in any occupation or industry.

Because there was also concern that large numbers of SAWs would in fact leave agricultural employment, which would again cause a shortage of workers to perform seasonal agricultural services, the IRCA added section 210A to the INA, which provides a system for admitting additional special agricultural workers, known as replenishment agricultural workers (RAWs). The number of RAWs who may be admitted in any fiscal year (FY), beginning with FY 1990 and ending with FY 1993, is the smaller of (1) the annual numerical limitation established by formula in section 210A(b) of the INA, or (2) the shortage number determined by the Secretaries. These proposed regulations set forth the procedures to be used by the Secretaries in determining the shortage number and the annual numerical limitation.

The INA requires that before the beginning of each FY, starting with FY 1990 and ending with FY 1993, the Secretaries shall determine jointly the number (if any) of additional aliens who should be admitted to the United States or who should otherwise acquire the status of aliens lawfully admitted for temporary residence, to meet a shortage of workers to perform seasonal agricultural services. The number so determined is referred to as the "shortage number." The INA further provides that the Attorney General shall provide for the admission for lawful temporary resident status, or for the adjustment of status to lawful temporary resident status, of a number of aliens equal to the shortage number (if any). Such number may not exceed the annual numerical limitation established by section 210A(b) of the INA.

The annual numerical limitation is a limit, set by a statutory formula, on the number of aliens who may be admitted or who otherwise may acquire lawful temporary resident alien status under the provisions of INA which permit the entry of additional aliens for employment in seasonal agricultural services. The annual numerical limitation is based upon a percentage of those individuals who had their status adjusted under the special agricultural worker (SAW) program established by section 210 of the INA, less the number of SAWs, including RAWs, who continue to work in seasonal agricultural services, and must be adjusted to take into account any change in the number of nonimmigrant aliens admitted under section 101(a)(15)(H)(ii)(a) of the INA (H-2A workers) to perform temporary seasonal agricultural services.

Because of the unexpectedly large number of SAW applicants, the Immigration and Naturalization Service (INS) has indicated that it may not be able to make final determinations on all

applicants prior to the beginning of FY 1990. In the event a final determination has not been made on all applications, in order to establish the numerical limitation, the Secretaries will calculate the annual numerical limitation based upon the number of aliens finally adjudicated (approved) as SAWs as reported by INS to the Director of the Bureau of the Census (hereafter "the Director); the Director will advise the Secretaries by September 1, 1989, of the number to be used in the calculation, based upon the latest available INS data. The Secretaries will announce the annual numerical limitation in the **Federal Register** at the time the shortage number is announced. Consideration was given to using an estimate of the number of SAWs who will be adjusted under section 210 of the INA, applying the ratio of approvals to denials, of those applications which have been finally determined, to the number of applications remaining to be adjudicated. That approach was abandoned because there was no statutory language, nor legislative history, to support such an approach.

In the event INS is not able to complete its adjudication of all SAW applications by the end of FY 1989, the Secretaries, prior to the end of each of the following fiscal quarters, will recalculate the annual numerical limitation by including in the "starting number" all those aliens who have been finally adjudicated as SAWs subsequent to any earlier determinations of the annual numerical limitation, and by adjusting the number of SAWs who worked in seasonal agricultural services to take into account the increase in the number of reportable workers who obtained SAW status.

If the annual numerical limitation is low enough to serve as an effective upper limit on the number of RAWs to be admitted (in other words, if the annual numerical limitation is lower than the shortage number), any increases in the annual numerical limitation that results from the recalculations will permit entry or adjustment of additional RAWs until the shortage number is reached, or the annual numerical limitation is again an effective limit. In addition, if an emergency increase in the shortage number is granted pursuant to § _____.20 of these proposed regulations, but additional RAWs are barred from entry due to the annual numerical limitation, the Secretaries will recalculate the annual numerical limitation based upon the most recent data available from INS and the Director.

These proposed regulations set forth the procedures to be used by the Secretaries in determining the shortage number. Any aliens to be admitted as a result of a determination that a shortage of workers to perform seasonal agricultural services exists are known as RAWs and will be admitted under criteria established by the INS in regulations located at 8 CFR part 210a.

The shortage number is determined under a statutory formula and consists of (1) the need for labor to perform seasonal agricultural services, stated in work-days, minus (2) the supply of such labor, stated in work-days, divided by (3) the work-day per worker factor as determined by the Bureau of the Census. These proposed regulations also set forth the responsibilities of the Federal agencies involved in the process. USDA under proposed § _____.11 will provide certain data needed in order for the Secretaries to determine the level of need for workers to perform seasonal agricultural services. DOL will provide data on the supply of such workers as indicated in proposed § _____.12.

The Director is also involved under proposed § _____.13 and will determine the average number of work-days of seasonal agricultural services performed by SAWs in the United States at any time in a given FY. (Note: although the language of the INA indicates that this estimate would be based upon the number of SAWs who worked in seasonal agricultural services "at any time" during a FY, the Conference Report on the Immigration Reform and Control Act of 1986 (H.R. Conf. Rep. No. 99-1000, 99th Cong., 2d Sess. 96, reprinted in 1986 U.S. Code Cong. & Admin. News 5840, 5852), however, specifies that the term "at any time" means at least 15 man-days. Thus, the Secretaries have defined "at any time" to mean at least 15 days.) The average number of work-days determined by the Director is known as the work-day per worker factor and becomes the denominator in the statutory formula which the Secretaries must use to determine the shortage number. The term "work-day" is defined in this proposed regulation as a calendar day in which at least 4 hours of work in seasonal agricultural services is performed, and is used in lieu of the statutory term "man-day," which is used in other labor standards statutes (defined as one hour per day) and is used under INA to determine whether an alien has sufficient experience in agricultural employment to be eligible for SAW/RAW status.

In making the determination of the work-day per worker factor, the Director will use information contained in the reports (ESA-92, OMB approval number 1215-0168) which must be submitted by employers of SAWs under regulations located at 29 CFR Part 502. In doing so, the language of INA requires that the Director count the work experience of SAWs during 1989 in order to estimate the work-day per worker factor applicable during 1990, but limits the Director to counting only the experience of RAWs when determining the work-day per worker factor for FY's 1991-1993. The proposed regulation supplements the statute by establishing a method for setting the work-day per worker factor in the event that no RAWs are admitted in a particular year. The Secretaries propose that if no RAWs are admitted during FY 1990, the work-day per worker factor determined for FY 1990 will be the factor for 1991. For FY 1992 and 1993, if no RAWs are admitted during the two previous FYs, the work-day per worker factor determined for FY 1990 will be the factor. However, commenters are encouraged to suggest reasonable alternatives to this method for consideration in the further development of these regulations.

In recognition of the uncertainties associated with agricultural production, the statute contains emergency procedures for adjusting the shortage number. These proposed regulations establish the procedure through which a group or association representing employers in seasonal agricultural services may appeal to the Secretaries for an increase in the shortage number. While the request may be made by a group or association which is experiencing a shortage of workers in a particular area or region, the process is not designed or intended to deal with localized, short-term problems that individual farmers may have in obtaining needed workers. To succeed in obtaining an increase in the shortage number, the requesters must demonstrate that a significant increase in the shortage number, which is determined on a national basis, is appropriate. That is, they must show that they have undertaken reasonable recruitment efforts and that they continue to have a significant shortage of the labor needed to avoid crop damage or loss. Further, that the need for labor to avoid crop damage or loss is significantly greater than the availability of able, willing, qualified, and unemployed SAWs, rural low skill, or manual laborers, and domestic agricultural workers. Requesters must show that they have undertaken reasonable recruitment efforts by

recruiting in the region or regions of traditional and expected labor supply, offering wages, working conditions, and other terms of employment, including, but not limited to, housing, transportation, meals, and subsistence, comparable to or better than those provided generally in the same or comparable occupations and crops in the labor market area, and that the normal qualifications for such occupations and crops were applied.

The statute requires that the Secretaries make their decision on the emergency request within 21 days of receipt of the request. Because of this short time within which to make the decision, interested parties will have only 10 days in which to provide information in support, or opposition, of the request. The Secretaries will use any information available from the State Employment Service Agencies, and the United States Employment Service to evaluate the request. USDA and DOL staff will meet to evaluate the original request and any comments that may have been submitted by interested parties. Staff members may contact local offices of State Employment Service Agencies in the alleged shortage areas and in labor supply States to confirm that reasonable recruitment efforts were conducted and to learn the extent to which able, willing, and qualified workers were found to be available. Staff may also contact local county extension agents associated with USDA's Extension Service in the alleged shortage areas for information they may have regarding the labor supply and crop conditions. This emergency procedure is an area of particular concern to the Secretaries and one in which commenters are encouraged to provide comments.

These proposed regulations also set forth the procedure through which a group of agricultural workers may petition the Secretaries for a decrease in the number of work-days of work required in order to maintain their temporary resident alien status. Under section 210A(d)(5) of the INA, RAWs must work at least 90 work-days in seasonal agricultural services, in each of three years, in order to maintain their status. If an oversupply of workers should exist, due to limited employment opportunities in seasonal agricultural services (such as might be caused by extreme weather conditions), the statute provides for the possible reduction in the work-day requirement for the particular FY involved. (Note: the INA, in setting forth the procedure for a RAW to request a change in the work-day requirement, refers to subparagraphs (A) and (B) of section 210A(d)(2), but that is a typographical error, since subsection (d)(2) has no subparagraphs (A) nor (B). Such subparagraphs are found only in subsection (d)(5).) RAWs are required by subparagraph (A) of section 210A(d)(5) to perform seasonal agricultural services for at least 90 work-days in each of the first three years after the alien obtained the status of an alien lawfully admitted for temporary residence, in order to avoid deportation. Furthermore, subparagraph (B) of section 210A(d)(5) provides that such an alien may not be naturalized, unless that alien has worked at least 90 work-days in seasonal agricultural services in each of five years after obtaining the status of an alien lawfully admitted for temporary residence.

These proposed regulations were developed in consultation with the Department of Justice and the Bureau of the Census.

Executive Order 12291; Regulatory Flexibility Act

The USDA and the DOL have determined that this proposed rule is not a major rule under Executive Order 12291. They have also determined that this rule will not have a significant economic impact on a substantial number of small entities. This proposed rule is largely procedural in nature and sets forth the manner in which the USDA and the DOL will use available information, including INS information and Bureau of the Census estimates to make certain determinations regarding whether there is a shortage of workers in the United States to perform seasonal agricultural services, and related determinations. Consequently, the USDA and DOL certify under the Regulatory Flexibility Act that the rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 7 CFR Part 1e and 29 CFR Part 503

Agriculture, Aliens, Immigration, Labor, Migrant worker, Rural labor.

DEPARTMENT OF AGRICULTURE

7 CFR Part 1e

Accordingly, it is proposed that Title 7 of the Code of Federal Regulations be amended by adding Part 1e as set forth at the end of this document.

PART 1e—METHODOLOGY FOR DETERMINING THE SHORTAGE NUMBER UNDER SECTION 210A OF THE IMMIGRATION AND NATIONALITY ACT

Subpart A—General Provisions

Sec.
1e.0 Introduction.
1e.1 Purpose and scope.
1e.2 Definitions.
1e.3 Overall determination of the shortage number.
1e.4 No replenishment if no shortage.
1e.5 Determination of need.
1e.6 Determination of supply.
1e.7 Estimate of the number of SAWs in seasonal agricultural services and determination of work-day per worker factor.
1e.8 Announcement of the annual numerical limitation on the admission of replenishment agricultural workers.

Subpart B—Procedure for Determination of the Shortage Number.

1e.10 General.
1e.11 Data for determination of need to be collected by the Secretary of Agriculture.
1e.12 Data for determination of supply to be collected by the Secretary of Labor.
1e.13 Director, Bureau of the Census, to determine the workday per worker factor.
1e.14 Secretaries of Agriculture and Labor, joint determination of the shortage number.

Subpart C—Emergency Procedure for Increase in Shortage Number.

1e.20 Request by group or association representing employers.

Subpart D—Procedure for Decreasing the Work-day Requirement.

1e.30 Request by group of special agricultural workers.

Authority: 8 U.S.C. 1161.

Done at Washington, DC, this 8th day of August, 1989.

Clayton K. Yeutter,
Secretary of Agriculture.

DEPARTMENT OF LABOR

29 CFR Part 503

Accordingly, it is proposed that Title 29 of the Code of Federal Regulations be amended by adding Part 503 as set forth at the end of this document.

PART 503—METHODOLOGY FOR DETERMINING THE SHORTAGE NUMBER UNDER SECTION 210A OF THE IMMIGRATION AND NATIONALITY ACT

Subpart A—General Provisions

Sec.
503.0 Introduction.
503.1 Purpose and scope.
503.2 Definitions.

Sec.
503.3 Overall determination of the shortage number.
503.4 No replenishment if no shortage.
503.5 Determination of need.
503.6 Determination of supply.
503.7 Estimate of the number of SAWs in seasonal agricultural services and determination of work-day per worker factor.
503.8 Announcement of the annual numerical limitation on the admission of replenishment agricultural workers.

Subpart B—Procedure for Determination of the Shortage Number.

503.10 General.
503.11 Data for determination of need to be collected by the Secretary of Agriculture.
503.12 Data for determination of supply to be collected by the Secretary of Labor.
503.13 Director, Bureau of the Census, to determine the workday per worker factor.
503.14 Secretaries of Agriculture and Labor, joint determination of the shortage number.

Subpart C—Emergency Procedure for Increase in Shortage Number.

503.20 Request by group or association representing employers.

Subpart D—Procedure for Decreasing the Work-day Requirement.

503.30 Request by group of special agricultural workers.

Authority: 8 U.S.C. 1161.

Done at Washington, DC, this 8th day of August, 1989.

Elizabeth Dole,

Secretary of Labor.

Text of the Proposed Joint Rule

The text of the proposed joint rule as adopted by USDA and DOL in this document appears below.

PART _____—METHODOLOGY FOR DETERMINING THE SHORTAGE NUMBER UNDER SECTION 210A OF THE IMMIGRATION AND NATIONALITY ACT

Subpart A—General Provisions

§_____.0 Introduction.

(a) Section 210 of the INA established the SAW program. Under this program, aliens could apply (during the 18-month period ending November 30, 1988) to have their status adjusted to that of an alien lawfully admitted for temporary residence, provided they could demonstrate residence in the United States and performance of seasonal agricultural services for at least 90 man-days during the 12 month period ending May 1, 1986. While employment in seasonal agricultural services was required in order to qualify for SAW status, there is no requirement that SAWs continue to work in agriculture. Because SAWs may seek employment in any occupation or industry, the INA provides a framework for admitting additional aliens to work in seasonal agricultural services if a shortage of workers develops.

(b) Pursuant to section 210A(a)(1) of the INA, before the beginning of each fiscal year (FY), beginning with FY 1990 and ending with FY 1993, the Secretaries shall determine jointly the number (if any) of additional aliens who should be admitted to the United States or who should otherwise acquire the status of aliens lawfully admitted for temporary residence under section 210A of the INA during the FY to meet a shortage of workers to perform seasonal agricultural services. Such number is known as the "shortage number", which may not exceed the annual numerical limitation on the admission of additional SAWs, known in this part as RAWs.

(c) This part sets forth the procedure that will be used by the Secretaries in making a determination of the shortage number, and of the annual numerical limitation. This part also establishes the procedure which a group or association of employers of individuals who work in seasonal agricultural services must use in order to request the Secretaries to increase the shortage number. Further, this part sets forth the procedure through which a group of RAWs may request the Secretaries to decrease the number of work-days of employment required for a given FY in order to maintain their temporary resident alien status.

§_____.1 Purpose and scope.

(a) This part has a narrow focus. It is based in part on regulations already promulgated by DOL, USDA, and INS, all of which have responsibilities under the INA. Where appropriate in this part, reference will be made to existing regulations and their location.

(b) Section 210A(a)(1) of the INA requires action by the Secretaries to determine the shortage number. That number will become the basis upon which the Attorney General will provide for the admission for lawful temporary resident status, or for the adjustment of status to lawful temporary resident status, of a number of aliens. The number (if any) of such aliens to be admitted will be the lesser of the shortage number, or the annual numerical limitation on admission of additional SAWs, which is set by formula in section 210A(b) of the INA. These additional SAWs are known as RAWs and may be admitted beginning with FY 1990.

(c) This part establishes the procedure by which the Secretaries will use available information to make the determination required by the INA. This part is not concerned with the procedure, nor qualifications, through which individuals may become eligible for RAW status.

§_____.2 Definitions.

For purposes of this part:

(a) "Act" and "INA" mean the Immigration and Nationality Act (8 U.S.C. 1101, *et seq.*), as amended by the Immigration Reform and Control Act of 1986 (IRCA), with reference particularly to sections 210 and 210A (8 U.S.C. 1160 and 1161).

(b) "Alien 'A' Number" refers to an INS Alien Registration Number assigned to each alien.

(c) "Annual numerical limitation" refers to the upper limit on the number of aliens who may be admitted as RAWs in any FY and is set by statutory formula in section 210A(b) of INA. If the shortage number determined under this part exceeds the annual numerical limitation, the number of aliens who may be admitted, or have their status adjusted, cannot exceed the annual numerical limitation.

(d) "Director" means the Director of the Bureau of the Census, United States Department of Commerce.

(e) "DOL" means the United States Department of Labor.

(f) "Immigration and Naturalization Service (INS)" is the agency within the United States Department of Justice which is responsible for administering the INA.

(g) "Replenishment Agricultural Worker (RAW)" is an alien identified with an INS Alien Registration Number in the A94000000 series (A94 followed by any six digits) who is admitted during FY 1990 through FY 1993 for lawful temporary resident alien status or whose status is adjusted to that of an alien lawfully admitted for temporary residence, in accordance with section 210A of the INA, to meet a shortage of workers employed in seasonal agricultural services.

(h) "Reportable Worker" is an alien employed in seasonal agricultural services who is admitted with lawful temporary resident alien status or whose status is adjusted to that of an alien lawfully admitted for temporary residence, and who is identified by an INS Alien Registration Number in the A90000000 series (A9 followed by any seven digits). This series includes:

(1) Resident aliens admitted under section 245A of the INA,

(2) Resident alien-special agricultural workers admitted under section 210 of the INA, and

(3) Anticipated resident alien-replenishment agricultural workers admitted between FY 1990 and FY 1993 under section 210A of the INA.

(i) "Seasonal Agricultural Services" as provided by section 210(h) of the Act means the "performance of field work related to planting, cultural practices, cultivating, growing and harvesting of fruits and vegetables of every kind and other perishable commodities, as defined in regulations by the Secretary of Agriculture." 8 U.S.C. 1160(h). The definitions promulgated by the Secretary of Agriculture are located at 7 CFR part 1d, and are restated for informational purposes at 29 CFR 502.2(o)(2).

(j) "Secretaries" for purposes of this part means the Secretary of the United States Department of Agriculture and the Secretary of the United States Department of Labor.

(k) "Shortage Number" means the number, determined jointly by the Secretaries, of additional aliens who should be admitted to the United States or who should otherwise acquire the status of aliens lawfully admitted for temporary residence under section 210A of the INA to meet a shortage of workers to perform seasonal agricultural services in the United States during a specific FY.

(l) "Special Agricultural Worker (SAW)" is:

(1) An alien granted temporary resident alien status as a result of an application filed pursuant to section 210 of the INA, establishing residence in the United States and employment in seasonal agricultural services for at least 90 man-days (days in which at least one hour is worked) during the 12-month period ending May 1, 1986; and

(2) A RAW granted temporary resident alien status pursuant to section 210A of the INA.

(m) "Starting number" is the number of individuals whose status has been finally adjudicated to that of SAWs under section 210 of the INA, as reported to the Secretaries by the Director by September 1 of each FY. It is the base number from which the annual numerical limitation is determined.

(n) "USDA" means the United States Department of Agriculture.

(o) "Work-day" means a calendar day during which at least 4 hours of work in seasonal agricultural services is performed. (Note: work-day is a term specific to the SAW/RAW program and carries with it employer reporting requirements under 29 CFR part 502. The term is to be distinguished from "man-day" (one hour per day) which is used in other labor standards statutes, and is used under INA to determine whether an alien has sufficient experience in agricultural employment to be eligible for SAW/RAW status.)

§ _____.3 Overall determination of the shortage number.

The shortage number is:

(a) The anticipated need in work-days for labor to perform seasonal agricultural services (as determined in § _____.5 of this part) for the FY, minus

(b) The supply in work-days of labor to perform seasonal agricultural services (as determined in § _____.6 of this part) for that FY.

(c) Divided by the factor (determined under § _____.13 of this part) for work-days per worker.

The formula set forth in this section is (paragraph (a)—paragraph (b))÷paragraph (c).

§ _____.4 No replenishment if no shortage.

The Secretaries may not determine that there is a shortage unless, after considering all of the criteria set forth in §§ _____.5 and _____.6 of this part, the Secretaries determine that there will not be sufficient able, willing, and qualified workers available to perform seasonal agricultural services required in the FY involved. If there is no determination of shortage, no RAWs may be admitted for the FY involved, except as provided under section 210A(a)(7) of the Act, and § _____.20 of this part.

§ _____.5 Determination of need.

(a) The anticipated need for labor to perform seasonal agricultural services for a FY is determined as follows:

(1) *Base.* The Secretaries shall estimate jointly, using statistically valid methods, the number of work-days of labor performed in seasonal agricultural services in the United States in the previous FY. This is an estimate of the total work-days of labor performed by hired labor in seasonal agricultural services—not just those work-days performed by SAWs.

(2) *Adjustment for crop losses and changes in industry.* The Secretaries shall jointly—

(i) Increase the base number by the number of work-days of labor in seasonal agricultural services in the United States that the Secretaries estimate would have been needed in the previous FY to avoid any crop damage or other loss that resulted from the unavailability of labor, and

(ii) Increase or decrease the base number by the projected change in the number of work-days of labor in seasonal agricultural services as a result of—

(A) The forecast of growth or contraction in the production of crops included in seasonal agricultural services, and

(B) The forecast of changes in the number of work-days of labor due to on-farm changes in technologies and personnel practices that affect the need for, and retention of, workers to perform such services.

(b) The Secretary of Agriculture shall collect the data necessary for making the estimate described in paragraph (a) of this section.

§ _____.6 Determination of supply.

(a) The anticipated supply of labor to perform seasonal agricultural services for a FY is determined as follows:

(1) *Base.* The Secretaries shall use the number estimated under § _____.5(a)(1) of this part as the base number for estimating the anticipated supply of such labor.

(2) *Adjustments for retirements and increased recruitment.* The Secretaries shall jointly:

(i) Decrease the base number by the number of work-days of labor in seasonal agricultural services in the United States that the Secretaries estimate will be lost due to retirement and movement of workers out of performance of seasonal agricultural services, and

(ii) Increase the base number by the number of additional work-days of labor in seasonal agricultural services in the United States that the Secretaries estimate can reasonably be expected to result from the availability of able, willing, qualified, and unemployed SAWs, rural low skill or manual laborers, and domestic agricultural workers.

(3) *Bases for increased number.* In making the adjustment under paragraph (a)(2) of this section, the Secretaries shall consider—

(i) The effect, if any, that improvements in wages and working conditions offered by employers are projected to have on the availability of workers to perform seasonal agricultural services, taking into account the adverse effect, if any, such improvements in wages and working conditions are projected to have on the economic competitiveness of the perishable agricultural industry,

(ii) The effect, if any, of enhanced recruitment efforts by employers of such workers and government employment services in the traditional and expected areas of supply of such workers, and

(iii) The number of able, willing, and qualified individuals who apply for employment opportunities in seasonal

agricultural services listed with offices of government employment services.

(b) The Secretary of Labor shall collect the data necessary for making the adjustments described in paragraphs (a)(2) and (a)(3) of this section, except that the Secretary of Agriculture shall determine any adverse effect on the economic competitiveness of the perishable agricultural industry described above in paragraph (a)(3)(i) of this section.

§_____.7 Estimate of the number of SAWs in seasonal agricultural services and determination of work-day per worker factor.

(a) Employers who utilize reportable workers (identified by an INS alien registration number beginning A9 followed by any seven digits) to perform seasonal agricultural services during FY 1989 through FY 1992 are required by section 210A(b)(2) of the INA and regulations located at 29 CFR part 502 to report to the Federal government on the utilization of such workers. An official form, ESA-92 (OMB approval number 1215-0168) must be submitted quarterly, by any employers who employed such workers in seasonal agricultural services during the quarter. The Secretaries have designated the Committee for Employment Information on Special Agricultural Workers, 1201 East 10th Street, Jeffersonville, Indiana 47132, as the entity to receive the reports.

(b) The Director shall, before the end of each FY (beginning with FY 1989 and ending with FY 1992), estimate the number of SAWs who have performed seasonal agricultural services in the United States for at least 15 work-days during the FY. The Act further requires that the Director determine the average number of work-days worked in seasonal agricultural services by certain of such workers who worked at least 15 work-days in seasonal agricultural services during the FY under consideration.

(c) The Committee for Employment Information on Special Agricultural Workers shall furnish to the Director, in the form and manner specified by the Director, information contained in the reports (ESA-92's) submitted by employers. The Director shall base estimates of the number of SAWs working in seasonal agricultural services and the average number of work-days worked by such SAWs on the information received from the Committee.

(d) In making the estimates, the Director shall take into account (to the extent feasible) the underreporting or duplicate reporting on the number of SAWs that may be occurring. The Director shall conduct appropriate surveys of agricultural employers and others to ascertain the extent of such underreporting or duplicate reporting.

(e) Subject to the provisions of §_____.13 of this part for each FY, the estimate of the average number of work-days so derived by the Director is the basis for determination of the work-day per worker factor. That factor is the denominator in the formula specified in §_____.3 of this part for making the overall determination of the shortage number.

§_____.8 Announcement of the annual numerical limitation on the admission of replenishment agricultural workers.

(a) The Secretaries will make the calculation of the "annual numerical limitation" according to the statutory formula established by section 210A(b) of the INA. In doing so, the Secretaries will use information from INS regarding the number of individuals whose status was finally adjudicated (approved) as SAWs under section 210 of the INA. In the event that INS is not able to make final determinations on all SAW applicants prior to the beginning of FY 1990, the Secretaries will use the number of final adjudications reported by INS to the Director as the "starting number" for the calculation applicable to FY 1990. The Director will advise the Secretaries by September 1, 1989, of the number to be used in the calculation, based upon the latest available INS data. However, in the event INS is unable to complete its adjudication of all SAW applications by the end of FY 1989, the Secretaries, prior to the end of each of the following fiscal quarters, will recalculate the annual numerical limitation by including in the "starting number" all those aliens who the Director reports have been finally adjudicated as SAWs subsequent to any earlier determination of the annual numerical limitation, and by adjusting the number of SAWs who worked in seasonal agricultural services to take into account the increase in the number of reportable workers who obtained SAW status.

(b) Section 210A(b)(3)(i) of the INA requires that before the end of each FY, beginning with FY 1989 and ending with FY 1992, the Director estimate the number of SAWs (those individuals whose status was finally adjusted under section 210 of the INA or who were admitted or whose status was adjusted under section 210A of the INA) who performed seasonal agricultural services at any time (for at least 15 work-days) during the FY. The estimate of the Director will be determined pursuant to §_____.7 of this part and will be used by the Secretaries as specified in the formula for calculating the annual numerical limitation.

(c) Section 210A(b)(1)(C) of the INA requires that the estimate of the Director be increased or decreased to reflect any increase or decrease in the number of nonimmigrant aliens admitted to perform temporary seasonal agricultural labor (H-2A workers) in the FY, compared to the prior FY. The Secretaries will use the difference between the utilization of H-2A workers during FY 1989 compared to FY 1988 as the basis for adjusting the estimate of the Director of SAWs who worked in seasonal agricultural service in FY 1989, and in each of the following FY's will use the change between the current and prior years as the basis for adjusting the estimate of the Director. Specifically, if there is an increase in the utilization of H-2A workers in FY 1989 compared to 1988, the amount of the increase will be added to the estimate of the Director of the number of SAWs who performed seasonal agricultural services in FY 1989. If there is a decrease in the utilization of H-2A workers, the amount of the decrease will be subtracted from the estimate of the Director.

(d) For FY 1990, the numerical limitation is: (1) 95 percent of the number of individuals finally adjudicated as SAWs (described in paragraph (a) of this section as the "starting number"), minus (2) the number of SAWs who performed seasonal agricultural services during FY 1989 as estimated by the Director (as described above in paragraph (b) of this section), and as adjusted to reflect any change in the utilization of H-2A workers as described above in paragraph (c) of this section.

(e) For FY 1991, the numerical limitation is:

(1) 90 percent of the number determined in accordance with step 1 in paragraph (d) of this section (that is, 90 percent of 95 percent of the starting number, except, in the event that INS continues to adjust individuals to SAW status after the beginning of FY 1990, the additional SAWs will be added to the starting number used for 1990 and the entire calculation will be redone prior to the end of each fiscal quarter based upon the larger "starting number"), minus

(2) The number of SAWs, including RAWs, who performed seasonal agricultural services during FY 1990 as estimated by the Director adjusted to reflect any change in the utilization of H-2A workers.

(f) For FY 1992 and 1993, the numerical limitation is:

(1) 90 percent of the number determined in accordance with step 1 for the prior FY (that is, for 1992, 90 percent of 90 percent of 95 percent of the starting number, except, in the event that INS continues to adjust individuals to SAW status after the beginning of FY 1991, the additional SAWs will again be added to the original "starting number" and the entire calculation be redone prior to the end of each fiscal quarter. Similarly for 1993, if INS continues to adjust individuals to SAW status after the beginning of FY 1992, the additional SAWs will be added to the "starting number" and the entire calculation redone prior to the end of each fiscal quarter by taking 90 percent of 90 percent of 90 percent of 95 percent of the starting number), minus

(2) The number of SAWs, including RAWs, who performed seasonal agricultural services during the prior FY, adjusted to reflect any change in the utilization of H-2A workers.

(g) The Secretaries will also recalculate the annual numerical limitation pursuant to the procedure set forth in paragraph (e) or (f) of this section, as appropriate, to incorporate the latest available information from INS and the Director, if the Secretaries grant an increase in the shortage number under § _____.20 of this part and the annual numerical limitation is lower than the resulting shortage number.

(h) Once INS and the Director advise the Secretaries that all applications for SAW status have been finally adjudicated, the annual numerical limitation will be determined once for each subsequent FY, prior to the end of the preceding FY, and the number will be fixed for the entire FY.

(i) The Secretaries will announce the annual numerical limitation in the **Federal Register** at the time the shortage number is announced. Subsequent additions to the starting number and annual numerical limitation will be announced in the **Federal Register**.

(j) There shall be no administrative appeal of the Secretaries' determination of the annual numerical limitation, which shall be the final agency action.

Subpart B—Procedure for Determination of the Shortage Number

§ _____.10 General.

Although under the INA it is the responsibility of the Secretaries to determine the shortage number, that duty requires the cooperation and input of DOL, USDA, INS, and the Director. INS has the data and the authority needed to identify SAWs and RAWs from among all reportable workers for whom data is submitted on the ESA-92 forms, based upon their alien registration numbers. The Director is responsible for determination of the work-day per worker factor, which is the denominator in the overall formula to be used by the Secretaries.

§ _____.11 Data for determination of need to be collected by the Secretary of Agriculture.

The Secretary of Agriculture will provide the data required by § _____.5(a) of this part, for estimating the anticipated need for SAWs, through on-going surveys and estimating procedures, including the quarterly agricultural labor surveys (OMB approval number 0535-0109), conducted by the National Agricultural Statistics Service (NASS), and the USDA baseline method of forecasting crop production.

§ _____.12 Data for determination of supply to be collected by the Secretary of Labor.

The Secretary of Labor will collect the data to estimate the anticipated supply of labor required by § _____.6(a) of this part, except that relating to the economic competitiveness of the perishable agricultural industry, which is monitored by USDA. DOL will collect these data through a four-year series of farmworker surveys (OMB approval number 1225-0044) and surveys among the rural unemployed (OMB approval number 1225-0048) to develop information for estimating changes in the labor supply. DOL will also use additional information from the forms ESA-92 which employers of reportable workers in seasonal agricultural services must submit to the Committee for Employment Information on Special Agricultural Workers. The surveys will be limited to employment and potential employment within seasonal agricultural services, as defined by the Secretary of Agriculture in regulations located at 7 CFR part 1d.

§ _____.13 Director, Bureau of the Census, to determine the work-day per worker factor.

(a) For FY 1990, the work-day per worker factor is the average number, as estimated by the Director pursuant to § _____.7 of this part, of work-days of seasonal agricultural services performed by SAWs in the United States at any time (for at least 15 work-days) in FY 1989.

(1) However, if the Director determines that the information reported by employers using the ESA-92 form is not adequate to make a reasonable estimate of the average number, and the inadequacy is not due to the refusal or failure of employers to report the required information, the factor for FY 1990 is 90.

(2) If the Director determines that the information is inadequate because employers refused or failed to report the required information, the Director, in consultation with the Secretaries, shall use any information available and set the value of the work-day per worker factor.

(b) For FY 1991, the factor is the average number, as estimated by the Director pursuant to § _____.7 of this part, of work-days of seasonal agricultural services performed in the United States by RAWs during FY 1990. RAWs are a specific subset of SAWs, who may enter the United States beginning with FY 1990 as RAWs. See § _____.2 of this part. If no RAWs are admitted during FY 1990, the work-day per worker factor determined in paragraph (a)(1) or (a)(2) of this section will be the factor for 1991.

(c) For FY 1992, the factor is the average number, as estimated by the Director pursuant to § _____.7 of this part, of work-days of seasonal agricultural services performed in the United States in each of the two previous FY's (1990 and 1991) by RAWs who obtained lawful temporary resident alien status during either of those years. If no RAWs are admitted during FY 1990 and 1991, the work-day per worker factor determined in paragraph (a)(1) or (a)(2) of this section will be the factor for 1992.

(d) For FY 1993, the factor is the average number, as estimated by the Director pursuant to § _____.7 of this part, of work-days of seasonal agricultural services performed in the United States in each of the two previous FY's (1991 and 1992) by RAWs who obtained lawful temporary resident alien status during either of those years. If no RAWs are admitted during FY 1991 and 1992, the average number of work-days worked by RAWs who obtained lawful temporary resident alien status during FY 1990 will be the factor. If no RAWs are admitted during FY 1990, 1991, and 1992, the work-day per worker factor determined in paragraph (a)(1) or (a)(2) of this section will be the factor for FY 1993.

§ _____.14 Secretaries of Agriculture and Labor, joint determination of the shortage number.

(a) Section 210(A) of the INA requires that before the beginning of each FY, starting with FY 1990 and ending with FY 1993, the Secretaries shall determine jointly the shortage number. The shortage number is the number (if any) of additional aliens (RAWs) who should

be admitted to the United States or should otherwise acquire the status of aliens lawfully admitted for temporary residence under section 210A of the INA to meet a shortage of workers to perform seasonal agricultural services in a given FY. The Secretaries will announce their determination by the publication of a notice in the **Federal Register**.

(b) No later than September 1, prior to the FY under consideration (September 1, 1989, for FY 1990), the Director shall provide the Secretaries with the estimate of the Director of the number of SAWs who performed seasonal agricultural services during the FY, and the determination of the Director of the work-day per worker factor.

(c) No later than September 1, prior to the FY under consideration, staff from the USDA and DOL offices identified in § _____.20(d) of this part shall exchange estimates prepared in accordance with §§ _____.5 and _____.6 of this part, to facilitate review and determination of the shortage number.

(d) There shall be no administrative appeal of the determination of the Secretaries of the shortage number, except as set forth in §§ _____.20 and _____.30 of this part.

Subpart C—Emergency Procedure for Increase in Shortage Number

§ _____.20 Request by group or association representing employers.

(a) After the beginning of a FY in which RAWs may be admitted (1990 through 1993), a group or association of employers, or potential employers, of individuals who perform seasonal agricultural services may request the Secretaries to increase the shortage number for the FY. This may include a request that the Secretaries set a shortage number in the event that they did not initially determine that a shortage would exist for the FY under consideration. It is anticipated that this provision would apply in cases of an unanticipated bumper crop, a significant change in weather conditions or cropping patterns, or other significant changes that could not have been reasonably predicted or accounted for in the original determination of the shortage number for a FY.

(b) The request must show that extraordinary, unusual, and unforeseen circumstances have resulted in a significant shortage of workers to perform seasonal agricultural services due to—

(1) A significant increase in the need for SAWs in the FY,

(2) A significant decrease in the availability of able, willing, and qualified workers to perform seasonal agricultural services, or

(3) A significant decrease, below the work-day per worker factor applicable to the FY, in the number of work-days of seasonal agricultural services performed by RAWs.

(c) The requesters must demonstrate that a significant increase in the shortage number is appropriate. That is, they must show that they have undertaken reasonable recruitment efforts and that they continue to have a significant shortage of the labor needed to avoid crop damage or loss. They must show further, that the need for labor to avoid crop damage or loss is significantly greater than the availability of able, willing, qualified, and unemployed SAWs, rural low skill or manual laborers, and domestic agricultural workers. Requesters must show that they have undertaken reasonable recruitment efforts by recruiting in the region or regions of traditional and expected labor supply, offering wages, working conditions, and other terms of employment, including, but not limited to, housing, transportation, meals, and subsistence, comparable to or better than those provided generally in the same or comparable occupations and crops in the labor market area, and that the normal qualifications for such occupations and crops were applied.

(d) The request must be in writing and must be submitted to either the Secretary of Labor, Attention: Assistant Secretary for Policy, 200 Constitution Ave., NW., Washington, DC 20210, or the Secretary of Agriculture, Attention: Assistant Secretary for Economics, Fourteenth St. and Independence Ave., SW., Washington, DC 20250–1400. For purposes of the time periods specified below, the date the request is received by either Secretary will mark the beginning of the time periods.

(e) Not later than 3 business days (days when the Federal offices involved are open for normal business) after the request is received, the Secretaries shall provide for notice in the **Federal Register** of the substance of the request and shall provide the opportunity for interested parties to submit information to the Secretaries on a timely basis (received by the Secretaries within 10 calendar days of publication of the notice).

(f) Not later than 21 calendar days after receipt of the request, and after consideration of any information submitted on a timely basis with respect to the request, the Secretaries shall make their determination on the request and provide for notice in the **Federal Register**. The request shall be granted and the shortage number for the FY increased if and to the extent that the Secretaries determine that such an increase is justified based upon the showing and circumstances described above in paragraph (b) of this section, and that such an increase takes into account that reasonable recruitment efforts have been made in the traditional and expected areas of supply of such workers.

(g) In making their determination, the Secretaries may use any available information, including available data from the State Employment Service Agencies and the United States Employment Service to examine the validity of the information submitted by interested parties.

(h) There shall be no administrative appeal of the decision of the Secretaries regarding a particular request for an increase in the shortage number, which shall be the final agency action.

Subpart D—Procedure for Decreasing the Work-day Requirement

§ _____.30 Request by group of special agricultural workers.

(a) After the beginning of a FY in which RAWs may be admitted (FY 1990 through FY 1993), a group of such workers may request that the Secretaries decrease the number of work-days required under section 210A(d)(5)(A) and (B) of the INA. Subparagraph (A) requires that RAWs perform seasonal agricultural services for at least 90 work-days in each of the first three years after the alien obtained the status of an alien lawfully admitted for temporary residence, in order to avoid deportation. Subparagraph (B) provides that such an alien may not be naturalized unless that alien has worked at least 90 work-days in seasonal agricultural services in each of five years after obtaining the status of an alien lawfully admitted for temporary residence.

(b) The request must show that extraordinary, unusual, and unforeseen circumstances have resulted in a significant decrease in the shortage number with respect to that FY due to—

(1) A significant decrease in the need for SAWs in the FY,

(2) A significant increase in the availability of able, willing, and qualified workers to perform seasonal agricultural services, or

(3) A significant increase, above the work-day per worker factor applicable to the FY, in the number of man-days of seasonal agricultural services performed by RAWs.

(c) The request must be in writing and must be submitted to either the Secretary of Labor or the Secretary of Agriculture as specified in § _____.20(c) of this part.

(d) Not later than 3 business days after the request is received, the Secretaries shall provide for notice in the **Federal Register** of the substance of the request and shall provide the opportunity for interested parties to submit information to the Secretaries on a timely basis. The time allowed for the receipt of such information will be set by the Secretaries, taking into account the number of calendar days remaining in the FY.

(e) Before the end of the FY, the Secretaries, after consideration of any information submitted on a timely basis with respect to the request, shall make their determination on the request and provide for notice in the **Federal Register**. The request shall be granted and the required number of work-days for the FY shall be reduced if, and by the same proportion as, the Secretaries determine that a decrease in the shortage number is justified based upon the showing and circumstances described in paragraph (b) of this section.

(f) There shall be no administrative appeal of the decision of the Secretaries regarding a particular request for a decrease in the number of work-days required under section 210A(d)(5) of the INA, which shall be the final agency action.

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230, 239, 270, and 274

[Release No. 33-6842; IC-17091; S7-21-89]

RIN 3235-AB40

Registration Form For Closed-end Management Investment Companies

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule, form amendments, rule amendments, and guidelines.

SUMMARY: The Commission is proposing for public comment (1) amendments to Form N-2, the registration form used by closed-end management investment companies under the Investment Company Act of 1940 and the Securities Act of 1933, that would establish a two-part format for disclosure to prospective investors and update current disclosure requirements; (2) related form and rule amendments; and (3) staff guidelines for the preparation of Form N-2. These amendments are being proposed to shorten and simplify the prospectus provided to investors, while making more extensive information available to those that request it, and to codify in the form and guidelines disclosure standards that have been developed for closed-end investment companies, including companies electing to be regulated as business development companies.

DATE: Comments on the proposed amendments to the form, rule amendments, and guidelines should be received on or before October 20, 1989.

ADDRESS: Three copies of all comments should be submitted to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. All comments received will be available for public inspection and copying in the Commission's public reference room, 450 Fifth Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Kenneth J. Berman, Special Counsel, or Robert E. Plaze, Chief of Office, (202) 272-2107, Office of Disclosure and Adviser Regulation, or with respect to matters concerning financial statements, Lawrence A. Friend, Chief Accountant, (202) 272-2106, Division of Investment Management, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today is proposing for comment:

(1) Amendments to Form N-2 (17 CFR 274.11a-1), the registration form for closed-end investment companies ("funds" or "closed-end funds") under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) ("1933 Act") and the Investment Company Act of 1940 (15 U.S.C. 80a *et seq.*) ("1940 Act").[1] The proposed amendments would divide Form N-2 into three parts: Part A would be the prospectus required by section 10(a) of the 1933 Act (15 U.S.C. 77j(a)); Part B would be the "Statement of Additional Information" ("SAI") which would contain additional information about the closed-end fund to be provided promptly upon request to recipients of the prospectus; and part C would contain other information that would be required to be in the registration statement. The proposed amendments also would clarify and update disclosure standards that have been developed for closed-end funds.

[1] The text of amended Form N-2 is Appendix B to this release.

(2) Amendments to rules 495, 496, and 497 (17 CFR 230.495, 496, and 497) of Regulation C under the 1933 Act (17 CFR 230.400 *et seq.*) to add Form N-2 to the registration forms specified in those rules.

(3) Amendments to rules 8b-11, 8b-12, and 8b-16 (17 CFR 270.8b-11, 8b-12, and 8b-16) under the 1940 Act. Rules 8b-11 and 8b-12 would be amended to add Form N-2 to the registration forms specified in those rules. The proposed amendment to rule 8b-16 would exempt closed-end funds from the requirement to annually update their registration statements provided certain disclosures are made to fund shareholders.

(4) Amendments to Form N-14 (17 CFR 239.23), the registration form under the 1933 Act to register securities issued in certain investment company business combination transactions. The amendments to Form N-14 would reflect the three part registration format being proposed for Form N-2.

(5) A new rule 134b and amendments to rules 430, 460, 463 and 481 (17 CFR 230.430, 460, 463, and 481) of Regulation C under the 1933 Act. The amendments to rules 430 and 460 would require that an SAI be available for delivery to investors at the time that a preliminary prospectus is circulated. Proposed rule 134b would provide a "safe harbor" for the use of the SAI prior to the effective date of the registration statement. The amendment to rule 481 would specify the appropriate legend to be printed on an SAI used prior to the effective date of the registration statement. The amendment to rule 463 would clarify that a closed-end fund that has elected to be regulated as a business development company ("BDC") is not required to file a report on Form SR (17 CFR 239.61) with respect to the use of proceeds from an initial public offering.

The Commission also is publishing staff guidelines for the preparation of amended Form N-2 which are contained in Appendix C to this release. All comments and suggestions received concerning staff guidelines will be considered by the staff in developing final guidelines.

I. Background and Summary

Form N-2 is the registration form used by closed-end funds to register as investment companies under the 1940 Act and to register their securities under the 1933 Act. Unlike open-end management investment companies ("mutual funds"), closed-end funds do not issue redeemable securities or continuously offer their shares to the public. Rather, a closed-end fund issues, in a traditional underwritten offering, a

fixed number of shares that are subsequently traded on a securities exchange or in the over-the-counter market at a price determined by the market, which typically is lower than the share's net asset value.[2] Another distinction between closed-end funds and mutual funds is that the 1940 Act permits a closed-end fund to issue senior securities consisting of one class of preferred stock and one class of debt.[3] However, a closed-end fund is much like a mutual fund in that it offers to investors an opportunity to invest in a professionally managed portfolio of securities. Therefore, closed-end funds usually serve as investment vehicles for individual investors who do not have the expertise or resources to assemble and manage a diversified investment portfolio.

The number of closed-end funds has increased dramatically in recent years.[4] Financial commentators have advanced a number of explanations for their increased popularity: that closed-end bond funds have received the benefit of increased investor interest in debt, rather than equity, investments after the October 1987 Market Break; [5] that the ability of closed-end funds to provide leverage through the issuance of senior securities attracts investors with the prospect of higher rates of returns than non-leveraged open-end funds with similar investment objectives; [6] and that brokerage firms have placed more emphasis on marketing closed-end funds in the wake of the decline in initial public offerings that followed the October 1987 Market Break.[7] In addition, certain closed-end funds have been used as vehicles for investing in foreign securities markets which may not otherwise be readily accessible to United States investors.[8]

The proposed amendments would make available to closed-end funds the kind of simplified prospectus previously adopted for other classes of investment companies. In 1983 the Commission adopted Form N-1A (17 CFR 274.11A), the registration form for mutual funds, which consists of three parts: a simplified prospectus, an SAI that must be provided to investors upon request, and other information that must be filed with the Commission but not delivered to investors.[9] When Form N-1A was published for comment, the Commission stated its intention to develop a simplified prospectus form for other types of investment companies.[10] Since Form N-1A was adopted, the Commission has adopted Forms N-3 and N-4 (17 CFR 274.11b and 274.11c) for insurance company separate accounts offering variable annuity contracts ("separate accounts"),[11] and Form N-14 for the registration of securities issued in certain investment company business combination transactions [12] using the same three part registration form with a simplified prospectus and an SAI. The Commission now is proposing amendments to Form N-2 to permit closed-end funds to use the same disclosure format.

The two part disclosure document (prospectus and SAI) is based on the conclusion reached by the Commission in 1983 that a shortened and simplified prospectus is necessary to permit individual investors to assess matters of fundamental importance about the fund. The Commission believed that many of these investors were discouraged from reading the prospectus by its length and complexity. On the other hand, the Commission realized that some investors, such as institutional investors or investment advisers, may desire more detailed information about an investment company. To meet the needs of both of these types of investors, the Commission developed Form N-1A under which a simplified prospectus is delivered to all investors, but more extensive information is available to those investors who desire it.[13]

Form N-2 is used by closed-end funds (except small business investment companies licensed as such by the United States Small Business Administration, which use Form N-5 (17 CFR 274.5)) to register under the 1940 Act and register their securities under the 1933 Act. The Commission believes that the similarities between open-end and closed-end fund prospectus disclosure and the type of investors who invest in these funds warrant extending the three part registration statement format to closed-end funds. The simplified prospectus is intended to be more comprehensible and, accordingly, more likely to be read by investors. This, the Commission hopes, will result in greater use of the prospectus as the primary selling document for closed-end funds, which in turn should result in better informed investors.

The Commission recognizes that there are important distinctions between closed-end and open-end funds that might affect the desirability of using the two part disclosure format. First, closed-end funds are distributed through the use of a preliminary prospectus in underwritten offerings with a number of participants. This may result in as many as four documents (two prospectuses and two SAIs) being handled by participating underwriters and dealers. It may be difficult to ensure that participants in the distribution have all of the prospectuses and SAIs and have systems in place to assure delivery to prospective investors. However, under the proposals, underwriters and dealers would not have to distribute the SAI; they could direct their customers to a single source—*e.g.*, the managing underwriter (the phone number of which would be on the cover of the prospectus)—to request it.[14] In such a case, participants in a closed-end fund underwriting would not have to deliver any more disclosure documents than in other offerings.

Second, closed-end fund shares are offered during a relatively short underwriting period (approximately 30 days).[15] This makes it more difficult to

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[2] *See* section III.B. of this release for a discussion of the discount which characterizes the share price of most closed-end funds.

[3] *See* section 18(a) of the 1940 Act (15 U.S.C. 80a-18(a)).

[4] According to the Investment Company Institute's Survey of Closed End Funds (May 1, 1989), in 1985 there were 52 closed-end funds with approximately $7.6 billion of assets. By the end of 1988 there were 168 closed-end funds with approximately $40.8 billion of assets.

[5] *See* Closed-End Funds: Answers to Questions, The Wall Street Journal, Sep. 14, 1988, at p. 37. Measured in terms of proceeds to the issuer, bond funds represented 91% of the 69 new closed-end funds which came to market in 1988. Source: Investment Company Institute, Survey of Closed-End Funds, *supra*.

[6] *See* Herzfeld, Churn and Earn: Closed-End Bond Funds as Trading Vehicles, Barron's, Sep. 12, 1985, at p. 45.

[7] *See* Five Month Fizzles: What Lots of Closed-End IPOs Are, Barron's, Aug. 8, 1988, at p. 21.

[8] *See* Pick A Country, Buy a Mutual Fund, The New York Times, July 19, 1987, at p. F10; International Mutual Funds, The New York Times, Sep. 26, 1987, at p. 38.

[9] Investment Company Act Rel. No. 13436 (Aug. 12, 1983) (48 FR 37928 (Aug. 22, 1983)).

[10] Investment Company Act Rel. No. 12927 (Dec. 21, 1982) (48 FR 813 (Jan. 7, 1983)).

[11] Investment Company Act Rel. No. 14575 (June 14, 1985) (50 FR 26145 (June 25, 1985)).

[12] Investment Company Act Rel. No. 14796 (Nov. 14, 1985) (50 FR 48379 (Nov. 25, 1985)).

[13] In addition, the SAI provides the Commission with information that is important in its review of the prospectus and in assuring that the regulatory requirements of the 1940 Act are met.

[14] *See* discussion of proposed cover page requirements *infra* at section III.A. of this release and the discussion of the relationship of the SAI to the preliminary prospectus in section VI of this release. The proposed amendment to rule 460 would distinguish between distribution requirements for preliminary prospectuses (a sufficient number of which must be distributed to underwriters and dealers who have been invited to participate in the offering) and the SAI (which will have to be available, but which need not be distributed to prospective underwriters and dealers).

[15] Offerings periods in excess of 30 days may be made in reliance on rule 415 under the 1933 Act (17 CFR 230.415).

devise a mechanism by which an investor can request and obtain an SAI before having to make an investment decision. To address the time constraints posed by closed-end fund offerings, the Commission is proposing a requirement, modeled after a similar instruction in Form N-14, that a telephone number to request an SAI be provided on the cover page of the prospectus and the SAI be mailed within one business day of receipt of the request.[16] Comment is requested on these and other issues regarding the appropriateness of the use of the two part disclosure format for closed-end fund registration statements.

In addition to use of the three part registration statement format, the Commission is proposing revisions to Form N-2 that would enhance prospectus disclosure about closed-end funds in certain key areas such as expenses, condensed financial information, the risk of shares trading at less than net asset value, portfolio managers, dividend reinvestment plans, and charter and by-law provisions that would restrict a change of control of a closed-end fund. The revised form would also clarify the disclosure obligations of closed-end funds that have elected to be regulated as BDCs.[17]

II. Synopsis of the Amendments to Form N-2

As proposed to be amended, Form N-2 would contain three parts. Part A would be the simplified prospectus that meets the requirements of section 10(a) under the 1933 Act, the delivery of which satisfies the prospectus delivery requirements of section 5(b)(2) of the 1933 Act (15 U.S.C. 77e(b)(2)). The prospectus would contain a concise presentation of essential information about the closed-end fund and its securities. Part B (the SAI) would include additional information about the fund, including its financial statements, that would not be required to be included in the prospectus (provided that certain conditions are met) but must be made available to investors upon written or oral request and without charge. More detailed discussions of matters required to be in the prospectus, as well as other items that may interest some investors, would be contained in the SAI. Part C would contain other information about the fund required in the registration statement but not required to be delivered to investors.

III. Proposed Amendments to Form N-2

A. General Instructions

Part A of amended Form N-2 would contain instructions for the preparation of the prospectus. The instructions are similar to the instructions to Form N-1A with three exceptions. First, an instruction would be added to reduce from ten to seven the number of copies required by rules 402 and 472 of Regulation C (17 CFR 230.402, 472) to be submitted when filing a registration statement, and to reduce from eight to five the number of copies required when filing an amendment to a registration statement.[18] Second, an instruction would be added directing the attention of funds using rule 415 under the 1933 Act to the undertaking to file post-effective amendments required by proposed Item 33.4 of Form N-2.[19] Third, as noted above, the instruction for use of the SAI would be tailored to provide for timely delivery of the SAI within the time constraints of a closed-end fund offering. Specifically, proposed Instruction H would require closed-end funds to (1) include a telephone number on the cover page of the prospectus for prospective investors to use to request the SAI,[20] (2) provide a self-addressed card for requesting the SAI unless a toll-free telephone number is provided, and (3) send the SAI within one business day of the receipt of the request by first class mail or other means designed to ensure equally prompt delivery.[21] Closed-end funds would be required by proposed Item 33.7 to undertake to send the SAI within one business day of receipt of the request in the manner specified by the instruction.[22]

B. Part A: The Prospectus

Part A of amended Form N-2 would contain thirteen items. Many of the disclosure items have not been substantially revised. Others have been revised to conform to the short-form prospectus disclosure requirements of Form N-1A or to provide the type of detail found in similar disclosure requirements of Regulation S-K (17 CFR 229 *et seq.*).[23] These types of changes are generally not addressed in detail in this release. The significant changes are discussed below.

Item 1—Outside Front Cover Page

Item 1 would be revised to require a closed-end fund to disclose on the outside front cover page its name and type (*e.g.*, bond fund, BDC, etc.), the title and amount of securities being offered, and the date of the prospectus (and SAI).[24] The cover page would be required to include a statement that the prospectus sets forth concisely information about the fund, that it should be retained for future reference, and that an SAI can be obtained and how it may be requested.[25] In addition, where the prospectus is used before effectiveness or omits information as permitted by rule 430A under the Securities Act (17 CFR 230.430A), the legend required by rule 481(b)(2) (17 CFR 230.481(b)(2)) would be required to be placed on the prospectus cover.[26]

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[16] *See* proposed Instruction H and the undertaking set forth in proposed Item 33.7. The Commission also believes that this problem will not be significant based on its experience that most investors find the information in the prospectus sufficient and that only a small number of investors request an SAI. Thus, the burden of actually responding to requests for the SAI, whether borne by dealers, the managing underwriters, or the fund, should not be great.

[17] *See* discussion *infra* at section III.F. of this release.

[18] *See* proposed Instruction C to Form N-2. The same reduction in copies has been made for variable annuity prospectuses. *See* Instruction C to Forms N-3 and N-4.

[19] *See* proposed Instruction E.3 to Form N-2.

[20] Although Form N-1A only requires the cover page to contain a statement that the SAI is available upon request and without charge, most mutual funds include a telephone number for investors to use to request the SAI. *See* Item 1(a)(iii) of Form N-1A.

[21] These instructions are similar to General Instruction F to Form N-14 and reflect the time constraints of most closed-end fund offerings. *See supra* text accompanying notes 15 and 16.

[22] Items 37 (c) and (d) of Form N-3 and Items 32 (c) and (d) of Form N-4 require similar undertakings.

[23] Appendix A to this Release contains a cross-reference table indicating which items of Form N-2 are not being changed; which changes are derived from Form N-1A or Form N-3; which changes are derived from Regulation S-K; and which changes represent new disclosure items. While, as noted above, closed-end funds have many characteristics in common with mutual funds, they also are similar to non-investment company issuers in that they issue securities, in more traditional underwritings, which are subsequently traded on exchanges or in the over-the-counter market. Where the disclosure item in Form N-2 concerns matters that closed-end funds have in common with mutual funds, the provisions of the proposed revisions have been drafted to parallel Form N-1A. Where the disclosure item in Form N-2 concerns matters that closed-end fund offerings have in common with offerings of non-investment company issuers, the proposed revisions have been drafted to parallel Regulation S-K.

[24] *See* proposed Items 1.1.a, 1.1.b, 1.1.c, and 1.1.e. If any of the securities are offered for the account of an existing securityholder this fact must also be disclosed. *See* proposed Item 1.1.f.

[25] *See* proposed Item 1.1.d.

[26] *See* proposed Item 1.1.h. In addition, proposed rule 481(g) would require a similar legend to be placed on the cover of the SAI when it is used before the effective date of the registration statement. *See* discussion *infra*, Section VI of this release.

The cover page also would contain the table currently required by Form N-2 which sets forth the underwriting compensation and the amount of proceeds to the fund.[27] However, in order to use terminology that is more familiar to investors in investment companies, the Commission is proposing to change the caption on the table that currently refers to underwriting discounts to "Sales Load".[28] The Commission believes that use of the term "sales load" will improve investors' understanding of why the per share net asset value of a closed-end fund which charges a sales load typically is less than the share price paid by investors in the offering.

In addition to these items of information, the Commission is proposing to require prominent disclosure on the cover of a prospectus used during an initial offering stating that the Registrant's securities have no history of public trading, and describing the tendency of closed-end funds frequently to trade in the secondary market at a price below net asset value and their offering price and the risk of loss this creates for those investors purchasing shares in the initial offering.[29] A study recently completed by the Commission's Office of Economic Analysis demonstrates that a substantial decrease in the value of shares quite often occurs shortly after the initial offering.[30] While some of the decrease is due to the sales load, there appears to be, in many instances, a further reduction in share value below net asset value that cannot be explained by the sales load. The significance of this decrease and the likelihood of its occurrence shortly after an initial offering of closed-end fund shares makes this material information that an investor would want to know before investing.

Comment is requested on whether funds should be permitted to develop appropriate disclosure describing the risks associated with closed-end fund discounts, as contemplated by the proposed item, or whether the Commission should require specific disclosure in the form of a prescribed legend describing the discount phenomenon and, if so, what the prescribed legend should be. Commenters are asked to weigh the advantages and disadvantages of a standardized legend with those of providing some flexibility to funds in this area. If funds are permitted to develop their own disclosure, they must, of course, describe the frequency of closed-end fund discounts in a non-misleading manner. Disclosure creating the impression that closed-end fund shares are as likely to trade at a premium as at a discount would not be adequate. Comment also is requested on whether disclosure of the type proposed would sufficiently inform investors of the risks associated with closed-end fund discounts or whether additional, or different requirements should be prescribed and, if so, what those requirements should be. For example, to further investor understanding of the discount from the offering price attributable to underwriting commissions, should consideration also be given to requiring that confirmations for sales of securities of closed-end funds in the initial offering disclose these amounts as sales loads?

The Commission recognizes that prospectus disclosure may not be useful to persons who make a decision to purchase prior to receiving a prospectus. Accordingly, the Commission requests comment with respect to current industry practice by brokers in disclosing the discount risk to customers. In addition, how should brokers consider the discount risk in making determinations whether to solicit or otherwise recommend closed-end funds? *See Hanly* v. *SEC*, 415 F.2d 589, 597 (2d Cir. 1969) (broker-dealer "cannot recommend a security unless there is an adequate and reasonable basis for such recommendation"). What effect, if any, would prominent prospectus disclosure have on brokers sales practices with respect to closed-end funds? What is the responsibility of brokers who sell closed-end funds to disclose the discount risk to their customers? Finally, comment is requested on whether the discount disclosure requirements for closed-end bond funds should be different from those for equity funds.[31]

The Commission also is proposing that, where applicable, the cover of the prospectus contain a cross-reference to the sections of the prospectus that describe any factors that would make the offering speculative or one of high risk.[32]

Item 2—Inside Front and Outside Back Cover Pages

Proposed Item 2 would require disclosure about certain significant matters on the inside front or outside back cover pages of the prospectus. This item, which is similar to Item 502 of Regulation S-K (17 CFR 229.502), would incorporate the requirements of paragraphs (d) through (f) of rule 481 under the 1933 Act (17 CFR 230.481(d)-(f)), which require a statement or legend, where applicable, with respect to over-allotments or stabilizing transactions, offerings to existing shareholders pursuant to warrants or rights, and prospectus delivery requirements of dealers (in addition to their obligation when acting as underwriters and with respect to their unsold allotments or subscriptions). Proposed Item 2 would also require funds whose securities are listed on a national securities exchange or on the over-the-counter market to disclose this fact and identify the symbol under which their securities are listed.[33]

Item 3—Synopsis

The Commission proposes to amend Item 3 of Form N-2 (currently Item 2) to require a tabular presentation of expenses ("fee table") to be set out as part of the synopsis at the beginning of the prospectus.[34] The fee table would

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[27] *See* proposed Item 1.1.g. A new instruction is proposed to be added to this item to notify funds that pay underwriting expenses by borrowing amounts instead of selling at a discount *not* to reflect those amounts in the table but to provide a cross-reference to the text of the prospectus discussing the borrowed amounts. These amounts would also be disclosed in the fee table. *See* discussion *infra* at section III.B. of the release. Instructions would also be added similar to Instructions 3 and 4 to Item 501(c)(10) of Regulation S-K (17 CFR 229.501(c)(10)) concerning offerings made on a best efforts basis and over-allotment options.

[28] *See* Instruction 2 to proposed Item 1.1.g. The underwriting discount constitutes "sales load" under section 2(a)(35) of the 1940 Act (15 U.S.C. 80a-2(a)(35)). Any compensation to underwriters or dealers that does not constitute sales load will be set forth in a footnote to the table. Any additional offering expenses would be set forth in the footnote to the table called for by Instruction 6 to proposed Item 1.1.g.

[29] *See* proposed Item 1.1.i.

[30] "The Post-Offering Price Performance of Closed-End Funds," July 21, 1989.

[31] The study found that bond funds trade at a negligible discount after 120 trading days. *Id.* However, one expert has found that bond funds have, over the past ten years, traded at a discount of 3.96%. *See* Herzfeld, The People's Choice; Money Still Pouring In to Closed-End Funds, Barron's, May 16, 1988, at 55. The Commission is proposing to require the disclosure on the cover of all closed-end fund prospectuses, including bond funds, since there is an immediate decrease in the value of an investor's investment.

[32] *See* proposed Item 1.1.j. Item 501(c)(4) of Regulation S-K (17 CFR 229.501(c)(4)) requires a similar cross-reference.

[33] Item 2(a) of Form N-14 and Item 502(a)(3) of Regulation S-K (17 CFR 229.502(a)(3)) require similar disclosure.

[34] Open-end funds filing on Form N-1A are required to include a fee table as a result of amendments to Form N-1A adopted in Investment Company Act Rel. No. 16244 (Feb. 1, 1988) (53 FR 3192 (Feb. 4, 1988)). Amendments to Form N-3 and Form N-4 require a fee table in the registration statements used for variable annuity separate accounts. Investment Company Act Rel. No. 16766 (Jan. 23, 1989) (54 FR 4772 (Jan. 31, 1989)).

reflect both transactional expenses and expenses paid directly by shareholders, such as sales loads; expenses deducted from fund assets, such as management fees; and payments to preferred shareholders.[35] The fee table also would provide an example of the cumulative amounts of the fees charged over various investment periods.

The proposed fee table ("N-2 fee table") is similar in many respects to the table required by Form N-1A for mutual funds ("N-1A fee table") [36] except that it has been modified to reflect certain types of closed-end fund expenses and to provide a method of calculating these expenses.[37]

A new section of the N-2 fee table would show payments to preferred shareholders. While these distributions usually are not considered an "expense" of a fund, these payments reduce earnings available for distribution to common shareholders and as such represent a "cost" to those shareholders.[38]

The proposed N-2 fee table would not be required to be included in prospectuses that offer only debt securities, because the level of a fund's expenses shown on the N-2 fee table is much less important to an investor not having an after-expense interest in the returns of a closed-end fund. These expenses should not affect the anticipated return on a fund's debt securities, since the fund's obligations to meet the interest and repayment requirements of these securities is not tied to the fund's yield or total return. In addition, the asset coverage requirements of the 1940 Act mitigate the effects of a fund's expenses on the interest and repayment requirements of debt securities, since they provide additional assurance that these expenses will be absorbed by the holders of common and preferred stock.[39] The Commission requests comment on whether the information that would be included in the N-2 fee table would be material to purchasers of debt securities.

Item 4—Condensed Financial Information

The Commission is proposing extensive revisions to the condensed financial information ("per share table") contained in the prospectus. The revisions are intended to shorten and simplify the per share table while providing more useful and understandable information to investors. Some items would be deleted, others added, and the captions of some rephrased to make them easier to understand.

The per share table summarizes the financial statements.[40] It currently consists of thirteen items of information set out in columnar format for each of the last ten fiscal years of the fund. The first nine items set out the yearly income and capital changes of the fund on a per share basis. The last four items disclose certain fund ratios. Under the proposed revisions, the per share table would be reduced to ten items. The current and proposed tables are set out below:

Current Table	Proposed Table
Per share income and capital changes (for a share outstanding throughout the year)	
1. Investment income; 2. Expenses; 3. Net investment income; 4. Dividends from net investment income; 5. Net realized and unrealized gains (losses) on securities; 6. Distributions from net realized gains on securities; 7. Net increase (decrease) in net asset value; 8. Net asset value at beginning of period; 9. Net asset value at end of period.	1. Net investment income 2. Net gains or losses on securities (both realized and unrealized) 3. Dividends (from net investment income) 4. Distributions (from capital gains) 5. Net asset value (at end of period)
Ratios	
10. Expenses to average net assets 11. Net investment income to average net assets 12. Portfolio turnover rate 13. Number of shares outstanding at end of period	6. Expense ratio (expense to assets average net assets) 7. Net investment income to average net assets 8. Portfolio turnover rate 9. Total return 10. Net assets at end of period (000s)

[35] Payments to preferred shareholders would not be required in a prospectus that offers only preferred shares. *See* Instruction 11 to proposed Item 3.

[36] *See* Item 2(a)(i) of Form N-1A.

[37] Unlike the N-1A fee table, the proposed N-2 fee table does not instruct the fund to look to the expenses during the last fiscal year to determine the annual expenses, but rather instructs the fund to state the basis on which the expenses are deducted or, if none, to estimate the expenses that will be deducted. This is because most closed-end funds do not have any operating history prior to the use of their current prospectus. In this respect all closed-end funds would be treated like "new" mutual funds (*see* Instructions 11(a) and 13(b) to Item 2(a)(i) of Form N-1A) except that the "Example," which sets out cumulative expenses over one, three, five, and ten year periods, would be required by the N-2 fee table to show expenses for each of the periods. Unlike "new" mutual funds, which are only required to show expenses for one and three year periods (*see* Instruction 14(e) to Item 2(a)(i) of Form N-1A), "new" closed-end funds generally have a fixed capitalization and do not increase their assets under management by continuously offering their securities. Accordingly, closed-end funds have relatively stable expenses and extrapolating those expenses into the future would produce meaningful information. The Commission is requesting comment on how the table should be further adapted to accommodate BDCs. *See* discussion *infra* at section III.F of this release.

[38] Similarly, interest payments on long-term debt, which may be part of the capitalization of a closed-end fund, would be included among the annual shareholder expenses. *See* Instruction 8 to proposed Item 3.1 of Form N-2.

[39] Section 18(a)(1) of the 1940 Act (15 U.S.C. 80a-18(a)(1)) requires a closed-end fund that offers debt securities to maintain a 300% net asset coverage immediately following the offering and on an ongoing basis as a condition to declaring dividends and distributions.

[40] As proposed, the financial statements would be located in the SAI. Most closed-end fund prospectuses, since they are used only during the initial offering, do not contain financial statements or a per share table. As is the case with current Form N-2, the table would appear only in a prospectus used in a subsequent offering or, if the fund issues securities in connection with a business combination, as part of a registration statement on Form N-14.

The first two items of the table, "investment income" and "expenses," would be deleted so that the initial caption would be "net investment income." The deleted items, which served mainly to disclose fund expenses, would be reflected in the summarized expense information provided in the N-2 fee table, which would be required to be located near the per share table.[41] Although the fee table would include only current expense information, historical expense information, while not required in the prospectus, would be available for recent periods in the financial statements included in the SAI.

Two items of information that set out net asset values at the beginning and end of each period and the net change in net asset value during each period would be condensed so that only the net asset value of the fund at the end of each period (and, if the fund has been in operation for less than one year, its net asset value immediately after its initial public offering) would be set forth.[42]

A line would be added to set forth the total return of the fund for each period. Currently, investors are only able to estimate overall performance of a fund by analyzing the change in net asset value and distributions during a period. Inclusion of total return information in the prospectus [43] should provide more concise, precise, and useful information regarding historical performance of a closed-end fund.[44]

The Commission proposes to replace the item requiring disclosure of the "number of shares outstanding during the period" with disclosure of the net assets of the fund at the end of the period. The number of shares outstanding is in-and-of-itself not significant financial information because the number of shares is a function of both the size of the fund and the price of a share, the latter of which is largely determined arbitrarily (*e.g.*, $10.00) at the time of the initial offering.[45] However, the size of the fund (which currently can be determined by multiplying the number of shares by the fund's per share net asset value) may be an important consideration for many investors in selecting a fund. For this reason, a line would be added to the Form N-2 per share table to set out the closed-end fund's total net assets at the end of each period.

Items 5 and 6—Plan of Distribution and Selling Shareholders

Revised Item 5 would require the disclosure of substantially the same information called for by Item 4 of current Form N-2. In addition, the item would specifically require a description of any arrangements under which an underwriter will perform administrative or custodial services for the Registrant;[46] a statement of the underwriter's intention to proceed with the offering if a material adverse change occurs prior to the time investors are required to make an investment decision;[47] and information with respect to the intention of underwriters to act as market makers for the fund's securities if they are not listed on a national securities exchange.[48] These requirements are intended to elicit information concerning the continuing relationship between the underwriter and the fund, the completion of the underwriting of the fund's securities, and the likelihood of a secondary market in the fund's securities developing after the offering is completed. Disclosure concerning escrow arrangements for investor's funds, if applicable, and the date on which payment for securities must be made by investors also would be required.[49] In addition, the sales load terminology has been incorporated into this item, consistent with the approach taken on the cover page. Finally, the information with respect to selling shareholders required by Item 507 of Regulation S-K (17 CFR 229.507), some of which is currently called for by Item 4(e) of Form N-2, would be required to be set forth in response to Item 6.

Item 7—Use of Proceeds

Revised Item 7 would require disclosure of the fund's principal use of proceeds from the offering. This proposed item is similar to Item 5 of Form N-2 but would require an additional item of information and include two new instructions. Instruction 2 would require funds using

[41] The information in Items 1 through 4 of proposed Form N-2 would be required to be set forth in numerical order in the prospectus, not preceded or separated by any other item. *See* General Instructions to Parts A and B of proposed Form N-2. The N-2 fee table, Item 3, would therefore precede the per share table, Item 4.

[42] Since the net asset value at the end of one period will be the same as the net asset value at the beginning of the next period, the current format for this information is repetitive. The proposed format will still permit investors to track fluctuations in net asset value from one year to the next.

[43] The Commission recently adopted amendments to rule 482 (17 CFR 230.482), the "omitting prospectus rule" which, among other things, require that an advertisement of a mutual fund that contains performance information disclose the fund's total return for the previous one, five, and ten year periods. *See* rule 482(e) under the 1933 Act (17 CFR 230.482(e)) and Investment Company Act Rel. No. 16245 (Feb. 2, 1988) (53 FR 3866 (Feb. 10, 1988)). Nine commenters on the proposal of these amendments urged that total return be provided in the mutual fund prospectus (in lieu of advertisements). See Summary of Comments on Mutual Fund Advertising Proposals (March 31, 1987) in File No. S7-23-86. The Commission expects to consider proposing for comment similar amendments to the mutual fund per share table.

[44] Proposed Instruction 14 to the per share table specifies that, unlike the total return figures used in mutual fund advertisements, the per share table total return figures would be based on fiscal years and would not reflect sales loads. This is because the per share table information (as well as the financial statements) report only direct fund expenses, and because the year-by-year format makes it impractical to deduct a sales load. The instruction would require the fund to include a note to the per share table explaining the fact that these charges are not reflected in total return. Finally, the instruction specifies that total return is to be calculated assuming that shares were purchased on the first day of the fiscal year and sold on the last day at the then-current market prices, and that all dividends and distributions were reinvested at prices obtained by the fund's dividend reinvestment plan. If the fund does not have such a plan, the instruction specifies that reinvestments shall be assumed to be made at the per share net asset value on the date of distribution, unless the market value of the shares is less than the per share net asset value, in which case, the fund is directed to assume that dividends and distributions were reinvested at market value. This method focuses on the investment experience of fund shareholders. Comment is requested on an alternate method that assumes that dividends and distributions are reinvested at the net asset value calculated on the date of distribution. Under this method a shareholder's total return generally will not match the total return set out in the per share table since share price will diverge from net asset value.

[45] The number of shares outstanding is important information with respect to voting control of the fund. Proposed Item 10.6 of Form N-2 would require a table disclosing the number of shares currently outstanding in the text of the prospectus.

[46] *See* proposed Item 5.1.b. A more detailed description of these services would be required in the SAI in response to paragraphs 20.3 and 20.4 of proposed Item 20.

[47] *See* proposed Item 5.1.d.

[48] *See* proposed Item 5.9.

[49] *See* proposed Items 5.6 and 5.7.

a material amount of proceeds from the offering to discharge indebtedness to state the interest rate and maturity of the indebtedness being retired.[50] Instruction 3 would require funds intending to borrow money in connection with the offering to pay underwriting commissions or discounts to identify the lender and disclose the amount of the first installment, the rate of interest, the date on which payments will begin, the dates and amounts of subsequent installments, and the fact that interest paid will not be available for investment purposes and will increase the expenses of the fund. Finally, Item 7.2 would require disclosure of the length of time until the fund expects to invest net proceeds fully, the reasons for any anticipated lengthy delay in investing net proceeds, and the consequences of any delay.[51]

Item 8—General Description of the Registrant

(1) *Changes in Investment Policies.* Proposed Item 8.2, which requires the fund to describe its investment objectives and policies, is substantially the same as Item 7 of Form N-2 and Item 4(a)(ii) of Form N-IA. Consistent with the current form, proposed Item 8.2 would not require detailed disclosure of any policy that has not been used by the fund during the prior year and which the fund does not contemplate using in the future, or which limits a particular investment practice so that no more than 5 percent of the fund's net assets are at risk from the use of such practice.[52] This item would be revised to require disclosure of whether the fund will provide any notice to its securityholders of a change of such an investment policy.[53] Often, a fund may change its policies from those set forth in the prospectus in a manner that, for example, may substantially increase the level of risk involved in an investment in the fund. Unless the change relates to certain policies specified by the 1940 Act as requiring a shareholder vote,[54] or policies which the fund designates in its prospectus as only being changeable by shareholder vote,[55] funds would not be required to make securityholders aware of these policy changes.[56] The proposed disclosure would alert investors to the risk that policy changes may be made without their knowledge.

(2) *Market Data.* Item 6(d) of Form N-2 currently requires that the prospectus set forth in tabular form the fund's high/low share prices, net asset value, and the volume of trading for the prior three years. The Commission is proposing to modify this requirement in order to require disclosure that provides a more precise correlation between share price and market discount or premium. Proposed Item 8.5 would require the prospectus to set forth historical market price information for the fund's common stock for the preceding two full fiscal years, plus any subsequent interim fiscal period.[57] Item 8.5 would also require the premium or discount of the market prices to net asset value to be set forth. This information would include quarterly high/low price information and the corresponding premium or discount of the market prices to net asset value. Item 8.6 would require the prospectus to disclose whether the fund's common stock has historically traded at a discount or premium to net asset value and to set forth in tabular form the range of the discount or premium of market value to net asset value on a quarterly basis for the preceding two years.[58] The purpose of these two sub-items would be to provide investors with the historical market price information which generally is considered significant in evaluating closed-end funds. The additional data that would be required by Item 8.6 concerning the range of discounts and premiums may be necessary because the premium or discount corresponding to the high/low market prices will not necessarily reflect those periods when the discount or premium to market value was at its highest or lowest. The Commission requests comment as to whether its proposed approach for disclosing market price information and discount/premium information would be helpful to investors, whether the time periods suggested are appropriate, whether high/low net asset value information should continue to be included during the specified periods, and whether the Commission should consider making the information called for by proposed Items 8.5 and 8.6 available to shareholders on an annual basis in the proxy statement or annual report to shareholders of closed-end funds.

Item 9—Management

Revised Item 9 of Form N-2 would require disclosure of how the fund is managed. This item is similar to Item 5 of Form N-IA and would consist of many of the disclosure requirements currently contained in Items 13 through 15 of Form N-2, but would vary in two significant respects.[59]

(1) *Portfolio Managers.* Item 9.1.c would require disclosure about all persons who significantly contribute to the fund's investment advice. Item 15 of Form N-2 currently requires disclosure of the management responsibilities of the board of directors and the investment adviser of a closed-end fund, but does not require the name of any individual employed by the adviser of the fund, such as a portfolio manager, whose participation in providing investment advice may be important to fund investors. Item 9.1.c would require disclosure of each such person's name, title, business experience, and the period in the position with the fund. The disclosure of this information is intended to make investors aware of the individuals who may not be named as the investment adviser to the fund, but who nonetheless may have a significant impact on the fund's investment success. This disclosure will permit investors to assess the background and experience of such person and evaluate the extent of this person's responsibility for the previous investment success (or lack thereof) of the fund before making an investment decision.[60]

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[50] Instruction 2 to Item 5 of Form N-2 currently does not provide specific guidance on this disclosure obligation. The language of this proposed instruction is derived from Instruction 4 to Item 504 of Regulation S-K (17 CFR 229.504).

[51] Instruction 3 to proposed Item 7.1 and proposed Item 7.2 would codify current disclosure practices.

[52] The proposed item would include a new instruction on how to calculate the percentage of assets which are at risk in connection with a particular practice. As noted in the instruction, the determination should be made by reference to the potential liability or loss which may be incurred in connection with a particular practice (*e.g.*, the potential loss if a fund sells a "call" option) and not the amount the fund initially expends in connection with a particular practice.

[53] *See* proposed Item 8.4.b. The item would require information regarding notice to senior securityholders as well as common shareholders.

[54] *See* section 13(a) of the 1940 Act (15 U.S.C. 80a-13(a)).

[55] *See* section 8(b)(2) of the 1940 Act (15 U.S.C. 80a-8(b)(2)).

[56] Shareholders of open-end funds could become aware of such changes (although not always prospectively) when they receive updated prospectuses. *See* Part V of this release.

[57] Similar information is called for by Item 201(a) of Regulation S-K (17 CFR 229.201(a)).

[58] Proposed Item 8.6 would also require disclosure of any methods undertaken (or to be undertaken) to reduce any discount.

[59] Following the approach taken in Form N-1A, disclosure about the fund's management would be abbreviated in the prospectus. Additional information would be available in the SAI. *See* proposed Item 18 of Form N-2.

[60] The Commission also is proposing to require total return data to be included in the condensed financial information in the prospectus. *See* discussion, *supra*. The disclosure of changes in the portfolio manager would allow investors to evaluate the historical performance data in light of this information. The Commission expects to consider proposing for comment similar amendments to Form N-1A.

The Commission has twice proposed a similar disclosure requirement.[61] In 1982, when Form N-1A was proposed for comment, the Commission proposed that each fund identify any individual or committee that managed twenty-five percent or more of the fund's portfolio.[62] In 1984, as part of proposed Form N-SAR, the Commission proposed requiring disclosure of the name of the fund's "portfolio manager," the person primarily responsible for the day-to-day task of managing the investment portfolio.[63] These proposals were not adopted primarily because of concern expressed by commenters that, in many instances, the proposals could tend to arbitrarily label individuals as having material responsibilities for providing investment advice to the fund. This, commenters asserted, would not necessarily reflect the dynamics of the investment advisory function.

To address these concerns, the proposed amendment has been drafted to limit required disclosure to only those persons who, under the organizational arrangements of the investment adviser (or of the fund, if internally managed), make a significant contribution to the investment advice received by the fund.[64] The proposed amendment is based upon Item 401(c) of Regulation S-K (17 CFR 229.401(c)), which requires similar disclosure regarding employees who make, or are expected to make, significant contributions to the registrant's business, although they are not officers, directors, or control persons. Like those registrants subject to the Item 401(c) disclosure requirement, the success of a fund may be, "to a large extent, contingent upon retaining such persons." [65] The Commission requests comment on whether the proposed disclosure requirement should be modeled after Item 401(c) or whether a different test with a more objective standard should be formulated for determining when portfolio manager disclosure is required, and if so, what this test should be. The Commission also requests comment as to whether additional disclosure should be required in the SAI discussing specifically the nature of the adviser's (or fund's) portfolio decision-making process, and the role in that process of any person listed in the prospectus in response to this item.

(2) *Non-resident Officers, Directors, Experts, and Advisers.* The Commission is proposing a new Item 9.2 which would require the fund to disclose limitations on the ability of investors to enforce the civil liability provisions of the federal securities laws against non-resident officers, directors, advisers, and experts named in the registration statement ("experts") who have not appointed an agent for service of process in the United States or who maintain a substantial portion of their assets outside the United States. In recent years, many closed-end funds have registered with the Commission with investment objectives that involve substantial investment in foreign securities. These funds include "global funds" (funds investing in the securities of several countries, including the United States), "international funds" (funds investing in the securities of several countries, excluding the United States), and "country funds" (funds investing in a single country or a geographically related group of countries). Often these funds have non-resident directors, officers, advisers, or experts, who do not consent to service of process or maintain a substantial amount of assets in the United States. These non-resident persons may become liable to shareholders under the federal securities laws.

Non-resident investment advisers to registered closed-end funds must, under rule 0-2 (17 CFR 275.0-2) of the Investment Advisers Act of 1940 (15 U.S.C. 80b *et seq.*) ("Advisers Act"), appoint an agent for service of process in the United States. Non-resident officers, directors, and experts of funds are under no such obligation. If such non-resident persons have not consented to service of process within the United States, it may be impossible for an investor to obtain personal jurisdiction over them in a case alleging liability under the federal securities law. Even if personal jurisdiction is obtained, if these persons do not maintain assets in the United States, any judgment may be unenforceable because some foreign courts may not honor such judgments or because the cost of enforcing a judgment in a foreign court would be prohibitively expensive.

Proposed Item 9.2 is based on Item 502(f) of Regulation S-K (17 CFR 229.502(f)) and would require identification of each of these non-resident persons and a discussion of how enforcement of securities law judgments by investors may be affected by the fact that these persons are residents of foreign countries and maintain a substantial portion of their assets outside of the United States. If the fund relies on the opinion of counsel in making this disclosure, a consent to the use of the counsel's name and opinion would be required to be included as an exhibit to the registration statement.

In addition to requiring this disclosure, the Commission seeks comment on whether non-resident officers, directors, and experts of closed-end funds should be required to consent to service of process in the United States. Imposing this requirement would further the protection afforded to investors by the federal securities laws. Currently, rule 7d-1(b)(7) under the 1940 Act (17 CFR 270.7d-1(b)(7)) requires non-resident officers and directors of Canadian funds seeking to register with the Commission pursuant to an order under Section 7(d) of the 1940 Act (15 U.S.C. 80a-7(d)) to execute a consent to service of process within the United States, and, as noted above, rule 0-2 under the Advisers Act also requires non-resident investment advisers to execute a consent.

Item 10—Capital Stock, Long-Term Debt, and Other Securities

Item 10 of amended Form N-2 would require disclosure about the capital stock, long-term debt, and other securities issued by the fund. Although the disclosure required by revised Item 10 would be essentially the same as current prospectus disclosure requirements,[66] Item 10 would address four additional matters.[67]

(1) *Guaranteed Distribution Programs.* Instruction 2 to Item 10.1.a would clarify the disclosure obligation of funds with

[61] In addition, in 1972 the Commission published for comment a proposed staff Guideline to Forms S-4 and S-5 that would have required identification of the three individuals who had the greatest responsibility for making portfolio investment determinations. *See* Investment Company Act Rel. No. 7219 (June 9, 1972) (37 FR 12804 (June 29, 1972)). This guideline was never adopted.

[62] *See* Investment Company Rel. No. 12927, *supra* note 10. The Commission explained that this disclosure requirement was proposed because institutional investors were interested in obtaining this information. Commenters argued, however, that institutional investors already had sufficient access to such information. As discussed above, the disclosure requirement proposed today is not based upon only the need for institutional investors to have access to this information.

[63] *See* Investment Company Act Rel. No. 14080 (Aug. 6, 1984) (49 FR 32370 (Aug. 14, 1984)) (proposing Form N-SAR, the semi-annual report for registered investment companies filed with the Commission pursuant to rule 30b1-1 under the 1940 Act (17 CFR 270.30b1-1)).

[64] Several closed-end funds have asserted the responsibility of a single individual for portfolio management when seeking to include private account performance data in the prospectuses of closed-end funds. *See, e.g.*, Growth Stock Outlook Trust, Inc. (pub. avail. Apr. 15, 1986).

[65] Securities Act Rel No. 5949 (July 28, 1978) (43 FR 34402 (Aug. 3, 1978)) (incorporating Form S-1 (7 CFR 239.11) disclosure items regarding management of publicly held companies into Regulation S-K).

[66] *See* Items 16 through 18 of Form N-2.

[67] A fifth matter concerning BDCs is discussed *infra* at section III.F. of this release.

guaranteed distribution programs. Under these programs, a closed-end fund guarantees investors a minimum cash distribution or dividend payable at predetermined times. If fund earnings are insufficient to generate this minimum guaranteed amount, the fund may be required to liquidate a portion of its portfolio to fund these distributions. The instruction would require disclosure about these programs, including a statement that the program may result in the reduction of the principal of a shareholder's investment, and a description of any tax consequences of the payments.

(2) *Dividend Reinvestment Plans.* Item 10.1.e would require a fund that offers a dividend reinvestment plan to shareholders to disclose the material aspects of the plan. These aspects would include how shareholders may apply to participate in the plan, how they may acquire additional information about the plan, how the plan operates, the income tax consequences of participation in the plan, how a shareholder may terminate participation in the plan and shareholder rights upon termination, whether transferring brokerage accounts will affect the ability of a shareholder to participate in the plan, expenses associated with participation in the plan, and, if a cash purchase plan option is available, any minimum or maximum investment required.

(3) *Change of Control Provisions.* Item 10.1.f would require disclosure about any provision in the fund's charter or by-laws that would delay or prevent a change in control of the fund ("change of control provision"). Change of control provisions recently have been adopted by a number of closed-end funds. These provisions may affect the price of fund shares and the ability of fund shareholders to sell shares at a premium over prevailing market price.[68] The language of the proposed item is based on Item 202(a)(5) of Regulation S-K (17 CFR 229.202(a)(5)).[69]

(4) *Security Ratings.* Finally, Item 10.7 would require a fund which issues senior securities rated by a nationally recognized securities rating organization ("NRSRO") [70] to discuss, if the rating is disclosed in the prospectus, the significance of the rating and the basis upon which the rating is issued, any conditions or guidelines imposed by the NRSRO for maintaining the rating, and whether or not the fund intends, or has any contractual obligation, to comply with these conditions or guidelines. Item 10.7 would also require disclosure of the material terms of any agreement between the fund and the NRSRO under which the NRSRO provides the rating. Instruction 3 to proposed Item 10.7 would also refer funds to the statement of the Commission's views on important matters to be considered in disclosing security ratings set forth in Regulation S-K.[71]

Ratings are generally material to investors who use these ratings to assess the creditworthiness of the issuer of the senior securities, or who are required by law or otherwise to invest in securities which are assigned a specified rating. A rating, the conditions for maintaining it, and the consequences of failing to do so (such as the occurrence of an event of default with respect to the senior securities), may also be material to investors in the fund's common shares, even if the shares themselves are not rated, since these factors may have a significant effect on the fund's investment policies and performance. The disclosures called for by proposed Item 10.7 are designed to elicit material information with respect to ratings and reflects current disclosure practices.

Item 12—Legal Proceedings

Item 12 of Form N-2 (currently Item 10) requires disclosure of material pending legal proceedings. This item would be amended to require disclosure about the factual basis alleged to underlie material litigation brought against the fund, or any subsidiary of or investment adviser or underwriter to the fund, and a description of the relief sought.[72]

Item 13—Table of Contents of the Statement of Additional Information

New Item 13 of Form N-2 would require the prospectus to set forth the table of contents for the SAI. This information would enable investors to review the type of additional information available to them and to determine whether they want to request it.[73]

C. Part B: The Statement of Additional Information

Most of the items in the SAI are similar to those in Form N-1A or, in the case of Item 23 (Financial Statements), substantially the same as the current form, and are therefore not discussed in this release.[74] New disclosure requirements are addressed below.

Item 14—Cover Page

The cover page of an SAI used prior to the effective date of the registration statement would be required to contain the legend set forth in proposed rule 481(g).[75]

Item 18—Management

Revised Item 18 would add a new Item 18.3 that would require funds with any non-resident directors or officers that have authorized an agent to receive service of process to disclose the name and address of the agent.

Item 19—Control Persons and Principal Holders of Securities

Item 11 of Form N-2 currently requires a fund to disclose information about persons who control the closed-end fund as of a date not more than ninety days prior to the filing of the registration statement or amendment. To obtain more current information and conform with Item 15 of Form N-1A, this time period would be reduced under proposed Item 19 to thirty days.

D. Part C: Other Information

Part C of revised Form N-2 would contain information required to be in the registration statement but not in the prospectus or the SAI. Except for certain new exhibits and undertakings, Part C would require information that is essentially the same as that currently required by Part II of Form N-2.

The exhibit requirements, Item 24 of the revised form, would be amended to include, where applicable, a copy of the

[68] Change in control provisions would include super-majority voting requirements on matters related to mergers or consolidations, classification of directors with staggered terms of office, and provisions that increase, above state and federal statutory requirements, the votes required for the removal of directors. See Securities Exchange Act Rel. No. 15230 (Oct. 13, 1978) (43 FR 49863 (Oct. 25, 1978)) (discussing disclosure requirements for proxy and information statements containing change of control provisions).

[69] The instructions to this item are also being amended to clarify that disclosure is not required in response to revised Item 10.5 with respect to a control person who is an adviser or underwriter to the fund and would not control the fund immediately after the public offering.

[70] The term "nationally recognized securities rating organization" is defined in rule 15c3-1(c)(2)(vi)(F) (17 CFR 240.15c3-1(c)(2)(vi)(F)) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) ("1934 Act"). The Commission permits registrants to disclose, on a voluntary basis, ratings assigned by rating organizations to classes of debt securities, convertible debt securities and preferred stock in registration statements. *See* Regulation S-K, General (17 CFR 229.10).

[71] *Id.*

[72] *See* Item 103 of Regulation S-K (17 CFR 229.103).

[73] Item 15 of Form N-3 and Item 14 of Form N-4 require this information in the prospectuses of separate accounts.

[74] *See* the cross-reference table in Appendix A to this release.

[75] *See infra*, Section VI of this release.

fund's dividend reinvestment plan and, if any non-resident director, officer, expert, or adviser to the fund has executed a consent to service of process, a copy of that consent.[76] An instruction would be added to clarify that an exhibit which has been filed as part of the registration statement is not required to be refiled as part of a post-effective amendment unless there has been a change to the exhibit, except with respect to exhibits that consist of opinions or consents of experts named in the registration statement.[77] Finally, Instruction 1 would be revised to specify what should be included in a cross-reference to a previously filed exhibit in order to facilitate locating it in the prior filing.

Four new undertakings would be required by the amendments to be included as exhibits. The first new undertaking would codify a closed-end fund's obligation under sections 15(a) and 32(a) of the 1940 Act (15 U.S.C. 80a-15(a) and 31(a)) to submit its investment advisory agreement(s) and the selection of its independent accountants to shareholders for approval at the first regular or special meeting of shareholders.[78] This undertaking would end some confusion regarding a fund's obligation under those sections and assure that votes in these matters are taken by "public" shareholders.[79]

The second would require funds to undertake to deliver the SAI within one business day of receipt of receiving requests from prospective investors and shareholders.[80]

The third proposed new undertaking would be required to be made when, in reliance on rule 415 under 1933 Act, a closed-end fund proposes to offer securities on a delayed or continuous basis ("shelf offering").[81] The undertaking would require such a fund to file a post-effective amendment containing, among other things, certain changes in the information previously disclosed, to assume 1933 Act liability for each such post-effective amendment filed, and to remove from registration any securities that remain unsold at the termination of the offering. Such an undertaking is a condition of using rule 415 to make a shelf offering.[82]

Finally, the Commission proposes to add an undertaking to be made when, under rule 430A, a fund omits from its registration statement certain price-related information about the securities being offered to the public.[83] The undertaking would satisfy rule 430A's requirement that the fund undertake to assume 1933 Act liability with respect to the omitted information.[84]

E. Summary Prospectuses

The Commission is proposing to delete the instructions in Form N-2 for use of a summary prospectus. Summary prospectuses have rarely been used by closed-end funds; their need has been superseded by the availability of rule 482 under the 1933 Act which permits information that could be contained in a summary prospectus to be included in an "omitting prospectus." [85]

F. Business Development Companies [86]

A closed-end fund that has elected to be regulated as a business development company ("BDC") is not required to register under the 1940 Act, but is required to register its securities under the 1933 Act on Form N-2.[87] While BDCs are similar to other closed-end funds, there are several significant differences which give rise to different disclosure obligations. In contrast to most closed-end funds, which are passive investors, BDCs are organized to provide both investment capital and operational or managerial assistance to small and developing companies. Regulation of BDCs under the 1940 Act reflects these differences.[88] Sections 57, 61(a), and 63 of the 1940 Act, respectively, provide BDCs with greater flexibility with respect to dealings with portfolio companies, issuing securities, and in compensating management.[89] Prospectus disclosure of these aspects of a BDC's operations were addressed by the Division of Investment Management in a 1981 staff interpretive release.[90] The Commission is now proposing to incorporate these staff interpretations into Form N-2.

The proposed amendments would add a new instruction to revised Item 4 exempting BDCs from the requirement to include a per share table in the prospectus.[91] However, BDCs would be required to include financial disclosure comparable to that provided by non-investment company issuers, *i.e.*, management's discussion and analysis of financial condition and results of operations, supplementary financial information, and selected financial data.[92] Comment is requested on whether BDCs should be required to include their financial statements in the prospectus rather than the Statement of Additional Information, as permitted by Item 23.

Closed-end funds would be required by revised Item 8 to disclose information about their organization and proposed operations. Proposed Item 8.7 would require additional disclosure by BDCs

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[76] *See* proposed Items 24.2.e and 24.2.m. Item 24.2.n would be clarified to make it clear that accountants' consents should be filed in response to that item.

[77] *See* proposed Instruction 2 to Item 24.2. Instruction 2 to both Item 28 of Form N-3 and Item 24 of Form N-4 is similar.

[78] Proposed Item 33.6.

[79] The Commission has interpreted shareholder approval under Sections 15(a) and 32(a) of the 1940 Act with respect to these matters to mean "public" shareholder approval. This interpretation was originally included in staff Guidelines to Forms S-4 and S-5 (the predecessors to Forms N-1 and N-2) in the form of similar required undertakings. Investment Company Act Rel. No. 7220 (June 9, 1972) (37 FR 12790 (July 29, 1972)). Forms N-1 (17 CFR 274.11) and N-2 did not incorporate these guidelines because the Commission believed they were unnecessary since these obligations were already required by the 1940 Act. Investment Company Act Rel. No. 9782 (May 31, 1977) (42 FR 29716 (June 9, 1977)).

[80] Proposed Item 33.7. *See* discussion *supra* at Section III.A of the Release. Item 37(d) of Form N-3 and Item 32(c) of Form N-4 require a similar undertaking.

[81] Proposed Item 33.4. Closed-end funds are the only type of investment company eligible to make a shelf offering under rule 415. *See* rule 415(b) (17 CFR 230.415(b)).

[82] Rule 415(a)(3) (17 CFR 230.415(a)(3)) and Item 512(a) of Regulation S-K (17 CFR 229.512(a)).

[83] Proposed Item 33.5. In addition, a new Instruction 3 to proposed Item 24 would be added to permit exhibits to be filed that omit certain price-related information when the information is provided in a prospectus filed with the Commission under rule 497(b) (17 CFR 230.497(b)) after effectiveness of the registration statement, rather than being included in an amendment to the registration statement.

[84] Rule 430A(a)(2) (17 CFR 230.430A(a)(2)) and Item 512(j) of Regulation S-K (17 CFR 229.512(j)).

[85] Under rule 482, an investment company advertisement is deemed to be a "prospectus" under section 10(b) of the 1933 Act (15 U.S.C. 77j(b)) if it contains information the substance of which is contained in the statutory prospectus and states from whom a prospectus containing more complete information may be obtained and that the investor should read the prospectus carefully before investing.

[86] A business development company is a closed-end fund that (1) is operated for the purpose of making investments in small and developing businesses, (2) makes available "significant managerial assistance" to its portfolio companies, and (3) has elected to be subject to Sections 55 through 65 of the 1940 Act (15 U.S.C. 80a-54 through 80a-64). *See* section 2(a)(48) of the 1940 Act (15 U.S.C. 80a-2(a)(48)).

[87] *See* General Instruction A to Form N-2.

[88] The Small Business Investment Incentives Act of 1980, Pub. L. No. 96-477, Sections 201-203, 94 Stat. 2275 (1980), amended the 1940 Act to provide this flexibility.

[89] 15 U.S.C. 80a-56, 80a-60(a), and 80a-62.

[90] Investment Company Act Rel. No. 11703 (Mar. 26, 1981) (46 FR 19459 (Mar. 31, 1981)).

[91] Instruction 1 to proposed Item 4.1.

[92] Proposed Item 4.2 of Form N-2 would require the fund to furnish the information called for by Items 301, 302, and 303 of Regulation S-K (17 CFR 229.301, 229.302, and 229.303). The 1981 staff interpretative release did not require BDCs to furnish the supplementary financial information required by Item 302 of Regulation S-K. However, such information is required to be furnished in a BDC's annual report on Form 10-K (17 CFR 249.310). Proposed Item 4.2 will conform the prospectus disclosure with that required by Form 10-K.

regarding their portfolio companies and any investment in a wholly-owned small business investment company subsidiary ("subsidiary"). Item 8.7.a would require disclosure of material information about the portfolio companies in which the BDC is investing, including: the name and address of the companies; the nature of the companies' businesses; the title, class, percentage of class, and value of all securities of the portfolio companies held by the BDC; the amount and general terms of loans to portfolio companies; and the relationship of the companies to the BDC. Item 8.7.b would require a BDC with a subsidiary to disclose whether the subsidiary is regulated as a BDC or as an investment company under the 1940 Act, the percentage of the parent company's assets that are invested in the subsidiary, and information about the small business investment company's operations, including material differences in investment policies between the parent company and the subsidiary. Item 8.7.c would require disclosure by a company that has had operations prior to electing to be regulated as a BDC regarding anticipated changes in operation as a result of being subject to section 55 of the 1940 Act (15 U.S.C. 80(a)-54), which prohibits a BDC from acquiring any assets that would result in it holding less than 70 percent of its assets in certain qualifying investments described in that section.[93] Item 8.7.d would require disclosure of the special risks associated with investing in a BDC, including the risks associated with investing in a portfolio of small and developing or financially troubled businesses.

Revised Item 9 of Form N-2 would require disclosure about a BDC's management. In contrast to other closed-end funds, most BDCs are internally managed and have the ability to pay special compensation to management, *i.e.*, to set up profit-sharing and executive compensation plans.[94] Proposed Instruction 2 to Item 9.1.a would require a BDC to disclose any special compensation arrangements available. In addition, BDCs provide significant managerial assistance to their portfolio companies. Proposed Instruction 2 to Item 9.1.b(2) would require a description of the type of managerial assistance that would be provided to the portfolio companies and the qualifications of the investment adviser to provide such management assistance.

BDCs often have transaction and management fee structures that differ significantly from most closed-end companies. These fees may take the form of subordinated fees (*i.e.*, fees which are only payable if certain financial criteria are met); fees based on the amount of funds invested in portfolio companies; one-time advisory fees payable at the closing of the offering; and special partnership interests which are in the nature of management compensation. BDCs will be expected to provide comprehensible and meaningful disclosure in response to proposed Item 3.1, the N-2 fee table, even if such disclosure requires the development of expense categories not provided for in proposed Form N-2, and the inclusion of items that may not, for accounting purposes, be treated as expenses. The Commission specifically requests comment on whether any BDC-specific items should be included in the N-2 fee table, or whether disclosure would be enhanced if BDCs are given additional flexibility to develop fee tables to meet their specific situations. Comment also is requested as to whether any further modifications to Form N-2 are needed to assure full disclosure by BDCs while accommodating their particular characteristics.

IV. Staff Guidelines

Form N-1A is accompanied by a series of staff guidelines designed to facilitate the registration process for mutual funds. Appendix C to this release contains nine draft staff guidelines to accompany Form N-2.[95] In addition, because many of the disclosure items in the proposed revision of Form N-2 are the same as those contained in Form N-1A, the instructions to the draft Guidelines to Form N-2 direct closed-end funds to other applicable guidelines, which are not repeated in the Guidelines to Form N-2.

The draft Guidelines set forth current staff positions on the period of time which a Registrant has to invest the proceeds from an offering (Guide 1); required disclosures with respect to share repurchase programs designed to reduce the discount to net asset value of a Registrant's share market price and other issues relating to fund tender offers (including "odd-lot" tender offers) (Guide 2)[96]; change of control provisions in a Registrant's charter (Guide 3); undertakings to convert to openend status (Guide 4); dividend reinvestment plans (Guide 5); required disclosures in connection with leveraged capital structures (Guide 6); suggested synopsis disclosure (Guide 7); continuous offerings under rule 415 (Guide 8); and investing in foreign securities (Guide 9).

Comment is requested on the issues addressed by the guidelines in order to assist the staff in developing guidelines to amended Form N-2.

V. Annual Updating

Rule 8b-16 under the 1940 Act requires investment companies, including closed-end funds, to update their registration statements with the Commission on an annual basis.[97] Mutual funds, which are in continuous registration under the 1933 Act, are also, in effect, required by sections 10(a)(3) (15 U.S.C. 77j(a)(3)) and 5(b) (15 U.S.C. 77e(b)) of the 1933 Act to update their registration statements at least annually and to deliver an updated prospectus to their shareholders before (or at the time of) confirming the sale of any additional shares.[98] In contrast, closed-end funds

[93] The Commission is proposing an instruction to Item 23, which requires the fund to provide financial statements and schedules required by Regulation S-X (17 CFR 210 *et seq.*), to require a BDC's portfolio schedule to indicate which investments are not qualifying investments for purposes of Section 55 and to include a footnote explaining the significance of non-qualification.

[94] *See* Section 57(n) and 61(a)(3)(B) under the 1940 Act (15 U.S.C. 80a-56(n), 80a-60(a)(3)(B)).

[95] Unless the guidelines incorporate rules of the Commission, they do not have the force of rules promulgated by the Commission.

[96] In Investment Company Act Rel. No. 3548 (Oct. 3, 1962) (27 FR 9937 (Oct. 11, 1962)) ("share repurchase release") the Commission discussed the provisions of the 1940 Act and rule 10b-5 (17 CFR 240.10b-5) under the 1934 Act applicable to share repurchases by closed-end investment companies. In that release, the Commission suggested that closed-end investment companies contemplating share repurchases consult with the Division of Corporate Regulation (the predecessor of the Division of Investment Management) about the nature of disclosures in connection with share repurchases. Since the date of the share repurchase release, the Commission has adopted a number of rules and regulations under the 1934 Act applicable to share repurchases with which closed-end funds must comply in connection with their share repurchase programs. The 1934 Act and these rules and regulations require certain types of disclosures and impose other legal requirements which are administered by the Office of Trading Practices of the Division of Market Regulation and the Office of Tender Offers of the Division of Corporation Finance. Funds contemplating share repurchases should be familiar with the applicable requirements of these rules and regulations. To the extent the share repurchase release may suggest that the issues involving share repurchases are solely disclosure issues administered by the Division of Investment Management, it is incorrect.

[97] Certain items in Form N-2 relating to the distribution of fund shares are not required to be included in the prospectus when it is updated only for purpose of rule 8b-16. *See* General Instruction F.3 to Form N-2.

[98] Under section 5(b)(1) (15 U.S.C. 77e(b)(1)), it is unlawful to transmit a prospectus by use of any means of interstate commerce for which a registration statement has been filed, unless it meets the requirements of section 10 (15 U.S.C. 77(j)). Section 2(10)(a) of the 1933 Act (15 U.S.C.

Continued

do not generally make a public offering of shares after the initial offering and therefore update their registration statements only to comply with rule 8b-16. In most cases, the updated prospectuses are not distributed to investors. The Commission is considering exempting closed-end funds from rule 8b-16, provided that certain critical updating information about the fund, which otherwise might not be available to shareholders, is provided in the annual report to shareholders.

Rule 8b-16 was adopted in 1978 to ensure that there is a central source of current and complete information about closed-end funds available to investors and Commission staff.[99] However, this data source appears to be used infrequently, possibly because investors are not aware of the amendments, which are filed with the Commission but not transmitted to shareholders. The Commission staff does not use the amendments because information needed for regulatory purposes is contained in semi-annual reports on Form N-SAR (17 CFR 274.101), which are filed by closed-end funds.[100]

In order to reduce their filing burden, the Commission is proposing to exempt closed-end funds from rule 8b-16. However, as a condition to the exemption, the Commission is proposing to require that certain important information be provided to shareholders (and the trading markets) in the annual report to shareholders. This information would include: information about the fund's dividend reinvestment plan, if it has one; material changes in the fund's investment policies that have not been approved by shareholders; changes in any change of control provision that have not been approved by shareholders; material changes in the principal risk factors associated with an investment in the fund; and any changes in the portfolio manager(s) and the business experience of the new portfolio manager. The scope of each disclosure requirement is keyed to an item in Form N-2. Except for information about the fund's dividend reinvestment plan, which would have to include a description of the plan as complete as the one required by proposed Item 10.1.e of Form N-2, only changes that have occurred during the year covered by the annual report would be required to be disclosed, and, therefore, most annual reports should include little additional disclosure.[101]

The disclosure required to satisfy the condition for exemption from rule 8b-16 would otherwise be required in amendments to registration statements under rule 8b-16, if the proposed revisions to Form N-2 are adopted. Therefore, the Commission believes that the proposed rule amendments would overall reduce burdens on funds. Comment is requested, however, particularly from users of closed-end fund disclosure documents, on whether the required additional annual report disclosure would be an adequate substitute for the more detailed updating amendments to registration statements currently required by rule 8b-16. Finally, comment is requested as to the adequacy of information about closed-end funds in the secondary market in general. Do investors and market professionals have access to sufficient information to make knowledgeable investment decisions concerning closed-end funds? Should the Commission consider requiring periodic reports such as those filed by operating companies on Forms 10-K and 10-Q (17 CFR 249.308a)?[102]

VI. Rules Relating to SAI Delivery Requirements

As discussed in Section I of this Release, a preliminary SAI would be required to be delivered on request to investors who receive a preliminary prospectus included in a registration statement on Form N-2. The Commission is proposing a new rule and amendments to several rules to implement this requirement and to clarify the status of a preliminary SAI under the 1933 Act. These rules generally would be applicable to all investment company registration statements that use the two part disclosure format.

Rule 430 under the 1933 Act provides for use of a preliminary prospectus during the period after the filing of a registration statement but before effectiveness. The Commission is proposing an amendment to add a new paragraph to rule 430 that would require an investment company filing a registration statement using the two part disclosure format to have filed an SAI and to make it available to persons receiving a preliminary prospectus. Rule 460 currently provides that the Commission will consider, in determining whether to accelerate the effective date of a registration statement, whether sufficient copies of the preliminary prospectus have been made available to prospective underwriters and dealers. The Commission is proposing to amend this rule to add as a consideration, in the case of a closed-end fund,[103] a similar requirement with respect to the SAI. However, the new paragraph would permit copies of the preliminary SAI, unlike the preliminary prospectus, to be made available to the managing underwriter, dealer or other source specified on the cover page of the preliminary prospectus rather than to *each* prospective underwriter or dealer.[104] Proposed rule 481(g) would set forth the legend required to appear on an SAI used prior to the effective date of the registration statement or the completion of information which may be omitted under rule 430A.[105]

The Commission also proposes to clarify the status of the preliminary SAI under section 5 of the 1933 Act (15 U.S.C. 77e). When an SAI is delivered after the effective date of a registration

77b(10)(a)) defines the term "prospectus" to include a confirmation of the sale of the security. Section 2(10)(b) of the 1933 Act (15 U.S.C. 77b(10)(b)) excludes from the definition of a "prospectus" communications (including a confirmation) accompanied or preceded by a prospectus meeting the requirements of section 10. Under section 10(a)(3) of the 1933 Act, information contained in a prospectus used more than nine months after the effective date of the registration statement must be dated within sixteen months prior to its use.

[99] Investment Company Act Rel. No. 10378 (Aug. 28, 1978) (43 FR 39548 (Sept. 5, 1978)). *See also* Investment Company Act Rel. No. 9782 (May 31, 1977) (42 FR 29716 (June 9, 1977)) (proposing rule 8b-16).

[100] *See* rule 30b1-1 (17 CFR 270.30b1-1).

[101] A complete description of a dividend reinvestment plan would probably be of interest to all investors in a fund, since their decision to participate in the plan may vary from year to year depending upon their financial needs. It may be of particular interest to those investors who purchased their shares in the secondary market and never received a prospectus.

[102] Closed-end funds are exempt from the reporting requirements of sections 13 and 15(d) of the 1934 Act (15 U.S.C. 78m and 78o(d)) by rule 30a-1 under the 1940 Act (17 CFR 270.30a-1).

[103] As noted in Part I of this release, it is the Commission's understanding that open-end funds and separate accounts generally do not use preliminary prospectuses. Thus, compliance with the preliminary prospectus distribution requirement of rule 460 generally has not been taken into account in considering acceleration requests relating to registration statements on which such investment companies register their shares. In proposing the amendments and proposed rule 134b, the Commission is not suggesting that open-end funds and separate accounts distribute preliminary prospectuses. The amendment to rule 460 is, by its terms, only applicable to registration statements filed on Form N-2. However, the proposed amendment to rule 430 would make clear that if investment companies using Forms N-1A, N-2, N-3, and N-4 choose to distribute a preliminary prospectus, a preliminary SAI must be made available.

[104] Funds may also satisfy this requirement by making sufficient copies of the preliminary SAI available to prospective underwriters and dealers.

[105] The Commission also is proposing an amendment to rule 430A which will clarify that the information which may be omitted from a form of prospectus in a registration statement which is declared effective also may be omitted from the form of SAI contained in the registration statement.

statement, it does not constitute a prospectus as long as a prospectus meeting the requirements of section 10(a) of the 1933 Act was delivered to the recipient prior to or at the same time as the SAI.[106] However, no statutory safe harbor exists with respect to the use of a preliminary SAI, since it would be used prior to the effective date of the registration statement.[107] Proposed rule 134b would provide an explicit "safe harbor" under section 5(b) of the 1933 Act for the use of an SAI prior to the effective date of the registration statement. It provides, in effect, that an SAI accompanied or preceded by a preliminary prospectus is not a "prospectus" for purposes of section 5(b) of the 1933 Act. The safe harbor is conditioned on the delivery of the preliminary prospectus with or prior to the delivery of the SAI.

VII. Miscellaneous Rule Amendments

The Commission is proposing to use in Form N-2 the same type of disclosure format adopted in connection with Form N-1A. Rules 495, 496, and 497 under the 1933 Act and rules 8b-11 and 8b-12 under the 1940 Act implement the three-part disclosure format. The Commission is now proposing amendments to these rules to accommodate Form N-2.

The Commission also is proposing for comment a clarifying amendment to rule 463 under the 1933 Act, which requires that certain issuers file reports on Form SR with respect to the use of proceeds from their initial public offerings. Registered investment companies are not required to file these reports and the amendment would make it clear that this exemption extends to BDCs.

VIII. Cost/Benefit Analysis

The revisions to Form N-2 proposed today for public comment are intended to shorten and simplify the prospectus provided to investors and to improve the quality of prospectus disclosure. The proposed revisions should benefit investors by providing them with a shorter, more readable, and more informative document. Because the proposed revisions would shorten the prospectus, the revisions should reduce the burdens of preparing and the cost of mailing the prospectus for closed -end funds and their underwriters. Those additional items of disclosure that would be required (*e.g.*, the fee table, information about the portfolio manager) call for disclosure of information readily available to the fund. In addition, elimination of the rule 8b-16 annual updating requirement should eliminate a burden currently imposed on closed-end funds without significantly diminishing the information available to investors, since, as a condition to the exemption, certain material information would be provided to shareholders in the annual reports funds are required to deliver to shareholders. The Commission would like to develop specific data concerning these issues and is seeking public comment concerning the cost savings or cost burdens to closed-end funds of all sizes affected by these proposals. In this regard, the Commission requests specific comment on the effect which the proposals might have on the costs of smaller closed-end funds.

IX. Summary of Initial Regulatory Flexibility Analysis

The Commission has prepared an Initial Regulatory Flexibility Analysis in accordance with 5 U.S.C. 603 regarding the proposed amendments. The analysis notes that the proposed amendments are intended to simplify disclosure and update the form. Other appropriate cost-benefit information reflected in the section of this release titled "Cost/Benefit Analysis" is also reflected in the Analysis. A copy of the Initial Regulatory Flexibility Analysis may be obtained by contacting Kenneth J. Berman, Mail Stop 5-2, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549.

X. Text of Proposed Rule and Form Amendments

List of Subjects in 17 CFR Parts 230, 239, 270, 274

Investment companies, Reporting and recordkeeping requirements, Securities.

The Commission is proposing to amend Chapter II, Title 17 of the Code of Federal Regulations as follows:

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. The authority citation for Part 230 continues to read as follows:

Authority: Sections 230.100 to 230.174 issued under sec. 19, 48 Stat. 85 as amended (15 U.S.C. 77s), unless otherwise noted.

Section 230.151 is also issued under section 19(a) (15 U.S.C. 77s(a)).

2. By adding § 230.134b to read as follows:

§ 230.134b Statements of additional information.

For the purposes only of section 5(b) of the Act, the term "prospectus" as defined in section 2(10) of the Act does not include a Statement of Additional Information filed as part of a registration statement on Form N-1A (§ 239.12A and § 274.11A of this chapter), Form N-2 (§ 239.14 and § 274.11a-1 of this chapter), Form N-3 (§ 239.17a and § 274.11b of this chapter), or Form N-4 (§ 239.17b and § 274.11c of this chapter) transmitted prior to the effective date of the registration statement if it is accompanied or preceded by a preliminary prospectus meeting the requirements of rule 430 (§ 230.430 of this chapter).

Regulation C—[Amended]

3. The authority citation for Regulation C of part 230 continues to read as follows:

Authority: Secs. 230.400 to 230.499 issued under secs. 6, 8, 10, 19, 48 Stat. 78, 79, 81, as amended, 85, as amended; 15 U.S.C. 77f, 77h, 77j, 77s, unless otherwise noted.

4. By redesignating the first paragraph of § 230.430 as paragraph (a) and adding a new paragraph (b) to § 230.430 to read as follows:

§ 230.430 Prospectus for use prior to effective date.

* * * * *

(b) A form of prospectus filed as part of a registration statement on Form N-1A (§ 239.12A and § 274.11A of this chapter), Form N-2 (§ 239.14 and § 274.11a-1 of this chapter), Form N-3 (§ 239.17a and § 274.11b of this chapter), or Form N-4 (§ 239.17b and § 274.11c of this chapter) shall be deemed to meet the requirements of section 10 of the Act for the purpose of section 5(b)(1) thereof prior to the effective date of the registration statement, provided that (1) such form of prospectus meets the requirements of paragraph (a) of this section and (2) such registration statement contains a form of Statement of Additional Information that is made available to persons receiving such prospectus upon written or oral request, and without charge, unless the form of prospectus contains the information otherwise required to be disclosed in the form of Statement of Additional Information. Every such form of

[106] *See* section 2(10) of the 1933 Act (15 U.S.C. 77b(10)). Thus, an SAI constitutes supplemental sales material, subject to the liability provisions of section 17(a) of the 1933 Act (15 U.S.C. 77g(a)) and section 10(b) of the 1934 Act (15 U.S.C. 78j(b)) and rule 10b-5 thereunder. *See* rule 156 under the 1933 Act (17 CFR 230.156). In addition, since the SAI is part of the registration statement, it is also subject to the liability provisions of section 11 under the 1933 Act (15 U.S.C. 77k).

[107] Section 5(b) of the 1933 Act prohibits the transmission of any prospectus unless the prospectus meets the requirement of section 10. Rule 430 specifically provides that a preliminary prospectus meeting the conditions specified in that rule is deemed to meet the requirements of section 10

prospectus shall be deemed to have been filed as part of the registration statement for the purpose of section 7 of the Act.

5. By adding a new paragraph (e) to § 230.430A before the Note to read as follows:

§ 230.430A Prospectus in a registration statement of the time of effectiveness.

* * * * *

(e) In the case of a registration statement filed on Form N-1A (§ 239.12A and § 274.11A of this chapter), Form N-2 (§ 239.14 and § 274.11a-1 of this chapter), Form N-3 (§ 239.17a and § 274.11b of this chapter), or Form N-4 (§ 239.17b and § 274.11c of this chapter), the references to "form of prospectus" in paragraphs (a) and (b) of this section and the accompanying Note shall be deemed also to refer to the form of Statement of Additional Information filed as part of such a registration statement.

* * * * *

6. By redesignating paragraph (b) of § 230.460 as paragraph (b)(1) and adding a new paragraph (b)(2) to read as follows:

§ 230.460 Distribution of preliminary prospectus.

* * * * *

(b) * * *

(2) In the case of a registration statement filed by a closed-end investment company on Form N-2 (§ 239.14 and § 274.11a-1 of this chapter), reasonable steps to make information conveniently available would involve distribution of a sufficient number of as many copies of the Statement of Additional Information required by Rule 430(b) (§ 230.430(b) of this chapter) as it appears to be reasonable to secure their adequate distribution either to each underwriter or dealer who it is reasonably anticipated will be invited to participate in the distribution of the security, or to the underwriter, dealer or other source named on the cover page of the preliminary prospectus as being the person investors should contact in order to obtain the Statement of Additional Information.

* * * * *

7. By revising paragraph (d)(6) of § 230.463 as follows:

§ 230.463 Reporting of offering of securities and use of proceeds therefrom.

* * * * *

(d) * * *

(6) By any investment company registered under the Investment Company Act of 1940 and any issuer that has elected to be regulated as a business development company under the Investment Company Act of 1940.

* * * * *

8. By adding a new paragraph (g) to § 230.481 to read as follows:

§ 230.481 Information required in prospectus.

* * * * *

(g) The outside front cover page of a Statement of Additional Information to be used before the effective date of the registration statement (or, in the case of any Statement of Additional Information that omits information as permitted by Rule 430A under the Securities Act (§ 230.430A of this chapter), to be used before the determination of the initial public offering price), shall set forth, in red ink, the caption "Subject to Completion," the date of its issuance and the following statement printed in type as large as that generally in the body of the Statement of Additional Information:

"Information contained herein is subject to completion or amendment. A registration statement relating to these securities has been filed with the Securities and Exchange Commission. These securities may not be sold nor any offers to buy be accepted prior to the time the registration statement becomes effective. This Statement of Additional Information does not constitute a prospectus."

9. By revising paragraphs (a), (c), and (d) of § 230.495 as follows:

§ 230.495 Preparation of registration statement.

(a) A registration statement on Form N-1A, Form N-2, Form N-3, or Form N-4, shall consist of the facing sheet of the applicable form; cross-reference sheet; a prospectus containing the information called for by such form; the information, list of exhibits, undertakings and signatures required to be set forth in such form; financial statements and schedules; exhibits; and other information or documents filed as part of the registration statement; and all documents or information incorporated by reference in the foregoing (whether or not required to be filed).

* * * * *

(c) In the case of a registration statement filed on Form N-1A, Form N-2, Form N-3, or Form N-4, parts A and B shall contain the information called for by each of the items of the applicable part, except that unless otherwise specified, no reference need be made to inapplicable items, and negative answers to any item may be omitted. Copies of parts A and B may be filed as part of the registration statement in lieu of furnishing the information in item-and-answer form. Wherever such copies are filed in lieu of information in item-and-answer form, the text of the items of the form is to be omitted from the registration statement, as well as from parts A and B, except to the extent provided in paragraph (d) of the rule.

(d) In the case of a registration statement filed on Form N-1A, Form N-2, Form N-3, or Form N-4, where any item of those forms calls for information not required to be included in parts A and B, (generally part C of such form) the text of such items, including the numbers and captions thereof, together with the answers thereto shall be filed with parts A and B under cover of the facing sheet of the form as part of the registration statement. However, the text of such items may be omitted, provided the answers are so prepared as to indicate the coverage of the item without the necessity of reference to the text of the item. If any such item is inapplicable, or the answer thereto is in the negative, a statement to that effect shall be made. Any financial statements not required to be included in parts A and B shall also be filed as part of the registration proper, unless incorporated by reference pursuant to Rule 411 (§ 230.411 of this chapter).

10. By revising § 230.496 as follows:

§ 230.496 Contents of prospectus used after nine months.

In the case of a registration statement filed on Form N-1A, Form N-2, Form N-3, or Form N-4, there may be omitted from any prospectus or Statement of Additional Information used more than 9 months after the effective date of the registration statement any information previously required to be contained in the prospectus or the Statement of Additional Information insofar as later information covering the same subjects, including the latest available certified financial statements, as of a date not more than 16 months prior to the use of the prospectus or the Statement of Additional Information is contained therein.

11. By revising paragraphs (c) and (e) of § 230.497 as follows:

§ 230.497 Filing of investment company prospectus—number of copies.

* * * * *

(c) For investment companies filing on Form N-1A (§ 239.12A and § 274.11A of this chapter), Form N-2 (§ 239.14 and § 274.11a-1 of this chapter), Form N-3 (§ 239.17a and § 274.11b of this chapter), or Form N-4 (§ 239.17b and § 274.11c of this chapter), within five days after the effective date of the commencement of a public offering or after the effective date of a registration statement, whichever

occurs later, ten copies of each form of prospectus and form of Statement of Additional Information used after the effective date in connection with such offering shall be filed with the Commission in the exact form in which it was used.

* * * * *

(e) For investment companies filing on Form N-1A, Form N-2, Form N-3, or Form N-4, after the effective date of a registration statement, no prospectus which purports to comply with section 10 of the Act or Statement of Additional Information which varies from any form of prospectus or form of Statement of Additional Information filed pursuant to paragraph (b) of this section shall be used until copies thereof have been filed with, or mailed for filing to the Commission, together with five copies of a cross reference sheet similar to that previously filed, if changed.

* * * * *

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

The authority citation for Part 239 continues to read, in part, as follows:

Authority: The Securities Act of 1933, 15 U.S.C. 77a, *et seq.*, unless otherwise noted.

§ 239.23 [Amended]

12. By revising paragraph (b) of Item 5 of Form N-14 in § 239.23 to read as follows:

* * * * *

Item 5. Information about the Registrant

* * * * *

(b) If the registrant is a closed-end management investment company, furnish the information required by Items 4; 8(a), (b), (d), (e) and (f); 9; 10; 11; and 12 of Form N-2 under the 1940 Act.

* * * * *

13. By proposing to revise clause (ii) of paragraph (a)(2) of Item 6 of Form N-14 in § 239.23 to read as follows:

Item 6. Information About the Company Being Acquired

* * * * *

(a) * * *

(2) * * *

(ii) Provided the requirements of Instruction F are satisfied, include a statement that information about the company being acquired is incorporated by reference from the current prospectus of the company being acquired and is available upon request from the registrant without charge. (Provide a copy of the prospectus of the acquired company upon request in accordance with the requirements in Instruction F. If the company being acquired is registered on Form N-1A, Form N-2, Form N-3, or Form N-4 under the 1940 Act, in responding to requests under this Item, provide both a copy of the prospectus of the acquired company and the Statement of Additional Information with respect to that prospectus.)

* * * * *

14. By revising Item 12 of Form N-14 by redesignating paragraph (b) as (c) and adding new paragraph (b) to read as follows:

Item 12. Additional Information About the Registrant

* * * * *

(b) If the registrant is a closed-end management investment company, furnish the information required by Items 14 through 23 of Form N-2 under the 1940 Act.

* * * * *

15. By revising Item 13 by redesignating paragraph (b) as (c) and adding new paragraph (b) of Form N-14 to read as follows:

Item 13. Additional Information about the Company Being Acquired

* * * * *

(b) If the company being acquired is a closed-end management investment company, furnish the information required by Items 14 through 18 and 20 through 23 of Form N-2.

* * * * *

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

16. The authority citation for part 270 continues to read as follows:

Authority: Secs. 38, 40, 54 Stat. 841, 842; 15 U.S.C. 80a-37, 80c-89; The Investment Company Act of 1940, as amended, 15 U.S.C. 80a-1 *et seq.*; unless otherwise noted.

17. By revising paragraph (b) of § 270.8b-11 as follows:

§ 270.8b-11 Number of copies; signatures; binding.

* * * * *

(b) In the case of a registration statement filed on Form N-1A, Form N-2, Form N-3, or Form N-4, three complete copies of each part of the registration statement (including, if applicable, exhibits and all other papers and documents filed as part of Part C of the registration statement) shall be filed with the Commission.

* * * * *

18. By revising paragraph (b) of § 270.8b-12 as follows:

§ 270.8b-12 Requirements as to paper, printing and language.

* * * * *

(b) In the case of a registration statement filed on Form N-1A, Form N-2, Form N-3, or Form N-4, Part C of the registration statement shall be filed on good quality, unglazed, white paper, no larger than 8½×11 inches in size, insofar as practicable. The prospectus and, if applicable, the Statement of Additional Information, however, may be filed on smaller-sized paper provided that the size of paper used in each document is uniform.

* * * * *

19. By amending § 270.8b-16 by designating the current text as paragraph (a) and adding a new paragraph (b) to read as follows:

§ 270.8b-16 Amendments to registration statements.

* * * * *

(b) Paragraph (a) of this section shall not apply to a registered closed-end management investment company; provided, that the following information is transmitted to shareholders in its annual report to shareholders:

(1) If the company offers a dividend reinvestment plan to shareholders, information about the plan required to be disclosed in the company's prospectus by Item 10.1.e of Form N-2 (17 CFR 274.11a-1);

(2) Any material changes in the company's investment policies (described in Item 8.2 of Form N-2) that have not been approved by shareholders;

(3) Any changes in the company's charter or by-laws that would delay or prevent a change of control of the company (described in Item 10.1.f of Form N-2) that have not been approved by shareholders;

(4) Any material changes in the principal risk factors associated with investment in the company (described in Item 8.3 of Form N-2); and

(5) Any changes in the persons who are expected to make significant contributions to the investment advice provided to the company (described in Item 9.1.c of Form N-2), including any new person's business experience and the length of time he or she has been employed by the company's investment adviser or the company.

The changes required to be disclosed by paragraphs (b)(2) through (b)(5) are those that occurred since the later of either the effective date of the company's registration statement relating to its initial offering of securities under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) (or the most recent post-effective amendment thereto), or the close of the period covered by the previously transmitted annual shareholder report.

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

20. By revising Form N-2 in §§ 239.14 and 274.11a-1. (See Appendix B.)

The authority citation for Part 239 continues to read as follows:

Authority: The Securities Act of 1933, 15 U.S.C. 77a, *et seq.*, unless otherwise noted.

§ 239.14 Form N-2, registration statement of closed-end management investment companies. [Amended]

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

The authority citation for Part 274 continues to read as follows:

Authority: The Investment Company Act of 1940, 15 U.S.C. 80a-1, *et seq.*, unless otherwise noted.

§ 274.11a-1 Form N-2, registration statement of closed-end management information companies. [Amended]

Text of Form N-2

See Appendix B. Form N-2 will not be codified in the Code of Federal Regulations.

Dated: July 28, 1989.

By the Commission.

Jonathan G. Katz,

Secretary.

Separate Statement of Commissioner Grundfest

Among the recommendations proposed for comment in Release 33-6824 is the suggestion that the Commission require the addition of a "warning label" to prospectuses for some or all closed-end fund initial public offerings ("IPOs").[1] This notion raises intriguing questions about the probable effectiveness of cautionary legends in initial public offerings of closed-end funds.[2] In particular, if investors rely predominantly on the recommendation of brokers when making the decision to purchase shares of a closed-end fund IPO, then the addition of a cautionary legend may not change observed behavior unless the legend also changes broker behavior.

But will broker behavior change? That question is not addressed in the Commission's release. A careful consideration of that issue requires an analysis of the process by which closed-end fund IPOs are sold, and it is to that process that I now turn.

The observation that closed-end domestic equity funds tend to trade at a discount from net asset value is hardly new.[3]

The academic literature is replete with studies that document the pervasiveness and persistence of these discounts.[4] The popular press has also frequently informed the public that shares of closed-end domestic equity funds tend to trade at substantial discounts.[5]

Viewed from this perspective, the major contribution of the Office of Economic Analysis' recent study of closed-end funds is not to discover that closed-end domestic equity funds trade at a discount. We already know that. Instead, the contribution of the OEA study is to document the path followed by the prices of recently offered closed-end domestic equity fund shares as they decline from their initial offering price, which reflects net asset value plus a sales load, to their aftermarket price, which reflects a discount from net asset value. The OEA Study, which is based on data drawn from 1985-1987 market experience, finds that after 24 weeks closed-end domestic equity funds trade, on average, at a discount of approximately ten percent. Beyond this point, there appears to be no systematic change in the size of the discount on closed-end domestic equity funds.

This large body of empirical evidence raises some intriguing questions about the IPO market for closed-end domestic equity funds. In particular, if an investor has a choice between purchasing shares of a closed-end domestic equity fund in its IPO and purchasing shares of the same fund in the aftermarket, the aftermarket purchase is clearly preferable. The reason for this conclusion is simple: if a closed-end fund is a good investment at an offering price of, say, $10.50, then it is that much of a better buy in the aftermarket at a price of $9.00 where the same shares are soon trading at a discount from net asset value.[6]

This observation suggests, however, that no new closed-end domestic equity funds could ever successfully be brought to market because no one would ever want to purchase shares of those funds in the IPO. Investors would, instead, prefer to acquire those same shares in the secondary market where a discount prevails.[7] This characterization of the

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[1] Securities Act Release No. 6824 (July 28, 1989) at 15.

[2] For a more general discussion of the policy issues raised by the use of warning labels and other "information remedies" *see, e.g.*, Beales, Craswell & Salop, The Efficient Regulation of Consumer Information, 24 J. Law & Econ. 491 (1981).

[3] This separate statement focuses solely on discounts observed among closed-end domestic equity funds because the available evidence suggests that these discounts are more pronounced and systematic than discounts observed in connection with other closed-end funds. *See* The Post-Offering Price Performance of Closed-End Funds, Study by the Office of Economic Analysis, Securities and Exchange Commission, at 4, 11-12, 14-15, 27-28 (July 21, 1989) (hereafter cited as "OEA Study").

[4] For example, Kraakman, Taking Discounts Seriously: The Implications of "Discounted" Share Prices as an Acquisition Motive, 88 Col. L. Rev. 891, 903 n.39 (1988), cites the following studies as support for the proposition that "there have been numerous investigations of discounts on closed-end funds": Boudreaux, Discounts and Premiums on Closed-End Mutual Funds: A Study in Valuation, 28 J. Fin. 515 (1973); Brauer, "Open-Ending" Closed-End Funds, 13 J. Fin. Econ. 491 (1984); Brickley & Schallheim, Lifting the Lid on Closed-End Investment Companies: A Case of Abnormal Returns, 20 J. Fin. and Quantitative Analysis 107 (1985); Leonard & Nole, Estimation of Time-Varying Systematic Risk and Investment Performance: Closed-End Investment Companies, 4 J. Fin. Res. 109 (1981); Malkiel, The Valuation of Closed-End Investment Company Shares, 32 J. Fin. 847 (1977); Mendelson, Closed-End Fund Discounts Revisited, Fin. Rev., Spring 1978, at 48; Roendfeldt & Tuttle, An Examination of the Discounts and Premiums of Closed-End Investment Companies, 1 J. Bus. Res. 129 (1973); Thompson, The Information Content of Discounts and Premiums on Closed-End Fund Shares, 6 J. Fin. Econ. 151 (1978); R. Thompson, Capital Market Efficiency, Two Parameter Asset Pricing and the Market for Corporate Control: The Implications of Closed-End Investment Company Discounts and Premiums (unpublished Ph.D. dissertation, Graduate School of Management, University of Rochester, 1978).

As support for the proposition that "discounts on seasoned funds of 20% or more, persisting for five years or longer, have been common in the recent past," Kraakman, *supra* at 903 n.36 cites: D. Mullins, Managerial Discretion and Corporate Financial Management, ch. 5, at 1-3 (unpublished Ph.D. dissertation, Harvard Business School, July 29, 1983); Sharpe & Sosin, Closed-End Investment Companies in the United States: Risk and Return, in European Financial Association 1974 Proceedings 39-40 (B. Jacquillat ed.).

[5] *See* Closed-End Funds' Crop Thins Out, Wall St. J., Apr. 28, 1989, at C1-C2; Closed-End Funds are Easy Targets, N.Y. Times, Apr. 14, 1989, at D6; Five-Month Fizzles—What Lots of Closed-End IPOs Are, Barrons, Aug. 8, 1988, at 21-22; Patience, Sir, Forbes, Nov. 2, 1987, at 81.

[6] Of course, this assumes that the net asset value of the fund does not increase so quickly that the investor winds up earning a profit even after the fund trades at a discount. Given the magnitude of discounts and the probability of such significant run-ups in net asset value during the immediate aftermarket, the assumption implicit in the text seems quite reasonable.

[7] Put another way, the public offering of a closed-end domestic equity fund's shares is analogous a back-end loaded two-tier offer. The front-end is composed of the higher priced IPO shares. The back-end is composed of the lower priced aftermarket shares. Because rational, fully informed investors have no incentive to participate in the front-end of such offers, back-end loaded two-tier offers cannot succeed in markets composed of rational, fully informed investors.

market obviously does not accurately describe reality because we in fact observe successful IPOs of closed-end funds that rapidly and systematically trade to significant discounts.

One possible explanation for the successful marketing of closed-end fund IPOs is that fully informed investors believe that each new fund is sufficiently different from its predecessors that it will not trade to a discount even though its predecessors have. This explanation, which relies on the systematic triumph of hope over experience, seems sufficiently implausible that it can readily be dismissed as an explanation of the behavior of fully informed, rational investors.

A second and probably more accurate explanation for the successful initial public offering of closed-end domestic equity funds relies on the observation that investors can be divided into two categories that, for want of a better label, can be called "smart enough" and "not smart enough." [8] Investors who are "smart enough" know that initial public offerings of closed-end domestic equity funds quickly trade to a discount. These investors never purchase in the IPO. Investors who are "not smart enough" are unaware of the prevalence of closed-end fund discounts and, unless specifically warned, can be persuaded to purchase shares of a closed-end equity fund in an initial public offering.

It should be emphasized that investors who, for purposes of this analysis, fall into the "not smart enough" category can be extraordinarily intelligent, indeed, brilliant in other endeavors. For example, a professor of engineering who is well versed in the solution of partial differential equations that are far beyond the comprehension of the average stockbroker can be totally oblivious of the empirical evidence that closed-end domestic equity fund IPOs quickly trade to a discount. Life is complicated and nobody can know everything.

In this context, an IPO of an equity fund can succeed if investors who are "not smart enough" can be persuaded to purchase all the shares offered in the IPO. Indeed, compounding this problem is the fact that brokers who sell closed-end domestic equity fund shares earn greater compensation than brokers who sell the same number of fund shares in the aftermarket.[9] If a broker is willing to put his interest in commission income ahead of his client's best financial interests, then such a broker might recommend a closed-end IPO purchase to a client who is "not smart enough." Such agency problems are hardly rare in our modern economy.[10]

Interestingly, the available data tend to support a characterization of the closed-end IPO market as one characterized by a subpopulation of investors who are "not smart enough." It seems that institutional investors, whose funds are typically managed by market professionals, tend to avoid closed-end fund IPOs.[11] Thus, institutional investors may tend to be "smart enough" to avoid closed-end domestic equity fund IPOs while the population of investors who are "not smart enough" is drawn from the ranks of retail investors.

Data from January 1988 through May 1989, a period subsequent to that studied in the OEA Report, indicate a marked decline in the volume of closed-end fund IPOs. During that period, of the 77 closed-end funds offered in the U.S., 65 (84.4 percent) were bond funds, 7 (9.1 percent) were foreign stock funds, and only 5 (6.5 percent) were domestic equity funds.[12] The five domestic equity closed-end funds declined in value by approximately 9.45 percent after 120 trading days. These data suggest that the market may have learned that closed-end domestic equity funds tend not to be profitable IPO investments and that the number of those funds brought to market has therefore declined.

This analysis raises some interesting questions about the conduct of brokers who recommend closed-end domestic equity fund IPOs to their customers. Suppose a broker fails to explain to a customer that, rather than buying shares in a closed-end domestic equity fund IPO, the investor would be better off buying shares of the same fund in the aftermarket. Is such a failure unobjectionable because the quantity and quality of the evidence regarding discounts provides an insufficient basis for making such a recommendation? If so, how does the quantity and quality of the closed-end discount evidence compare with information upon which brokers rely when making other recommendations? What quantity and quality evidence should then be required as a basis for a recommendation?

Assuming that the evidence regarding discounts is credible, and recognizing that not every broker can know every fact about every product he recommends, could a failure to advise a customer to purchase in the aftermarket rather than in the IPO be supported on the basis that a broker could not reasonably be expected to know about the prevalence of discounts? The argument in support of this proposition must be that the level of skill and care expected of a broker does not rise to the level at which a customer reasonably should expect the broker to be aware of the substantial probability that the closed-end fund IPO shares will trade at a discount. If one accepts this argument, how knowledgeable should a customer expect a broker to be about specific investment recommendations made to that customer? How does this standard of care relate to the advice that brokers generally provide to clients?

Put a bit differently, if brokers can legitimately rely on evidence of past positive performance of a category of securities as a basis for a recommendation in selling an IPO, to what extent should brokers be expected to take into account equivalently credible evidence of past negative performance of a category of securities before making such a recommendation? For example, consider a situation in which the evidence of the positive performance history of a category of securities is as powerful as the evidence regarding discounts following IPO

[8] The finance literature contains several examples of models in which some investors are better informed than others. *See, e.g.*, Black, Noise, 41 J. Fin. 529 (1986); De Long, Shleifer, Summers & Waldmann, The Size and Incidence of the Losses From Noise Trading, 44 J. Fin. 681 (1989).

[9] "Fund specialists say brokers can make $200 on a typical $10,000 closed-end offering, compared with $75 for a similar fund already trading in the secondary market." Caution Urged for Closed-End Fund Investors, Wall St. J., March 22, 1988, at 37. See also Burnt Offerings: Closed-End Funds Bring No Blessings to Shareholders, Barrons, Aug. 10, 1987, at 6–7, 32–26.

Because a broker's income is higher if he sells a fund's shares in the IPO than in the aftermarket, viewed from the broker's selfish perspective, an IPO of a closed-end domestic equity fund is a front-end loaded two-tier transaction. A rational, self-interested broker thus has every incentive to suggest that his clients invest in a closed-end domestic equity fund IPO unless the broker fears the adverse consequences that may follow when the clients complain that the fund is trading at a discount.

[10] An agency problem arises whenever a person (a principal) hires someone else (an agent) to make a decision and the agent's incentives differ from the principal's. In this case, the agency problem arises, in part, because the closed-end domestic equity fund IPO is back-end loaded from the investor's (principal's) perspective and front-end loaded from the brokers (agent's) perspective. *See* generally Jensen & Meckling, The Theory of the Firm: Managerial Behavior Agency Costs and Ownership Structure, 3 J. Fin. Econ. 305 (1976); Ross, The Economic Theory of Agency: The Principal's Problem, 63 Amer. Econ. Rev. 134 (1973); Spence & Zeckhauser, Insurance, Information, and Individual Action, 61 Amer. Econ. Rev. 119 (1971).

[11] OEA Study, at 23–25.

[12] Office of the Chief Economist, Memorandum from Kathleen Weiss to Kenneth Lehn and David Malmquist, Closed-End Fund Study Update, June 20, 1989 (copy placed in public file no. S7–21–89).

closed-end domestic equity fund offerings. If brokers are permitted to rely on evidence of past positive performance should they be expected to give equal weight to equally powerful evidence of past negative performance?

Further, if it is correct that no rational, fully informed investor would purchase closed-end domestic equity fund shares in an IPO, how can a broker recommend such a purchase? Is it because the broker is not sufficiently informed? Or, is it because the broker's incentive is different from the customer's and the logical choice from the broker's perspective is not the logical choice from the customer's perspective? After all, the broker earns substantially more by selling the shares in the IPO than by selling the same shares in the aftermarket. In that case, how does the broker's recommendation benefit the customer? Does the presence of such a potential conflict alter the degree of care that one expects the broker to exercise in connection with a recommendation? Does it alter the information that the broker should convey to his customer before making a recommendation? Does it alter the degree of confidence that retail customers should have in broker recommendations?

Finally, how do these observations relate to the proposed requirement that prospectuses contain cautionary legends about closed-end fund IPOs? Will such a legend change broker behavior in recommending closed-end fund IPOs? Should such a legend change broker behavior in recommending closed-end fund IPOs?

Appendix A

Set forth below is a cross-reference sheet listing each item and certain sub-items of proposed Form N-2 and a cross-reference to the item or sub-item of current Form N-2 ("N-2"), Form N-1A ("N-1A"), Form N-3 ("N-3"), or Regulation S-K ("S-K") from which the proposed item was derived. Items of proposed Form N-2 which are new, or which include disclosure not previously called for by these sources, are designated as "New."

Revised form N-2 item	Source of revision
PART A	
1.1.a	N-1A, Item 1(a)(i).
1.1.b	N-1A, Item 1(a)(ii).
1.1.c	S-K, Item 501(c)(2).
1.1.d	N-1A, Item 1(a)(iii).
1.1.e	N-1A, Item 1(a)(iv).
1.1.f	S-K, Item 501(c)(3).
1.1.g	N-2, Item 1(a)/. S-K, Item 501(c)(7)/New.
1.1.h	N-1A, Item 1(a)(v).
1.1.i	New.
1.1.j	S-K, Item 501(c)(4).
1.1.k	N-1A, Item 1(a)(vi).
1.2	N-1A, Item 1(b).
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2.2	S-K, Item 502(b)(3).
3.1	N-1A, Item 2(a)(i)/New.
3.2	N-3, Item 3
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4.3	N-2, Item 3(b)/New.
5.1.a	N-2, Item 4(a)(1)
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5.9	New.
5.10	S-K, Item 508(c)/N-2, Item 4(f).
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Appendix B

1933 Act File No. 33- _____
1940 Act File No. 811- _____
U.S. Securities and Exchange Commission
Washington, D.C. 20549

FORM N-2

(Check appropriate box or boxes)

OMB APPROVAL

OMB Number: 3235-0026
Expires: December 31, 1990
Estimated average burden hours per response. 1630.0

☐ REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933
☐ Pre-Effective Amendment No. _____
☐ Post-Effective Amendment No. _____

and/or

☐ REGISTRATION STATEMENT UNDER THE INVESTMENT COMPANY ACT OF 1940
☐ Amendment No. _____

_____
Exact Name of Registrant as Specified in Charter

_____
Address of Principal Executive Offices

_____
(Number, Street, City, State, Zip Code)

_____
Registrant's Telephone Number, including Area Code

_____
Approximate Date of Proposed Public Offering

If any of the securities being registered on this form are to be offered on a delayed or continuous basis in reliance on rule 415 under the Securities Act of 1933, other than securities offered in connection with a dividend reinvestment plan, check the following box _____ ☐

CALCULATION OF REGISTRATION FEE UNDER THE SECURITIES ACT OF 1933

Title of securities being registered	Amount being registered	Proposed maximum offering price per unit	Proposed maximum aggregate offering price	Amount of registration fee

Instructions

If the registration statement or an amendment to it is being filed under only one of the Acts, reference to the other Act should be omitted from the facing sheet. The "Approximate Date of Proposed Public Offering" and the table showing the calculation of the registration fee under the Securities Act of 1933 should be included only where shares are being registered under the Securities Act of 1933.

Fill in the 811- ——— and 33- ——— blanks only if these filing numbers (for the Investment Company Act of 1940 registration and the Securities Act of 1933 registration, respectively) have already been assigned by the Securities and Exchange Commission in the course of previous filings.

Note: The estimated average burden hours are made solely for purposes of the Paperwork Reduction Act, and are not derived from a comprehensive or even a representative survey or study of the costs of SEC rules and forms. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with SEC rules and forms to Kenneth A. Fogash, Deputy Executive Director, U.S. Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549 and Gary Waxman, Clearance Officer, Office of Management and Budget, Room 3228 New Executive Office Building, Washington, DC 20503.

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SIGNATURES

General Instructions

A. Use of Form N-2

Form N-2 shall be used by all closed-end management investment companies, except small business investment companies licensed as such by the United States Small Business Administration, for filing: (1) An initial registration statement under section 8(b) of the investment Company Act of 1940 (15 U.S.C. 80a-8(b)) ("1940 Act") and any amendment to it; (2) a registration statement under the Securities Act of 1933 ("1933 Act") (15 U.S.C. 77(a) *et seq.*) and any amendment to it; or (3) any combination of this filings.

B. Registration Fees

Section 6(b) of the 1933 Act (15 U.S.C. 77f(b)) and rule 457 (17 CFR 230.457) set forth the fee requirements under the 1933 Act. Rule 8b-6 under the 1940 Act (17 CFR 270.8b-6) sets forth the fee for filing an initial registration statement under that Act. The 1940 Act fee is in addition to the fee required under the 1933 Act.

C. Number of copies

Filings of registration statements on Form N-2 shall contain the number of copies specified in rule 402 under the 1933 Act (17 CFR 230.402), except that seven additional copies of the registration statement shall be furnished to the Commission, instead of the ten additional copies required by rule 402(b) (17 CFR 230.402(b)).

Filings of amendments on Form N-2 shall contain the number of copies specified in rule 472 under the 1933 Act (17 CFR 230.472), except that there shall be filed with the Commission three additional copies of such amendment, two of which shall be marked to indicate clearly and precisely, by underlining or in some other appropriate manner the changes made in the registration statement by the amendment, instead of the eight additional copies with at least five marked as required by rule 472(a) (17 CFR 230.472(a)).

D. Application of General Rules and Regulations

If the registration statement is being filed under both Acts or under only the 1933 Act, the General Rules and Regulations under the 1933 Act, particularly Regulation C (17 CFR 230.400–497), shall apply, and compliance with them will deemed to the meet the rules for registration statements under the 1940 Act (15 U.S.C. 80a *et seq.*). However, if the registration statement is being filed under only the 1940 Act, the General Rules and Regulations under that Act, particularly Regulation 8(b) (17 CFR 270.8b-1 *et seq.*), shall apply.

E. Amendments

1. Attention is specifically directed to paragraph (b) of the rule 8b-16 under the 1940 Act (17 CFR 270.8b-16) which exempts closed-end management investment companies from the requirement to annually amend the 1940 Act registration statement under paragraph (a) of that rule, provided that the information specified by that rule is transmitted to shareholders on an annual basis.

2. Where Form N-2 has been used to file a registration statement under both the 1933 and 1940 Acts, any amendment of that registration statement shall be deemed to be filed under both Acts unless otherwise indicated on the facing sheet.

3. If any securities being registered are to be offered on a delayed or continuous basis in reliance on rule 415 under the 1933 Act (17 CFR 230.415), attention is directed to the undertaking required to be set forth in response to item 33.4 with respect to the filing of post-effective amendments.

F. Incorporation by Reference

Incorporation by reference permits a Registrant to include documents and exhibits filed previously with the Commission as part

of the registration statement by making reference to where, and under what designation, these documents can be found in previous filings. A Registrant may, at its discretion, incorporate all or part of the Statement of Additional Information into the prospectus, without physically delivering the Statement of Additional Information with the prospectus, so long as the Statement of Additional Information is available to investors upon request at no charge and any information or documents incorporated by reference into the Statement of Additional Information are provided along with the Statement of Additional Information, except to the extent provided by instruction F.3. below.

Rule 411 under the 1933 Act (17 CFR 230.411), and rules 0–4, 8b–23, 8b–24, and 8b–32 under the 1940 Act (17 CFR 270.0–4, 270.8b–23, 270.8b–24, and 270.8b–32) provide guidance on incorporating information or documents by reference into a registration statement. In general, a Registrant may incorporate by reference, in response to any item of Form N–2 not required to be included in the prospectus, any information contained elsewhere in the registration statement or in other statements, applications, or reports filed with the Commission.

The rules on incorporation by reference under both the 1933 Act and the 1940 Act are subject to the limitations of rule 24 of the Commission's Rules of Practice (17 CFR 201.24). Since rule 24 may be amended from time to time, Registrants are advised to review the rule before incorporating by reference any document as an exhibit to a registration statement.

Subject to the above rules, a Registrant may incorporate by reference into the prospectus or the Statement of Additional Information in response to items 4.1 or 23, respectively, of this form the information contained in any report to shareholders meeting the requirements of section 30(d) of the 1940 Act (15 U.S.C. 80a–29(d)) and rule 30d–1 (17 CFR 270.30d–1) thereunder, provided:

1. The material incorporated by reference is prepared in accordance with, and covers the periods specified by, this form;

2. The Registrant states in the prospectus or the Statement of Additional Information, at the place where the information required by items 4.1 or 23 of the form, respectively, would normally appear, that the information is incorporated by reference from a report to shareholders (The Registrant also may describe, in either the prospectus, the Statement of Additional Information, or Part C of the registration statement (in response to item 24.1), or any combination thereof, those portions of the report to shareholders that are not incorporated by reference and are not a part of the registration statement.); and

3. The material incorporated by reference is provided with the prospectus or the Statement of Additional Information to each person to whom the prospectus or the Statement of Additional Information is sent or given, unless the person holds securities of the Registrant and otherwise has received a copy of the material. (The Registrant must state in the prospectus or the Statement of Additional Information that it will furnish, without charge, a copy of such material on request and the name, address, and telephone number of the person to contact.)

G. Documents Comprising the Registration Statement or Amendment

1. A registration statement or an amendment to it filed under both the 1933 and 1940 Acts, shall consist of the facing sheet of the form, the cross-reference sheet required by rule 495(a) under the 1933 Act (17 CFR 230.495(a)), Part A, Part B, Part C, required signatures, all other documents filed as a part of the registration statement, and documents or information permitted to be incorporated by reference, whether or not required to be filed.

2. A registration statement or amendment to it that is filed under only the 1933 Act shall contain all the information and documents specified in paragraph 1 of this Instruction G.

3. A registration statement or an amendment to it that is filed under only the 1940 Act shall consist of the facing sheet of the form, the cross-reference sheet required by rule 495(a) under the 1933 Act, responses to all items of Parts A and B except items 1, 2, 3.2, 4, 5, 6, and 7 of Part A, responses to all items of Part C except items 24.2.g, and 24.2.k through m, required signatures, and all other documents that are required or which the Registrant may file as part of the registration statement.

H. Preparation of the Registration Statement or Amendment

The instructions for Form N–2 are divided into three parts. Part A relates to the prospectus required by section 10(a) of the 1933 Act (15 U.S.C. 77j(a)). Part B relates to the Statement of Additional Information that must be provided upon request to recipients of the prospectus. Part C relates to other information that is required to be in the registration statement.

Part A: The Prospectus

The purpose of the prospectus is to provide essential information about the Registrant in a way that will help investors make informed decisions about whether to purchase the securities being offered. The information in the prospectus should be clear, concise, and understandable. Avoid the use of technical or legal terms, complex language, or excessive detail.

Responses to the items of Part A should be as simple and direct as possible and include only information needed to understand the fundamental characteristics of the Registrant. Descriptions of practices that are required by law generally should not include detailed discussions of the law itself. No response is required for inapplicable items.

Part B: Statement of Additional Information

The items in Part B call for additional information about the Registrant that may be of interest to some investors. In addition, Part B affords the Registrant an opportunity to augment discussions of the matters described in the prospectus by including additional information about such matters that the Registrant believes may be of interest to some investors. Information in the Statement of Additional information is not required to be included in the prospectus or to accompany it when sent to shareholders and prospective investors provided that: (1) The cover page of the prospectus states that the Statement of Additional Information is available upon oral or written request and without charge and includes a telephone number for use by prospective investors; (2) unless a toll-free telephone number is included, a self-addressed card for requesting the Statement of Additional Information accompanies the prospectus; and (3) when a request for the Statement of Additional Information is received by the Registrant, the statement is sent within one business day of receipt of the request by first class mail or other means designed to ensure equally prompt delivery. A Registrant placing information in Part B should not repeat information that is in the prospectus, except where necessary to make Part B understandable.

General Instructions for Parts A and B

1. The information in the prospectus and the Statement of Additional Information should be organized to make it easy to understand the organization and operation of the Registrant. The information need not be in any particular order, with the exception that items 1, 2, 3, and 4 must be in numerical order in the prospectus and may not be preceded or separated by any other item.

2. The prospectus or the Statement of Additional Information may contain more information than called for by this form, provided that the information is not incomplete, inaccurate, or misleading and does not, because of its nature, quantity, or manner of presentation, obscure or impede understanding of required information.

3. The statutory provisions relating to the dating of the prospectus apply equally to the dating of the Statement of Additional Information for purposes of rule 423 under the 1933 Act (117 CFR 230.423). Furthermore, the Statement of Additional Information should be made available at the same time that the prospectus becomes available for purposes of rules 430 and 460 under the 1933 Act (17 CFR 230.430, 230.460).

4. The prospectus should not be presented in fold-out or road-map type fashion.

5. Instructions for charts, graphs, and sales literature:

a. A registration statement on this form may include any chart, graph, or table that is not misleading; however, with the exception of the fee table and the table of contents (required by rule 481(c) under the 1933 Act (17 CFR 230.481(c))), no chart, graph, or table should precede the condensed financial information specified in item 4.

6. If "sales literature" is included in the prospectus, (1) it should not significantly lengthen the prospectus nor obscure essential disclosure and (2) members of the National Association of Securities Dealers, Inc. ("NASD") are not relieved of the filing and other requirements of the NASD for investment company sales literature (*See* Securities Act Release No. 5359, Jan. 26, 1973 (38 FR 7220 (Mar. 19, 1973))).

Part A—Information Required in a Prospectus

Item 1. Outside Front Cover Page

1. The outside front cover page must contain the following information:

a. The Registrant's name;

b. Identification of the type of Registrant (e.g., bond fund, balanced fund, business development company, etc.) or a brief statement of the Registrant's investment objective(s);

c. The title and amount of securities offered and a brief description of such securities (unless not necessary to indicate the material terms of the securities, as in the case of an issue of common stock with full voting rights and the dividend and liquidation rights usually associated with common stock);

d. A statement or statements that (A) the prospectus sets forth concisely the information about the Registrant that a prospective investor ought to know before investing; (B) the prospectus should be retained for further reference; and (C) additional information about the Registrant has been filed with the Commission and is available upon written or oral request and without charge (This statement should explain how to obtain the Statement of Additional Information, whether any of it has been incorporated by reference into the prospectus, and where the table of contents of the Statement of Additional Information appears in the prospectus.);

e. The date of the prospectus and the date of the Statement of Additional Information;

f. If any of the securities being registered are to be offered for the account of shareholders, a statement to that effect;

g. The information called for by the following table in substantially the tabular form indicated as to all securities being registered that are to be offered for cash (estimate, if necessary):

Price to public	Sales load	Proceeds to registrant or other persons
Per share		
Total		

Instructions:

1. If it is impracticable to state the price to the public, explain the method by which it is to be determined (*e.g.*, by reference to net asset value). In addition, if the securities are to be offered at the market, indicate the market involved and the market price as of the latest practicable date.

2. The term "sales load" is defined in section 2(a)(35) of the 1940 Act (15 U.S.C. 80a–2(a)(35)). Only include that portion of sales load which consists of underwriting discounts and commissions and include any commissions paid by selling shareholders (the term "commissions" is defined in paragrpah 17 of Schedule A of the 1933 Act). Commissions paid by other persons and other consideration to underwriters shall be set forth in a note to the table with a reference thereto in the second column.

3. If the Registrant intends to incur loans to pay underwriting commissions or any other organizational and offering costs, disclose this practice in a note to the table and provide a cross-reference to those portions of the prospectus discussing the borrowed amounts and the effect of repayment on net asset value. In the table, the amount of funds borrowed should not be deducted from the amount of proceeds to the Registrant.

4. Where an underwriter has received an over-allotment option, present maximum-minimum information in the price table or in a note thereto, based on the purchase of all or none of the shares subject to the option. The terms of the option may be described in response to item 5 of this form rather than on the cover page of the prospectus.

5. If the securities are to be offered on a best efforts basis, set forth the termination date of the offering, any minimum required purchase, and any arrangements to place the funds received in an escrow, trust, or similar arrangement. If no such arrangements have been made, so state. Set forth the following tabular presentation of the total maximum and minimum securities to be offered in lieu of the "Total" information called for by the required table.

Price to public	Sales load	Proceeds to registrant or other persons
Total Minimum		
Total Maximum		

6. Set forth in a note to the proceeds column of the distribution table the total of other expenses of issuance and distribution called for by item 26 of this form, stated separately for the Registrant and for the selling shareholders, if any.

h. The statements required by paragraphs (1) and (2) of rule 481(b) under the 1933 Act (17 CFR 230.481(b) (1) and (2));

i. With respect to a Registrant whose securities have no history of public trading, a prominent statement to that effect and a statement describing the tendency of closed-end fund shares to trade frequently at a discount to their offering price and net asset value and the risk of loss this creates for investors purchasing shares in the initial public offering;

j. A cross-reference, where applicable, to the discussion in the prospectus of the factors that make the offering speculative or one of high risk, printed in bold face common type at least as large as ten point modern type and at least two points leaded; and

Instruction: This cross-reference is not necessary where the securities in which the registrant is authorized to invest are subject only to the basic risks inherent in investing in securities generally (*e.g.*, the risk that the value of portfolio securities may fluctuate depending upon market conditions, or the risks that debt securities may be prepaid and the proceeds from the prepayments invested in debt instruments with lower interest rates). The cross-reference should be included where the nature of the Registrant's investment objectives, investment policies (*e.g.*, investment in securities which are highly speculative or which by their nature are highly volatile), capital structure (*e.g.*, the use of leverage), or trading markets for the Registrant's securities (*e.g.*, if there is no established trading market and no market is expected to develop) increase the likelihood that an investor could lose a significant portion of his investment.

k. Any other information required by rules of the Commission or by any other governmental authority having jurisdiction over the Registrant or the issuance of its securities.

2. The cover page may include other information if it does not, by its nature, quantity, or manner of presentation impede understanding of the required information.

Item 2. Inside Front and Outside Back Cover Page

Furnish the following information to the extent applicable on the inside front or the outside back cover page of the prospectus:

1. The information required by paragraphs (d) through (f) of rule 481 under the 1933 Act (17 CFR 230.481 (d) through (f)); and

2. The name of any national exchange or over-the-counter market on which the shares being offered will be listed and the symbol that the shares will be listed under.

Item 3. Synopsis

1. If the prospectus offers common or preferred stock of the Registrant, include a table furnishing information about the various costs and expenses that the investor will bear directly or indirectly, using the captions provided, in the format illustrated below:

	Percent	Percent
Shareholder Transaction Expenses:		
Sales load (as a percentage of offering price)		
Dividend reinvestment and cash purchase plan fees		
Annual expenses (as a percentage of net assets):		
Management fees		
Interest payments on borrowed funds		
Other expenses		
———		
———		
———		
Total annual expenses		
Payments to Preferred Shareholders (as a percentage of net assets)		

Example	1 year	3 years	5 years	10 years
You would pay the following on a $1,000 investment, assuming a 5% annual return	$—	$—	$—	$—

Instructions:

General Instructions

1. Immediately after the table, provide a brief narrative explaining that the purpose of the table is to assist the investor in

understanding the various costs and expenses that an investor in the fund will bear directly or indirectly. Include, where appropriate, cross references to the relevant sections of the prospectus for more complete descriptions of the various costs and expenses.

2. If a particular caption is not applicable to the Registrant, omit the caption from the table.

3. Round all dollar figures to the nearest dollar and all percentages to the nearest hundredth of one percent.

Shareholder Transaction Expenses

4. "Dividend Reinvestment and Cash Purchase Plan Fees" include all fees (except brokerage commissions) that are charged to participating shareholder accounts.

5. If the Registrant (or any other party pursuant to an agreement with the Registrant) charges any other transaction fee, add another caption describing it and list the (maximum) amount or basis on which the fee is deducted.

Annual Expenses

6. The Registrant should state the basis on which payments will be made, except that "Other Expenses" should be estimated and stated (after any expense reimbursement or waiver) as a percentage of net asset value attributable to common shares. Disclosure should be made in the narrative following the table that "Other Expenses" are based on estimated amounts for the current fiscal year.

7. "Management Fees" include investment advisory fees (including any component thereof based on the performance of the Registrant), any other management fees payable to the investment adviser or its affiliates, and administrative fees payable to the investment adviser or its affiliates not included as "Other Expenses."

8. "Interest Payments on Borrowed Funds" include all interest paid in connection with outstanding loans (including interest paid on funds borrowed to pay underwriting expenses), bonds, or other forms of debt. Show interest expenses as a percentage of net assets and not the face amount of debt.

9. "Other Expenses" include all fees and expenses (except brokerage commissions and other capital items, underwriting costs, repayment of the principal on borrowed funds, payments on borrowed funds, share repurchase charges, dividend reinvestment and cash purchase plan fees, management fees, or payments to preferred shareholders) that are deducted from the Registrant's assets. This caption may be subdivided into no more than three subcategories of the Registrant's choosing, but must also include a total of all "Other Expenses."

Payments to Preferred Shareholders

10. "Payments to Preferred Shareholders" should be expressed as a percentage of net asset value attributable to common shares and not as a percentage of the par value of the preferred shares. If payments will vary because the dividend rate on the class of preferred shares is variable, assume that the base rate is paid.

11. If the prospectus offers only preferred shares, the line item captioned "Payments to Preferred Shareholders" may be omitted.

Example

12. For purposes of the Example in the table:

a. Assume that the rates listed under "Annual Expenses" and "Payments to Preferred Shareholders" remain the same in each year, except that an appropriate adjustment to reflect reduced annual expenses from the scheduled maturity of outstanding debt and completion of organization expense amortization may be made;

b. Assume reinvestment of all dividends and distributions at net asset value;

c. Reflect all recurring and nonrecurring fees including underwriting discounts and commissions;

d. Prominently disclose that the Example should not be considered a representation of future expenses and that actual expenses may be greater or lesser than those shown; and

e. If the Registrant has outstanding preferred stock, modify the caption to the example to include the words "(including dividend payments to preferred shareholders)" after the word "expenses."

2. The Registrant should include a synopsis of information contained in the prospectus when the prospectus is long or complex, except that the table required in paragraph 1 above must be included in all prospectuses. Normally, a synopsis should not be provided where the prospectus is twelve or fewer printed pages.

Instruction: The synopsis should be a clear and concise description of the key features of the offering and the Registrant, with cross-references to relevant disclosures elsewhere in the prospectus or in the Statement of Additional Information required by Part B of the registration statement.

3. In the case of a business development company, include the information required by item 502(a) of Regulation S-K (17 CFR 229.502(a)).

Item 4. Condensed Financial Information

1. Furnish the following information for the Registrant, or for the Registrant and its subsidiaries, consolidated as prescribed in rule 6-03 (17 CFR 210.6-03) of Regulation S-X.

Per Share Income and Capital Changes (for a share outstanding throughout the year)

a. Net Investment Income

b. Net Gains or Losses on Securities (both realized and unrealized)

c. Dividends (from net investment income)

d. Distributions (from capital gains)

e. Net asset value (at end of period)

Ratios

f. Expense Ratio (expenses to average net assets)

g. Income Ratio (net investment income to average net assets)

h. Portfolio Turnover Rate

i. Total Return

j. Net assets at End of Period (000s)

Instructions:

1. A Registrant that is regulated as a business development company may omit the information called for by item 4.1, but must include the information required by item 4.2.

2. Present the information in comparative columnar form for each of the last ten fiscal years of the Registrant (or for the life of the Registrant and its immediate predecessors, if less) but only for periods after the effective date of Registrant's 1933 Act registration statement. In addition, present the information for the period between the end of the latest fiscal year and the date of the latest balance sheet or statement of assets and liabilities furnished. Where the period for which the Registrant provides condensed financial information is less than a full fiscal year, the ratios set forth in the table may be annualized but the fact of this annualization must be disclosed in a note to the table.

3. List per share amounts at least to the nearest cent. If the computation of the offering price is extended to tenths of a cent or more, then state the amounts on the table in tenths of a cent. Present the information using a consistent number of decimal places.

4. Make, and indicate in a note, all appropriate adjustments to reflect any stock split or stock dividend during the period.

5. If the investment adviser has been changed during the period covered by this item, disclose the date(s) of the change(s) in a note.

6. The condensed financial information for not less than the latest five fiscal years must be audited and must so state. The auditor's report as to the condensed financial information need not be included in the prospectus.

7. Derive the amount to be shown at caption a by adding (deducting) the increase (decrease) per share in undistributed net investment income for the year to (from) dividends from net investment income per share for the year. Such increase (decrease) may be derived from a comparison of the per share figures obtained by dividing the undistributed net investment income at the beginning and end of the year by the number of shares outstanding on those respective dates. Other methods may be acceptable, but should be explained in a note to the table.

8. The amount to be shown at caption b, which is derived by adding together the amounts computed for the periods during the year when shares were sold or repurchased (which could be as often as twice daily), is also the balancing figure derived from the other figures in the statement and should be so computed. The amount shown at this caption for a share outstanding throughout the year may not agree with the change in the aggregate gains and losses in the portfolio securities for the year because of the timing of sales and repurchases of Registrant's shares in relation to fluctuating market values for the portfolio.

9. Distributions not exceeding the capital gains computed on the federal tax basis may be treated as distributions from capital gains for purposes of the table, even though they exceed such gains on a book basis.

10. If any distributions were made from capital sources other than net realized profits on securities, state the per share amounts thereof separately immediately below caption c. In a note indicate the nature of such distributions.

11. In caption e, the net asset value should be set forth at the end of each period for which the information in the table is being

provided. If the Registrant has been in operation for less than one fiscal year, in a footnote to this caption set forth its net asset value immediately after the closing of its first public offering.

12. Compute the "average net assets," as used in captions f and g, upon the basis of the value of the net assets determined no less frequently than as of the end of each month.

13. Compute the portfolio turnover rate to be shown at caption h as follows:

a. Divide (A) the lesser of purchases or sales of portfolio securities for the particular fiscal year by (B) the monthly average of the value of the portfolio securities owned by the Registrant during the fiscal year. Calculate the monthly average by totalling the values of the portfolio securities as of the beginning and end of the first month of the particular fiscal year and as of the end of each of the succeeding eleven months and dividing the sum by 13.

b. Exclude from both the numerator and the denominator all securities, including options, whose maturity or expiration date at the time of acquisition were one year or less. All long-term securities, including long-term U.S. Government securities, should be included. Purchases shall include any cash paid upon the conversion of one portfolio security into another and the cost of rights or warrants purchased. Sales shall include the net proceeds of the sale of rights or warrants and the net proceeds of portfolio securities that have been called, or for which payment has been made through redemption or maturity.

c. If during the fiscal year the Registrant acquired the assets of another investment company or of a personal holding company in exchange for its own shares, excluded from purchases the value of securities so acquired, and from sales, all sales of such securities made following a purchase-of-assets transaction to realign the Registrant's portfolio. In such event, make appropriate adjustment in the denominator of the portfolio turnover computation and disclose such exclusions and adjustments.

d. Short sales that the Registrant intends to maintain for more than one year and put and call options where the expiration date is more than one year from the date of acquisition are included in purchases and sales for purposes of this item. The proceeds from a short sale should be included in the value of the portfolio securities that the Registrant sold during the period and the cost of covering a short sale should be included in the value of the portfolio securities which the Registrant purchased during the period. The premiums paid to purchase options should be included in the value of the portfolio securities that the Registrant purchased during the reporting period and the premiums received from the sale of options should be included in the value of the portfolio securities that the Registrant sold during the period.

e. If periods prior to 1985 are not calculated on the same basis as that required above, disclose this in a note to the table.

14. When calculating the "total return" to be shown at caption i:

a. Assume a purchase of common stock at the current market price on the first day and a sale at the current market price on the last day of each period reported on the table;

b. Do not reflect sales load (Indicate in a footnote that the total return does not reflect sales load.); and

c. Assume reinvestment of all dividends and distributions at prices that were obtained by the Registrant's dividend reinvestment plan or, if the Registrant does not have a dividend reinvestment plan, at the per share net asset value on the date of distribution unless the market value of the shares of the Registrant is less than the per share net asset value of the Registrant, in which case assume that dividends and distributions were reinvested at the market value of the shares on the date of distribution.

2. If the Registrant is regulated as a business development company under the 1940 Act, furnish the information required by items 301, 302, and 303 of Regulation S-K (17 CFR 229.301, 229.302, and 229.303).

3. Furnish the following information as of the end of each of the Registrant's last ten fiscal years for each class of senior securities (including bank loans) of the Registrant. If consolidated statements were prepared as of any of the dates specified, furnish the information on a consolidated basis:

(1) Year _____

(2) Total amount outstanding exclusive of Treasury securities _____

(3) Asset coverage per unit _____

(4) Involuntary liquidating preference per unit _____

(5) Average market value per unit (exclude bank loans) _____

Instructions:

1. Instructions 2, 3, and 6 to item 4.1 also apply to this sub-item.

2. Use the method described in section 18(h) of the 1940 Act to calculate the asset coverage to be set forth in column (3). However, in lieu of expressing asset coverage in terms of a ratio, as described in section 18(h), express it for each class of senior securities in terms of dollar amounts per share (in the case of preferred stock) or per $1,000 of indebtedness (in the case of senior indebtedness).

3. Column (4) need be included only with respect to senior stock.

4. Set forth in a note to the table the method used to determine the averages called for by column (5) (*e.g.*, weighted, monthly, daily, etc.).

Item 5. Plan of Distribution

Briefly describe how the securities being registered will be distributed. Include the following information:

1. For each principal underwriter distributing the securities being offered set forth:

a. Its name and principal business address;

b. The nature of any material relationship with the Registrant (other than that of principal underwriter) including any arrangement under which a principal underwriter or its affiliates will perform administrative or custodial services for the registrant;

c. The amount of securities underwritten; and

d. The nature of the obligation to distribute the Registrant's securities, including a statement of the underwriters' obligations and intent to proceed with the distribution in the event a material adverse event with respect to the Registrant occurs prior to the time investors are required to make an investment decision.

Instruction: All that is required as to the nature of the underwriter's obligation is whether the underwriters will be committed to take and pay for all the securities if any are taken, or whether it is merely an agency or "best-efforts" arrangement under which the underwriters are required to take and pay for only such securities as they may sell to the public. Conditions precedent to the underwriter's taking the securities, including "market outs," need not be described, except in the case of an agency or "best-efforts" arrangement.

2. The price to the public.

Instructions: 1. If it is impracticable to state the price to the public, concisely explain the way in which the price is determined, including a description of the valuation procedure used by the Registrant in determining such prices. If the securities are to be offered at the market price, or if the offering price is to be determined by a formula related to market price, indicate the market involved and the market price as of the latest practicable date.

2. For restrictions on distributions and repurchases of closed-end company securities *see* section 23 of the 1940 Act (15 U.S.C. 80a–23) and Investment Company Act Rel. No. 3187 (Feb. 6, 1961) (26 FR 1275 (Feb. 15, 1961)).

3. Explain the basis for any differences in the price at wihch securities are offered to the public, as individuals and as groups, and to officers, directors and employees of the Registrant, its adviser or underwriter.

3. To the extent not set forth on the cover page of the prospectus, state the amount of the sales load, if any, (as a percentage of the public offering price) and describe the commissions to be allowed or paid to (i) underwriters and all other items that would be deemed by the National Association of Securities Dealers to constitute underwriting compensation for purposes of the Association's Rules of Fair Practice and (ii) dealers including all cash, securities, contracts, or other considerations to be realized by any dealer in connection with the sale of securities.

Instruction: If any dealers are to act in the capacity of sub-underwriters and are allowed or paid any additional discounts or commission for acting in such capacity, a general statement to that effect will suffice without giving the additional amounts to be sold.

4. If the underwriting agreement provides for indemnification by the Registrant of the underwriters or their controlling persons against any liability arising under the 1933 Act or 1940 Act, describe such indemnification provisions.

5. The identity of any finder and, if applicable, describe the nature of any material relationship between such finder and the Registrant, its officers, directors, principal shareholders, finders or promoters or the principal underwriters(s), or if there is a managing underwriters(s), the managing underwriter(s) (including, in each case affiliates or associates thereof).

6. The date by which payment for securities must be made by investors.

7. If the securities are being offered in conjunction with any retirement plan, provide a statement regarding how further information about the plan can be obtained.

8. If investors' funds will be forwarded to an escrow account, identify the escrow agent, describe the conditions for release of the funds, whether such funds will accrue interest while in escrow, and the manner in which the monies in such account will be distributed if such conditions are not satisfied, including how accrued interest, if any, will be distributed to investors.

9. If the securities offered by the Registrant are not being listed on a national securities exchange, disclose whether any of the underwriters intends to act as a market maker with respect to such unlisted securities.

10. Outline briefly the plan of distribution of any securities that are to be offered otherwise than through underwriters.

a. If the securities are to be offered through the selling efforts of brokers or dealers, describe the plan of distribution and the terms of any agreement, arrangement, or understanding entered into with broker(s) or dealer(s) prior to the effective date of the registration statement, including volume limitations on sales, parties to the agreement, and the conditions under which the agreement may be terminated. If known, identify the broker(s) or dealer(s) which will participate in the offering and state the amount to be offered through each.

b. If any of the securities being registered are to be offered other than for cash, describe the general purposes of the distribution, the basis upon which the securities are to be offered, the amount of compensation and other expenses of distribution, and by whom they are to be borne.

c. If the distribution is to be made under a plan of acquisition, reorganization, readjustment or succession, provide a statement regarding the general effect of the plan and when it becomes operative. As to any material amount of assets to be acquired under the plan, furnish the information required by instruction 4 to item 7 below.

Item 6. Selling Shareholders

If any securities being registered are to be offered for the account of shareholders, furnish the information required by item 507 of Regulation S-K (17 CFR 229.507).

Item 7. Use of Proceeds

1. State the principal purposes for which the net proceeds of the offering are intended to be used and the approximate amount intended to be used for each purpose.

Instructions: 1. If any substantial portion of the proceeds will not be allocated in accordance with the investment objectives and policies, a statement to that effect should be made together with a statement of the amount not allocated and how the amount not allocated will be invested.

2. If a material part of the proceeds will be used to discharge indebtedness, state the interest rate and maturity of the indebtedness.

3. If the the Registrant intends to incur loans to pay underwriting commissions or any other organizational or offering expenses, disclose this fact and state the name of the lender, amount of the first installment, rate of interest, the date on which payments will begin, the dates and amounts of subsequent installments, and the final maturity date. Explain that the interest paid on such borrowing will not be available for investment purposes and will increase the expenses of the fund.

4. If any material part of the proceeds will be used to acquire assets other than in the ordinary course of business, briefly describe the assets, the names of the persons from whom they are to be acquired, the cost of the assets to the Registrant, and how the costs were determined.

2. Disclose how long it is expected to take to fully invest net proceeds in accordance with the Registrant's investment objectives and policies, the reasons for any anticipated lengthy delay in investing the net proceeds, and the consequences of any delay.

Item 8. General Description of the Registrant

Concisely discuss the organization and operation or proposed operation of the Registrant. Include the information specified below.

1. Describe the Registrant, including:

a. The date and form of organization and the name of the state or other jurisdiction under whose laws it is organized; and

b. The classification and subclassification under sections 4 and 5 of the 1940 Act (15 U.S.C. 80a–4, 80a–5);

2. Describe the investment objectives and policies of the Registrant, including:

a. If these objectives may be changed without a vote of the holders of a majority of voting securities, a brief statement to that effect;

b. How the Registrant proposes to achieve its objectives, including:

(1) the types of securities in which Registrant invests or will invest principally; and

(2) the identity of any particular industry or group of industries in which the Registrant proposes to concentrate (Concentration, for purposes of this item, is deemed 25 percent or more of the value of Registrant's total assets invested or proposed to be invested in a particular industry or group of industries. The policy on concentration should not be consistent with Registrant's name);

c. Subject to paragraph 4 of this item, the identity of other policies of Registrant that may not be changed without the vote of a majority of the outstanding voting securities, including those policies that the Registrant deems to be fundamental within the meaning of section 8(b) of the 1940 Act; and

d. Subject to paragraph 4 of this item, the significant investment practices or techniques (such as risk arbitrage, repurchase agreements, reverse repurchase agreements, forward delivery contracts, when-issued securities, stand-by commitments, options and futures contract, options on futures contracts, currency transactions, foreign securities, investing for control of management, lending of portfolio securities) which are not described pursuant to subparagraph 2.c above that the Registrant employs or intends to employ.

3. Discuss the principal risk factors associated with investment in the Registrant specifically, as well as those factors generally associated with investment in a company with investment policies and objectives similar to the Registrant's.

4. Discuss the types of investment by the Registrant that will not constitute its principal portfolio emphasis and related policies or practices. This discussion should generally receive less emphasis in the prospectus, and under the circumstances set forth below may be omitted or limited to information necessary to identify the type of investment, policy, or practice. Specifically, notwithstanding paragraph 2 above:

a. Do not disclose a policy that prohibits a particular practice, or permits a particular practice that the Registrant has not used within the past year (or since its initial public offering, if such period is shorter) and does not intend to use, and

b. If a policy limits a particular practice so that no more than 5 percent of the Registrant's net assets are at risk, or if the Registrant has not followed that practice within the last year (or since its initial public offering, if such period is shorter) in such a manner that more than 5 percent of the Registrant's net assets were at risk and does not intend to follow such practice in such a manner that more than 5 percent of the Registrant's net assets will be at risk, disclosure of information in the prospectus about such practice should be limited to that which is necessary to identify the practice and a statement as to whether or not the Registrant will provide prior notice to securityholders of its intention to commence or expand the use of such practice.

Instruction: The amount of the Registrant's net assets which are at risk for purposes of determining whether "more than 5 percent of the Registrant's net assets are at risk" is not limited to the initial amount of the Registrant's assets which are invested in a particular practice, *e.g.*, the purchase price of an option. The amount of net assets at risk is determined by reference to the potential liability or loss which may be incurred by the Registrant in connection with a particular practice.

5. If the Registrant's common equity is publicly held, identify the principal United States market or markets in which the common equity is being traded. Where there is no established public trading market, furnish a statement to that effect. For purposes of this item, the existence of limited or sporadic quotations should not itself be deemed to constitute an "established public trading market." If the principal United States market for the common equity is an exchange, state the high and low sales prices for the equity for each full quarterly period within the two most recent fiscal years and each full fiscal quarter since the beginning of the current fiscal year, as reported in the consolidated transaction reporting system or, if not so reported, as reported on the principal exchange market for the equity. If the principal United States market for the common equity is not an exchange, state the range of high and low bid information for the common equity for the periods described in

the preceding sentence, as regularly quoted in the automated quotation system of a registered securities association, or if not so quoted, the range of reported high and low bid quotations, indicating the source of the quotations. This information should be set forth in tabular form. Indicate, as applicable, that such over-the-counter market quotations reflect inter-dealer prices, without retail mark-up, mark-down or commission and may not necessarily represent actual transactions. Where there is an absence of an established public trading market, reference to quotations shall be qualified by appropriate explanation. Also, include price information as of the latest practicable date. With respect to each quotation, disclose the discount or premium to net asset value (expressed as a percentage) which such quotation represents.

6. If the Registrant's common equity is publicly-held, disclose whether it has historically traded at, above, or less than net asset value and, if so, disclose, in tabular form, the range of discount or premium to net asset value (expressed as a percentage) for each full quarterly period within each of the last two fiscal years and since the beginning of the current fiscal year. Disclose any methods undertaken or to be undertaken by the Registrant that are intended to reduce the discount (such as the repurchase of fund shares, providing for the ability to convert to an open-end investment company, guaranteed distribution plans, etc.) and discuss the effects that such measures have or may have on the Registrant.

7. A Registrant that has elected to be registered as a business development company should, in addition, provide the following information:

a. For each portfolio company in which the Registrant is investing, disclose: (1) The name and address; (2) nature of business; (3) title, class, percentage of classs, and value of portfolio companies held by the Registrant; (4) amount and general terms of all loans to such companies; and (5) the relationship of the companies to the Registrant.

b. If the Registrant has a wholly-owned small business investment company subsidiary, disclose: (1) Whether the subidiary is regulated as a business development company or investment company under the 1940 Act; (2) the percentage of the Registrant's assets invested in the subsidiary; and (3) material information about the small business investment company's operations, including the special risks of investing in a portfolio heavily invested in securities of small and developing or financially troubled businesses.

Instructions: 1. In describing the nature of the business of portfolio companies include matters usch as the competitive conditions of the business of the company; its market share; dependence on a single or small number of customers; importance to it of any patents, trademarks, licenses, franchises, or concessions held; key operating personnel; and particular vulnerability to changes in government regulation, interest rates, or technology.

2. In disclosing the relationship of portfolio companies to the Registrant, include a discussion of the extent to which the Registrant makes available significant managerial assistance to its portfolio companies. Disclose any other material business, professional, or family relationship between the officers and directors of the Registrant and any portfolio company, its officers, and directors.

c. If the Registrant has had an operating history prior to notifying the Commission of its intent to become a business development company, disclose any anticipated changes in its operations as a result of coming into compliance with section 55(a) (15 U.S.C. 80a-54(a)) of the 1940 Act. This information may be omitted in a prospectus used in a subsequent offering made a sufficient time after election to be regulated as a business development company so that it is no longer material.

d. To the extent not disclosed in response to paragraphs a, b, or c of this item, describe the special risks of investing in a business development company, including the risks associated with investing in a portfolio of small and developing or financially troubled businesses.

Item 9. Management

1. Describe concisely how the business of the Registrant is managed, including:

a. A description of the responsibilities of the board of directors with respect to the management of the Registrant;

Instructions: 1. In responding to this item, it is sufficient to include a general statement as to the responsibilities of the board of directors under the applicable laws of the Registrant's jurisdiction of organization.

2. A Registrant that has elected to be regulated as a business development company should disclose any special compensation plans available to management.

b. For each investment adviser of the Registrant:

(1) Its name and principal business address, a description of its experience as an investment adviser and, if the investment adviser is controlled by another person, the name of that person and the general nature of its business;

Instruction: If the investment adviser is subject to more than one level of control, it is sufficient to provide the name of the ultimate control person.

(2) a description of the services provided by the investment adviser; and

Instructions: 1. If, in addition to providing investment advice, the investment adviser or persons employed by or associated with the investment adviser are, subject to the authority of the board of directors, responsible for overall management of Registrant's business affairs, it is sufficient to state that fact instead of listing all services provided.

2. A Registrant that has elected to be regulated as a business development company should describe the type of managerial assistance that is or will be provided to the businesses in which it is investing and the qualifications of the investment adviser to render such management assistance.

3. A description of its compensation.

Instructions: 1. State generally what the adviser's fee is or will be as a percentage of average net assets, including any break-point, but it is not necessary to include precise details as to how the fee is computed or paid.

2. If the investment advisory fee is paid in some manner other than on the basis of average net assets, briefly describe the basis of payment.

c. Disclose the name and title of all persons who make or are expected to make significant contributions to the investment advice provided to the Registrant and describe each person's business experience and the length of time he or she had been employed by or associated with the investment adviser (or Registrant);

d. Disclose the identity of any other person who provides significant administrative or business affairs management services (*e.g.*, an "Administrator" or "Sub-Administrator") and a description of the services provided and the compensation to be paid;

e. Disclose the name and principal business address of the custodian(s), transfer agent, and dividend paying agent;

f. Describe the type of expenses for which the Registrant is responsible and, if organization expenses of the Registrant are to be paid out of its assets, explain how the expenses will be amortized and the period over which the amortization will occur; and

g. If the Registrant pays (or will pay) brokerage commissions to any broker that is an (1) affiliated person of the Registrant, (2) affiliated person of such person, or (3) affiliated person of an affiliated person of the Registrant, its investment adviser, or its principal underwriter, a statement to that effect.

2. If any non-resident officer, director, underwriter, investment adviser, or expert named in the registration statement has a substantial portion of its assets located outside the United States, identify each person and state how the enforcement by investors of civil liabilities under the federal securities laws may be affected. This disclosure should indicate:

a. Whether investors will be able to effect service of process within the United States upon these persons;

b. Whether investors will be able to enforce in United States courts, judgments against these persons obtained in such courts predicated upon the civil liability provisions of the federal securities laws;

c. Whether the appropriate foreign courts would enforce judgments of United States courts obtained in actions against these persons predicated upon the civil liability provisions of the federal securities laws; and

d. Whether the appropriate foreign courts would enforce, in original actions, liabilities against these persons predicated solely upon the federal securities laws.

Instruction: If any portions of this disclosure are stated to be based upon an opinion of counsel, counsel shall be named in the prospectus and an appropriate manually signed consent to the use of counsel's name and opinion shall be included as an exhibit to the registration statement.

Item 10. Capital Stock, Long-Term Debt, and Other Securities

1. For each class of capital stock of the Registrant, state the title and describe such of the matters listed in paragraphs 1.a through 1.f that are relevant;

a. Discuss the nature and most significant attributes, including, where applicable, (1) dividend rights, policies, or limitations; (2) voting rights; (3) liquidation rights; (4) liability to further calls or to assessments by the Registrant; (5) preemptive rights, conversion rights, redemption provisions, and sinking fund provisions; and (6) any material obligations or potential liability associated with ownership of the security (not including investment risks);

Instructions: 1. A complete legal description of the securities need not be given.

2. If the Registrant has a policy of making distribution or dividend payments at predetermined times and minimum rates, disclosure should include a statement that if the fund's investments do not generate sufficient income, the fund may be required to liquidate a portion of its portfolio to fund these distributions, and therefore these payments may represent a reduction of the shareholders' principal investment. The tax consequences of such payments should also be described.

b. With respect to preferred stock, (1) state whether there are any restrictions on the Registrant while there is an arrearage in the payment of dividends or sinking fund installments and, if so, describe the restrictions and (2) describe provisions restricting the declaration of dividends, requiring the maintenance of any ratio or assets, requiring the creation or maintenance of reserves or permitting or restricting the issuance of additional securities;

c. If the rights of holders of the security may be modified other than by a vote of a majority or more of the shares outstanding, voting as a class, so state and explain;

d. If rights evidenced by, or the amounts payable with respect to, any class of securities being described are, or may be, materially limited or qualified by the rights of any other authorized class of securities include the information regarding the other securities as will enable investors to understand such rights and limitations;

e. If the Registrant has a dividend reinvestment plan, discuss the material aspects of the plan including, but not limited to, (1) whether the plan is automatic or whether shareholders must affirmatively elect to participate; (2) the method by which shareholders can elect to reinvest stock dividends or, if the plan is automatic, to receive cash dividends; (3) from whom additional information about the plan may be obtained (a telephone number or address should be provided); (4) the method of determining the number of shares that will be distributed in lieu of a cash dividend; (5) income tax consequences of participation in the plan (*i.e.*, that capital gains and income are realized although cash is not received by the shareholder); (6) how to terminate participation in the plan and rights upon termination; (7) if applicable, that an investor holding shares that participate in the dividend reinvestment plan in a brokerage account may not be able to transfer the shares to another broker and continue to participate in the dividend reinvestment plan; (8) the amount of fees, commissions, and expenses incurred in connection with the plan and the anticipated cost to participants for each transaction; and (9) if a cash purchase plan option is available, any minimum or maximum investment required; and

f. Describe any provision of the Registrant's charter or by-laws that would have an effect of delaying, deferring or preventing a change of control of the Registrant and that would operate only with respect to an extraordinary corporate transaction involving the Registrant, such as a merger, reorganization, tender offer, sale or transfer of substantially all of its assets, or liquidation.

Instruction: Provisions and arrangements required by law or imposed by governmental or judicial authority need not be discussed. Provisions or arrangements adopted by the Registrant to effect or further compliance with law or governmental or judicial mandate must be described where compliance does not require the specific provisions or arrangements adopted.

2. If the Registrant is issuing or has outstanding a class of long-term debt, state the title of the debt securities, their principal amount, and describe such of the matters listed in paragraphs 2.a through 2.e that are relevant:

a. Provisions concerning maturity, interest, conversion, redemption, amortization, sinking fund, or retirement;

b. Provisions restricting the declaration of dividends, requiring the maintenance of any ratio or assets, or requiring the creation or maintenance of reserves;

c. Provisions permitting or restricting the issuance of additional securities, incurring of additional debt, the release or substitution of assets securing the issue, and the modification of the terms of the securites;

Instruction: A complete legal description of the securities need not be given.

d. For each trustee, its name, the nature of any material relationship it has with the Registrant or any of its affiliates, the percentage of securities necessary to require the trustee to take action, and any indemnification the trustee may require before proceeding against assets of the Registrant; and

e. To the extent not otherwise disclosed in response to this item, whether the rights evidenced by the long-term debt are, or may be, materially limited or qualified by the rights of any other authorized class of securities and, if so, include the information regarding such other securities as will enable investors to understand such rights and limitations.

3. With respect to each class of authorized securities of the Registrant other than capital stock or long term debt, provide disclosure regarding the significant attributes of such securities comparable to that called for by paragraphs 1 and 2 of this item. If the securities are subscription warrants or rights, state the title and amount of securities called for, and the period during which and the prices at which the warrants or right are exercised.

4. Describe the tax consequences to investors of an investment in the securities being offered. If the Registrant intends to qualify for treatment under Subchapter M of the Internal Revenue Code of 1986 (26 U.S.C. 851–856), it is sufficient, in the absence of special circumstances, to state that: (i) The Registrant will distribute all of its net investment income and gains to shareholders and that these distributions are taxable as ordinary income or capital gains; (ii) shareholders may be proportionately liable for taxes on income and gains of the Registrant but that shareholders not subject to tax on their income will not be required to pay tax on amounts distributed to them; and (iii) the Registrant will inform shareholders of the amount and nature of the income or gains.

Instructions: 1. The description should not include detailed discussions of applicable law.

2. Registrant should specifically address whether shareholders will be subject to the alternative minimum tax.

5. Identify each person who, as of a specified date no more than 30 days prior to the date of filing the registration statement (or amendment to it), controls the Registrant.

Instruction: For the purposes of this item, "control" means (1) the beneficial ownership, either directly or through one or more controlled companies, of more than 25 percent of the voting securities of a company; (2) the acknowledgement or assertion by either the controlled or controlling party of the existence of control; or (3) an adjudication under section 2(a)(9) of the 1940 Act (15 U.S.C. 80a–2(a)(9)), which has become final, that control exists.

6. Furnish the following information, in substantially the tabular form indicated, for each class of authorized securities of the Registrant. The information must be current within 90 days of the filing of this registration statement or amendment to it.

(1) Title of class _____
(2) Amount authorized _____
(3) Amount held by registrant or for its account _____
(4) Amount outstanding exclusive of amount shown under (3) _____

7. If the senior securities of the Registrant have been assigned a rating by a nationally recognized securities rating organization ("NRSRO"), and the rating is disclosed in the prospectus, discuss the significance of the rating, the basis upon which ratings are issued, any conditions or guidelines imposed by the NRSRO for the Registrant to maintain the rating, and whether or not the Registrant intends, or has any contractual obligation, to comply with these conditions or guidelines. In addition, disclose the material terms of any agreement between the Registrant or any of its affiliates and the NRSRO under which the NRSRO provides such rating.

Instructions: 1. The term "nationally recognized securities rating organization" has the same meaning as used in rule 15c3–1(c)(2)(vi)(F) (17 CFR 240.15c3–1(c)(2)(vi)(F)) under the Securities Exchange Act of 1934 [15 U.S.C. 78a *et seq.*]

2. Rule 436(g)(1) of Regulation C (17 CFR 230.436(g)(1)) under the 1933 Act provides that a security rating assigned by an NRSRO to a class of debt securities, a class of

convertible debt securities, or a class of preferred stock is not considered a part of the registration statement for purposes of sections 7 and 11 of the 1933 Act (15 U.S.C. 77g, 77k). Therefore, in the case of disclosure of a rating assigned to these types of securities issued by the Registrant, the Registrant need not include a written consent of the NRSRO as an exhibit to the registration statement as required by item 24.2.n, but must provide the diclosure called for by this item.

3. Reference should be made to the statement of the Commission's policy on security ratings set forth under General in Regulation S-K (17 CFR 229.10) for the Commission's views on other important matters to be considered in disclosing securities ratings.

Item 11. Defaults and Arrears on Senior Securities

1. State the nature, date, and amount of default of payment of principal, interest, or amortization, for each issue of long-term debt of the Registrant that is in default on the date of filing.

2. If an issue of capital stock has any accumulated dividend in arrears at the date of filing, state the title of each issue and the amount per share in arrears.

Item 12. Legal Proceedings

Describe briefly any material pending legal proceedings, other than ordinary routine litigation incidental to the business, to which the Registrant, any subsidiary of the Registrant, or Registrant's investment adviser or principal underwriter, is a party. Include the name of the court where the case is pending, the date instituted, the principal parties, a description of the factual basis alleged to underlie the proceeding, and the relief sought. Include similar information as to any proceeding instituted by a governmental authority or known to be contemplated by a governmental authority.

Instruction: Legal proceedings, for purposes of this item, are material only to the extent that they are likely to have a material adverse effect upon: (1) The ability of the investment adviser or principal underwriter to perform its contract with the Registrant; or (2) the Registrant.

Item 13. Table of Contents of the Statement of Additional Information

List the contents of the Statement of Additional Information.

Part B—Information Required in a Statement of Additional Information

Item 14. Cover Page

1. The outside cover page must contain the following information:

a. the Registrant's name;

b. a statement or statements (1) that the Statement of Additional Information is not a prospectus, (2) that the Statement of Additional of Information should be read with the prospectus, and (3) how a copy of the prospectus may be obtained;

c. the date of the Statement of Additional Information;

d. the date of the related prospectus and any other identifying information that the Registrant deems appropriate; and

e. the statement required by paragraph (g) of rule 481 under the 1933 Act (17 CFR 230.581(g)).

2. The cover page may include other information, provided that it does not, by its nature, quantity, or manner of presentation, impede understanding of required information.

Item 15. Table of Contents

List the contents of the Statement of Additional Information and, where useful, provide a cross-reference to related disclosure in the prospectus.

Item 16. General Information and History

If the Registrant has engaged in a business other than that of an investment company during the past five years, state the nature of the other business and give the approximate date on which the Registrant commenced business as an investment company. If the Registrant's name was changed during that period, state its former name and the approximate date on which it was changed. If the change in the Registrant's business or name occurred in connection with any bankruptcy, receivership or similar proceeding or any other material reorganization, readjustment or succession, briefly describe the nature and results of the same.

Item 17. Investment Objective and Policies

1. Describe clearly the investment policies of the Registrant. It is not necessary to repeat information contained in the prospectus, but, in augmenting the disclosure about those types of investments, policies, or practices that are briefly discussed or identified in the prospectus, the Registrant should refer to the prospectus when necessary to clarify the additional information called for by this item.

2. Describe any fundamental policy of the Registrant not described in the prospectus with respect to each of the following activities:

a. The issuance of senior securities;

b. Short sales, purchases on margin, and the writing of put and call options;

c. The borrowing of money (Describe any fundamental policy that limits the Registrant's ability to borrow money and state the purpose for which the proceeds will be used.);

d. The underwriting of securities of other issuers (include any fundamental policy concerning the acquisition of restricted securities, *i.e.*, securities that must be registered under the 1933 Act before they may be offered or sold to the public.);

e. The concentration of investments in a particular industry or groups of industries;

f. The purchase or sale of real estate and real estate mortage loans;

g. Purchase or sale of commodities or commodity contracts including futures contracts;

h. The making of loans (For purposes of this item, the term "loans" does not include the purchase of a portion of an issue of publicly distributed bonds, debentures, or other securities, whether or not the purchase was made upon the original issuance of the securities. However, the term "loan" includes the loaning of cash or portfolio securities to any person); and

i. Any other policy that the Registrant deems fundamental.

Instructions: 1. For purposes of this item, the term "fundamental policy" is defined as any policy that the Registrant has deemed to be fundamental or that may not be changed without the approval of a majority of the Registrant's outstanding voting securities.

2. The Registrant may reserve freedom of action with respect to any of the foregoing activities (other than the activity described in paragraph e), but it must disclose the maximum percentage of assets to be devoted to the particular activity.

3. Describe fully any significant investment policies of the Registrant not described in the prospectus that are not deemed fundamental and that may be changed without the approval of the holders of a majority of the voting securities (*e.g.*, investing for control of management, investing in foreign securities, or arbitrage activities).

Instruction: The Registrant should disclose the extent to which it may engage in the above policies and the risks inherent in such policies.

4. Explain any significant change in the Registrant's portfolio turnover rates over the last two fiscal years. If the Registrant anticipates a significant change in the portfolio turnover rate from that reported under caption g of item 4.1 of its most recent fiscal year, so state. In the case of a new registration, the Registrant should state its policy whith respect to portfolio turnover.

Item 18. Management

1. Furnish the information required by the following table as to each director and officer of the Registrant and, if Registrant has an advisory board, as to each member of the board. Also state the nature of any family relationship between the persons listed.

(1) Name and address	(2) Position(s) held with registrant	(3) Principal occupation(s) during past 5 years

Instructions: 1. For purposes of this item, the term "officer" means the president, vice-president, secretary, treasurer, controller, and any other officers who perform policy-making functions for the Registrant. The term "family relationship" means any relationship by blood, marriage, or adoption, not more remote than first cousin.

2. The principal business of any corporation or other organization listed under column (3) should be stated unless implicit in its name.

3. If the Registrant has an executive or investment committee, identify the members and the duties and functions of the committee.

4. Identify by asterisk the directors who are interested persons as defined in section 2(a)(19) of the 1940 Act (15 U.S.C. 80a-2(a)(19) and the rules thereunder.

2. For each individual listed in column (1) of the table required by paragraph 1 of this item, describe any positions held with affiliated persons or principal underwriters of the Registrant.

3. For each non-resident director or officer of the Registrant listed in column (1) of the table required by paragraph 1 of this item, disclose whether they have authorized an

agent in the United States to receive notice and, if so, disclose the name and address of the agent.

4. Furnish the information required by the following table for each person specified below who received from the Registrant or its subsidiaries during the Registrant's last fiscal year aggregate remuneration in excess of $60,000 for services in all capacities:

a. Each director, each of the three highest paid officers, and each advisory board member of the Registrant;

b. Each affiliated person of the Registrant not included in subparagraph a except investment advisers;

c. Each affiliated person of an affiliate or principal underwriter of the Registrant; and

d. All directors, officers, and members of the advisory board of the Registrant as a group without naming them.

(1) Name of person ———————
(2) Capacities in which remuneration received———————
(3) Aggregate remuneration ———————
(4) Pension or retirement benefit accrued during registrant's last fiscal year ———————
(5) Estimated annual benefits upon retirement

Instructions: 1. Information required by this table should be provided with respect to any person who was a director, officer or member of the advisory board of the Registrant at any time during the last fiscal year. Provide the information on an accrual basis if practicable.

2. If the Registrant has not completed its first full fiscal year since its organization, provide the information for the current fiscal year, estimating future payments for a 12-month period that would be made pursuant to an existing agreement or understanding.

3. Columns (4) and (5) should be completed only for those persons named in response to paragraph 1 of this item and should include all pension or retirement benefits proposed to be paid directly or indirectly by the Registrant or any of its subsidiaries to each such person under any existing plan in the event of retirement at normal retirement date.

4. Column (4) need not be completed with respect to payments computed on an actuarial basis under any plan that provides for fixed benefits in the event of retirement at a specified age or after a specified number of years of service.

5. The information called for by column (5) may be provided in a table showing the annual benefits payable upon retirement to persons in specified salary classifications.

6. In the case of any plan, other than those specified in instruction 3, where the amount set aside each year depends upon the earnings of the issuer or its subsidiaries for that year or a prior year, or where it is otherwise impracticable to state the estimated annual benefits upon retirement, instead of the information called for by column (5), provide the total amount set aside or accrued to date, unless it is impracticable to do so, in which case state the method of computing such benefits.

Item 19. Control Persons and Principal Holders of Securities

Furnish the following information as of a specified date no more than 30 days prior to the date of filing of the registration statement or amendment to it.

1. State the name and address of each person who controls the Registrant and explain the effect of such control on the voting rights of other shareholders. For each control person, state the percentage of the Registrant's voting securities owned or any other basis of control. If the control person is a company, disclose the state or other jurisdiction under the laws of which it is organized. List all parents of each control person.

Instructions: 1. For purposes of this item, the term "control" is defined in the instruction to paragraph 5 of item 10 of this form.

2. This item does not apply to a Registrant that is controlled by its adviser or underwriter(s) before the effective date of the registration statement if immediately after the public offering there will be no control person.

3. State the name, address, and percentage of ownership of each person who owns of record or is known by the Registrant to own of record or beneficially 5 percent or more of any class of the Registrant's outstanding equity securities.

Instructions: 1. Calculate the percentage on the basis of the amount of securities outstanding.

2. If securities are being registered in connection with or pursuant to a plan of acquisition, reorganization, readjustment, or succession, indicate, to the extent practicable, the status to exist upon consummation of the plan on the basis of present holdings and commitments.

3. If to the knowledge of the Registrant or any principal underwriter of its securities, 5 percent or more of any class of voting securities of the Registrant are or will be held subject to any voting trust or other similar agreement, disclose this fact.

4. Indicate whether the securities are owned both of record and beneficially, or of record only, or beneficially only, and disclose the respective percentage owned in each manner.

3. Disclose all equity securities of the Registrant owned by all officers, directors and members of the advisory board of the Registrant as a group, without naming them. In any case where the amount owned by directors and officers as a group is less than one percent of the class, a statement to that effect is sufficient.

Item 20. Investment Advisory and Other Services

1. Furnish the following information about each investment adviser:

a. The names of all controlling persons and the basis of such control and, if material, the business history of any organization that controls the adviser;

b. The name of any affiliated person of the Registrant who is also an affiliated person of the investment adviser and a list of all capacities in which such person named is affiliated with the Registrant and with the investment adviser; and

Instruction: If an affiliated person of the Registrant either alone or together with others is a controlling person of the investment adviser, the Registrant must disclose that fact but need not supply the specific amount of percentage of the outstanding voting securities of the investment adviser that are owned by the controlling person.

c. The method of computing the advisory fee payable by the Registrant including:

(1) The total dollar amount paid to the adviser by the Registrant under the investment advisory contract for the last three fiscal years;

(2) If applicable, any credits that reduced the advisory fee for any of the last fiscal years; and

(3) Any expense limitation provision.

Instructions: 1. If the advisory fee payable by the Registrant varies depending on the Registrant's investment performance in relation to some standard, set forth the standard along with a fee schedule in tabular form. The Registrant may include examples showing the fees the adviser would earn at various levels of performance, but such examples must include calculations showing the maximum and minimum fee percentages that could be earned under the contract.

2. State each type of credit or offset separately.

3. Where the Registrant is subject to more than one expense limitation provision, describe only the most restrictive provision.

4. If the Registrant has more than a single class of capital stock, the response to paragraph 1.c of this item should describe the methods of allocation and payment of advisory fees for each class.

2. Describe all services performed for or on behalf of the Registrant that are supplied or paid for wholly or in substantial part by the investment adviser in connection with the investment advisory contract.

3. Describe all fees, expenses, and cost of the Registrant that are to be paid by persons other than the investment adviser or the Registrant and identify such persons.

4. Summarize any management-related service contract, under which services are provided to the Registrant, that is not otherwise disclosed in response to an item of this form and may be of interest to a purchaser of the Registrant's securities, indicating the parties to the contract and the total dollars paid, and by whom, for the past three years.

Instructions: 1. A "management-related service contract" includes any agreement whereby another person contracts with the Registrant to keep, prepare, or file accounts, books, records, or other documents that the Registrant may be required to keep under federal or state law, or to provide any similar services with respect to the daily administration of the Registrant, but does not include the following: (1) Any contract with the Registrant to provide investment advice; (2) any agreement to act as custodian, transfer agent, or dividend-paying agent; and (3) bona fide contracts for outside legal or auditing services, or bona fide contracts for personal employment entered into in the ordinary course of business.

2. No information is required about the service of mailing proxies or periodic reports to shareholders of the Registrant.

3. In summarizing the substantive provisions of a management-related service

contract, include: the name of the person providing the service; any direct or indirect relationship of that person with the Registrant, its investment adviser, or its principal underwriter; the nature of the services provided; and the basis of the compensation paid for the last three fiscal years.

5. If any person (other than a bona fide director, officer, member of an advisory board, or employee of the Registrant, as such, or a person named as an investment adviser in response to paragraph 1 of this item), pursuant to any understanding whether formal or informal, regularly furnishes advice to the Registrant or the investment adviser of the Registrant with respect to the desirability of the Registrant's investing in, purchasing, or selling securities or other property, or is empowered to determine what securities or other property should be purchased or sold by the Registrant, and receives direct or indirect remuneration, furnish the following information:

a. The name of the person;

b. A description of the nature of the arrangement and the advice or information given; and

c. Any remuneration (including, for example, participation, directly or indirectly, in commissions or other compensation paid in connection with transactions in the Registrant's portfolio securities) paid for such advice or information, and a statement as to how and by whom such remuneration was paid for the last three fiscal years.

Instruction: No information is required with respect to any of the following:

a. Persons whose advice was furnished solely through uniform publications distributed to subscribers;

b. Persons who furnished only statistical and other factual information, advice regarding economic factors and trends, or advice as to occasional transactions in specific securities, but without generally furnishing advice to them or making recommendations to them regarding the purchase or sale of securities by the Registrant;

c. A company that is excluded from the definition of "investment adviser" of an investment company by reason of section 2(a)(20)(iii) of the 1940 Act (15 U.S.C. 80a-2(a)(20)(iii);

d. Any person the character and amount of whose compensation for such service must be approved by court; or

e. Such other persons as the Commission has by rules and regulations or order determined not to be an "investment adviser" of an investment company.

6. If the portfolio securities of the Registrant are held by a person other than a commercial bank, trust company or depository registered with the Commission as custodian, state the nature of the business of each such person.

7. Furnish the name and principal business address of the Registrant's custodian and independent public accountant and provide a general description of the services performed by each.

8. If an affiliated person of the Registrant or an affiliated person of such an affiliated person acts as custodian, transfer agent or dividend-paying agent for the Registrant, furnish a description of the services performed by such person and the basis for remuneration (*e.g.*, the method by which such person's fee is calculated).

Item 21. Brokerage Allocation and Other Practices

1. Describe how transactions in portfolio securities are or will be effected. Provide a general statement about brokerage commissions and mark-ups on principal transactions and the aggregate amount of any brokerage commissions paid by the Registrant during the three most recent fiscal years. Explain any material change in brokerage commissions paid by the Registrant during the most recent fiscal year as compared to the two prior fiscal years.

2. a. State the total dollar amount, if any, of brokerage commissions paid by the Registrant during the three most recent fiscal years to any broker that: (1) Is an affiliated person of the Registrant; (2) is an affiliated person of an affiliated person of the Registrant; or (3) has an affiliated person that is an affiliated person of the Registrant, its investment adviser, or principal underwriter. In the case of an initial public offering, disclose whether or not the Registrant intends to use any such brokers. Identify each broker and state the relationships that cause the broker to be identified in this item.

b. State for each broker identified in response to paragraph 2.a of this item:

(1) The percentage of Registrant's aggregate brokerage commissions paid to such broker during the most recent fiscal year; and

(2) The percentage of Registrant's aggregate dollar amount of transactions involving the payment of commissions effected through such broker during the most recent fiscal year.

c. Where there is a material difference in the percentage of brokerage commissions paid to, and the percentage of transactions effected through, any broker identified in response to paragraph 2.a of this item, state the reasons for such difference.

3. Describe how brokers will be selected to effect securities transactions for the Registrant and how evaluations will be made of the overall reasonableness of brokerage commissions paid, including the factors considered.

Instructions: 1. If the receipt of products or services other than brokerage or research services is a factor considered in the selection of brokers, specify the products and services.

2. If the receipt of research services is a factor in selecting brokers, identify the nature of the research services.

3. State whether persons acting on behalf of the Registrant are authorized to pay a broker a commission in excess of that which another broker might have charged for effecting the same transaction because of the value of brokerage or research services provided by the broker.

4. If applicable, explain that research services furnished by brokers through whom the Registrant effects securities transactions may be used by Registrant's investment adviser in servicing all of its accounts and that not all the services may be used by the investment adviser in connection with the Registrant; or, if other policies or practices are applicable to Registrant with respect to the allocation of research services provided by brokers, explain the policies and practices.

5. Registrants should refer to rule 17e-1 under the 1940 Act (17 CFR 270.17e-1) with respect to securities transactions executed by exchange members.

4. If during the last fiscal year the Registrant or its investment adviser, pursuant to an agreement or understanding with a broker or otherwise through an internal allocation procedure, directed Registrant's brokerage transactions to a broker because of research services provided, state the amount of the transactions and related commissions.

5. If the Registrant has acquired during its most recent fiscal year or during the period of time since organization, whichever is shorter, securities of its regular brokers or dealers as defined in rule 10b-1 under the 1940 Act (17 CFR 270-10b-1), or their parents, identify those brokers or dealers and state the value of the Registrants aggregate holdings of the securities of each subject issuer as of the close of the Registrant's most recent fiscal year.

Instruction: The Registrant need only disclose information with respect to the parent of a broker or dealer that derived more than 15% of its gross revenues from the business of a broker, a dealer, an underwirter, or an investment adviser. If the Registrant has issued more than one class of stock, the required information must be disclosed for the class that has securities being registered.

Item 22. Tax Status

Provide information about the Registrant's tax status that is not required to be in the prospectus but that Registrant believes is of interest to investors including, but not limited to, an explanation of the legal basis for the Registrant's tax status. If the Registrant is qualified or intends to qualify under Subchapter M of the Internal Revenue Code and has not disclosed that fact in the prospectus, then disclosure of that fact will be sufficient. If not otherwise disclosed, describe any special or unusual tax aspects of the Registrant, such as taxes resulting from foreign investment or from status as a personal holding company, or any tax loss carry-forward to which Registrant may be entitled.

Item 23. Financial Statements

Provide the financial statements of the Registrant.

Instructions: 1. a. Furnish, in a separate section following the responses to the above items in Part B of the registration statement, the financial statements and schedules required by Regulation S-X (17 CFR part 210).

b. A company that is regulated as a business development company under the 1940 Act should provide an indication in its Schedule of Investments, of those investments that are not qualifying investments under section 55(a) of the 1940 Act and, in a footnote, explain the significance of non-qualification.

2. Notwithstanding the requirements of instruction 1 above, the following statements and schedules required by Regulation S-X may be omitted from Part B and included in Part C of the registration statement:

a. The statement of any subsidiary that is not a majority-owned subsidiary; and

b. The following schedules in support of the most recent balance sheet (a) columns C and D of Schedule III (17 CFR 210.12-03); and (b) Schedule VI (17 CFR 210.12-04).

3. In addition to the requirements of rule 3-18 of Regulation S-X (17 CFR 210.3-18), any company registered under the 1940 Act that has not previously had an effective registration statement under the 1933 Act shall include in its initial registration statement under the 1933 Act such additional financial statements and condensed financial information (which need not be audited) as is necessary to make the financial statements and condensed financial information included in the registration statement as of a date within 90 days prior to the date of filing.

4. Every annual report to shareholders required by section 30(d) of the 1940 Act (15 U.S.C. 80a-29(d)) and rule 30d-1 thereunder shall contain the following information:

a. The audited financial statements required by Regulation S-X, as modified by instruction 2 above for the periods specified by Regulation S-X;

b. The condensed financial information required by item 4.1 of this form, for the five most recent fiscal years, with at least the most recent year audited; and

c. Unless shown elsewhere in the report as part of the financial statements required by a above, the aggregate remuneration paid by the company during the period covered by the report (A) to all directors and to all members of any advisory board for regular compensation; (B) to each director and to each member of an advisory board for special compensation; (C) to all officers; and (D) to each person of whom any officer or director of the company is an affiliated person.

5. Every report to shareholders required by section 30(d) of the 1940 Act and rule 30d-1 thereunder, execept the annual report, shall contain the following information (which need not be audited):

a. The financial statements required by Regulation S-X, as modified by instruction 2 above, for the period commencing either with (1) the beginning of the company's fiscal year (or date of organization, if newly organized) or (2) a date not later than the date after the close of the period included in the last report conforming with the requirements of rule 30d-1 and the most recent preceding fiscal year;

b. The condensed financial information required by item 4.1 of this form, for the period of the report as specified by subparagraph a of this instruction, and the most recent preceding fiscal year; and

c. Unless shown elsewhere in the report as part of the financial statements required by subparagraph a of this instruction, the aggregate remuneration paid by the company during the period covered by the report (1) to all directors and to all members of any advisory board for regular compensation; (2) to each director and to each member of an advisory board for special compensation; (3) to all officers; and (4) to each person of whom an officer or director of the company is an affiliated person.

6. Reference is made to General Instruction F regarding incorporation by reference.

Part C—Other Information

Item 24. Financial Statements and Exhibits

List all financial statements and exhibits filed as part of the registration statement.

1. Financial statements.

Instruction:

Identify those financial statements that are included in Parts A and B of the registration statement.

2. Exhibits:

a. Copies of the charter as now in effect;

b. Copies of the existing bylaws or instruments corresponding thereto;

c. Copies of any voting trust agreement with respect to more than 5 percent of any class of equity securities of the Registrant;

d. Specimens or copies of each class of security issued by the Registrant, including copies of all constituent instruments, defining the rights of the holders of the securities, and copies of each class of security being registered;

e. A copy of the document setting forth the Registrant's dividend reinvestment plan, if any;

f. Copies of the constituent instruments defining the rights of the holders of long-term debt of all subsidiaries for which consolidated or unconsolidated financial statements are required to be filed (The instrument relating to any class of long-term debt of the Registrant or any subsidiary need not be filed if the total amount of securities authorized thereunder amounts to less than 2 percent of the total assets of the Registrant and its subsidiaries on a consolidated basis and if the Registrant files an agreement to furnish such copies to the Commission upon request.);

g. Copies of all investment advisory contracts relating to the management of the assets of the Registrant;

h. Copies of each underwriting or distribution contract between the Registrant and a principal underwriter, and specimens or copies of all agreements between principal underwriters and dealers;

i. Copies of all bonus, profit sharing, pension, or other similar contracts or arrangements wholly or partly for the benefit of directors or officers of the Registrant in their capacity as such (A reasonably detailed description of any plan that is not set forth in a formal document should be furnished.);

j. Copies of all custodian agreements and depository contracts entered into in conformance with section 17(f) of the 1940 Act (15 U.S.C. 80a-17(f)) or rules thereunder with respect to securities and similar investments of the Registrant, including the schedule of remuneration;

k. Copies of all other material contracts not made in the ordinary course of business that are to be performed in whole or in part at or after the date of filing the registration statement;

l. An opinion of counsel and consent to its use as to the legality of the securities being registered, indicating whether they will be legally issued, fully paid, and nonassessable;

m. If a non-resident director, officer, investment adviser, or expert named in the registration statement has executed a consent to service or process within the United States, a copy of that consent to service;

n. Copies of any other opinions, appraisals, or rulings, and consents to their use relied on in preparing this registration statement, and consents to the use of accountants reports relating to audited financial statements required by section 7 of the 1933 Act (15 U.S.C. 77g);

o. All financial statements omitted from item 23;

p. Copies of any agreements or understandings made in consideration for providing the initial capital between or among the Registrant, the underwriter, adviser, promoter, or initial stockholders and written assurance from the promoters or initial stockholders that their purchases were made for investment purposes without any present intention of reselling; and

q. Copies of the model plan used in the establishment of any retirement plan in conjunction with which the Registrant offers its securities, any instructions to it and any other documents making up the model plan (such form(s) should disclose the costs and fees charged in connection with the plan).

Instructions: 1. Subject to the rules on incorporation by reference and instruction 2 below, the foregoing exhibits shall be filed as a part of the registration statement. Exhibits required by paragraphs 2.m, 2.n, and 2.o above need to be filed only as part of a 1933 Act registration statement. Exhibits shall be appropriately lettered or numbered for convenient reference. Exhibits incorporated by reference may bear the designation given in a previous filing. Where exhibits are incorporated by reference, the reference shall be made in the list of exhibits. The reference shall include the form, file number and date of the previous filing and the exhibit number (*i.e.*, exhibit 2.a, 2.b, etc.) under which the exhibit was previously filed.

2. A Registrant need not file an exhibit as part of a post-effective amendment if the exhibit has been filed in the Registrant's initial registration statement or in a previous post-effective amendment, unless there has been a change in the exhibit or unless the exhibit is a copy of a consent required by section 7 of the 1933 Act or is a financial statement omitted from item 23. The reference to this exhibit shall include the number of the previous filing (e.g., pre-effective amendment No. 1) where such exhibit was filed.

3. If an exhibit to a registration statement (other than an opinion or consent), filed in preliminary form, has been changed (1) only to insert information as to interest, dividend or conversion rates, redemption or conversion prices, purchase or offering prices, underwriters' or dealers' commissions, names, addresses or participation of underwriters or similar matters, which information appears elsewhere in an amendment to the registration statement or a prospectus filed pursuant to rule 497(b) under the Securities Act of 1933 (17 CFR 230.497(b)) of (2) to correct typographical errors, insert signatures or make other similar immaterial

changes, then, notwithstanding any contrary requirement of any rule or form, the Registrant need not refile the exhibit as so amended. Any incomplete exhibit may not, however, be incorporated by reference in any subsequent filing under any Act administered by the Commission. If an exhibit required to be executed (e.g., an underwriting agreement) is filed in final form, a copy of an executed copy shall be filed.

Item 25. Marketing Arrangements

Briefly describe any arrangements known to the Registrant or to any person named in response to item 5, or to any person specified in item 19.2, made for any of the following purposes:

1. To limit or restrict the sale of other securities of the same class to be offered for the period of distribution;

2. To stabilize the market for any of the securities to be offered; or

3. To hold each underwriter or dealer responsible for the distribution of his participation.

Instruction: If the answer to this item is contained in an exhibit, the item may be answered by cross-reference to the relevant paragraphs of the exhibit.

Item 26. Other Expenses of Issuance and Distribution

Furnish a reasonably itemized statement of all expenses in connection with the issuance and distribution of the securities being registered, other than underwriting discounts and commissions. If any of the securities being registered are to be offered for the account of securityholders, indicate the portion of expenses to be borne by securityholders.

Instruction: Insofar as practicable, separately itemize registration fees, federal taxes, state taxes and fees, trustees' and transfer agents' fees, cost of printing and engraving, rating agency fees, and legal and accounting fees. The information may be given subject to future contingencies. Provide estimates if the amount of any items are not known.

Item 27. Persons Controlled by or Under Common Control

Furnish a list or diagram of all persons directly or indirectly controlled by or under common control with the Registrant and as to each of these persons indicate (1) if a company, the state or other jurisdiction under whose laws it is organized, and (2) the percentage of voting securities owned or other basis of control by the person, if any, immediately controlling it.

Instructions: 1. The list or diagram shall include the Registrant and shall show clearly the relationship of each company named to the Registrant and to other companies named. If the company is controlled by the direct owership of its securities by two or more persons, so indicate by appropriate cross-reference.

2. Identify, by appropriate symbols; (1) Subsidiaries for which separate financial statements are filed (2) subsidiaries included in the respective consolidated financial statements; (3) subsidiaries included in the respective group financial statements filed for unconsolidated subsidiaries; and (4) other subsidiaries, indicating briefly why statements of these subsidiaries are not filed.

Item 28. Number of Holders of Securities

State in substantially the tabular form indicated, as of a specified date within 90 days prior to the date of filing, the number of record holders of each class of securities of the Registrant.

(1) Title of class _____

(2) Number of record holders _____

Item 29. Indemnification

State the general effect of any contract, arrangement, or statute under which any director, officer, underwriter, or affiliated person of the Registrant is insured or indemnified in any manner against any liability that may be incurred in such capacity, other than insurance provided by any member of the board of directors, officer, underwriter, or affiliated person for their own protection.

Instruction: In responding to this item, the Registrant should note the requirement of rules 461 and 484 under the 1933 Act (17 CFR 230.461, 230.484) and section 17 of the 1940 Act (15 U.S.C. 80a–17). [*See* Investment Company Act Rel. No. 11330 (Sept. 2, 1980) and Investment Company Act Rel. No. 7221 (June 9, 1972).]

Item 30. Business and Other Connections of Investment Adviser

Describe any other business, profession, vocation, or employment of a substantial nature in which each investment adviser of the Registrant, and each director, officer, or partner of any such investment adviser, is or has been, at any time during the past two fiscal years, engaged for his or her own account or in the capacity of director, officer, employee, partner, or trustee.

Instructions: 1. State the name and principal business address of any company of which any person specified above is connected in the capacity of director, officer, employee, partner, or trustee, and the nature of the connection.

2. The names of investment advisory clients need not be provided.

Item 31. Location of Accounts and Records

Furnish the name and address of each person maintaining physical possession of each account, book, or other document required to be maintained by section 31(a) of the 1940 Act (15 U.S.C. 80a–30(a)) and the rules thereunder (17 CFR 270.31a–1 to 31a–3).

Item 32. Management Services

Furnish a summary of the substantive provisions of any management-related service contract not discussed in Parts A or B of the registration statement (because the contract was not believed to be of interest to a purchaser of the Registrant's securities), indicating the parties to the contract, the total dollars paid, and by whom, for the last three fiscal years.

Instructions: 1. The instructions to item 18.4 of this form shall also apply to this item.

2. Information need not be provided for any service for which total payments of less than $5,000 were made during each of the last three fiscal years.

Item 33. Undertakings

Furnish the following undertakings in substantially the following form in all registration statements filed under the 1933 Act:

1. An undertaking to suspend the offering of shares until the prospectus is amended if (1) subsequent to the effective date of its registration statement, the net asset value declines more than 10 percent from its net asset value as of the effective date of the registration statement or (2) the net asset value increases to an amount greater than its net proceeds as stated in the prospectus.

2. An undertaking to file a post-effective amendment with certified financials showing the initial capital received before accepting subscriptions from more than 25 persons, if the Registrant proposes to raise its initial capital under section 14(a)(3) of the 1940 Act (15 U.S.C. 80a–14(a)(3)).

3. If the securities being registered are to be offered to existing shareholders pursuant to warrants or rights and any securities not taken by shareholders are to be reoffered to the public, an undertaking to supplement the prospectus, after the expiration of the subscription period, to set forth the results of the subscription offer, the transactions by underwriters during the subscription period, the amount of unsubscribed securities to be purchased by underwriters, and the terms of any subsequent reoffering thereof. If any public offering by the underwriters of the securities being registered is to be made on terms differing from those set forth on the cover page of the prospectus, the Registrant shall undertake to file a post-effective amendment to set forth the terms of such offering.

4. If the securities are being registered in reliance on rule 415 under the 1933 Act, an undertaking:

a. To file, during any period in which offers or sales are being made, a post-effective amendment to the registration statement:

(1) To include any prospectus required by section 10(a)(3) of the 1933 Act (15 U.S.C. 77j(a)(3));

(2) To reflect in the prospectus any facts or events after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement; and

(3) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement.

b. That, for the purpose of determining any liability under the 1933 Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of those securities at that time shall be deemed to be the initial bona fide offering thereof; and

c. To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

5. If the Registrant is filing a registration statement permitted by rule 430A under the

Securities Act of 1933 (17 CFR 230.430A), an undertaking that:

a. For the purpose of determining any liability under the 1933 Act, the information omitted from the form of prospectus filed as part of this registration statement in reliance upon rule 430A and contained in a form of prospectus filed by the registrant under rule 497(h) under the 1933 Act (17 CFR 230.497(h)) shall be deemed to be part of this registration statement as of the time it was declared effective; and

b. For the purpose of determining any liability under the 1933 Act, each post-effective amendment that contains a form of prospectus shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of the securities at that time shall be deemed to be the initial bona fide offering thereof.

6. An undertaking to submit its investment advisory agreement and the selection of its independent accountants, who are to certify financial statements to the Commission, to its shareholders for their approval at a regular or special meeting of shareholders held within one year after the effective date of this registration statement or the commencement of operations, whichever is later.

7. An undertaking to send by first class mail or other means designed to ensure equally prompt delivery, within one business day of receipt of a written or oral request, any Statement of Additional Information.

Signatures

Pursuant to the requirements of the Securities Act of 1933 and/or the Investment Company Act of 1940, the Registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of ———, and State of ———, on the ——— day of ———, 19——.

Registrant ———

By (Signature and Title) ———

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature ———

Title ———

Date ———

Appendix C—Guidelines for Form N-2

This release contains Guidelines prepared by the Division of Investment Management for registration statements on Form N-2 for closed-end management investment companies. The Guidelines are based on Commission releases and Division interpretations. Adherence to these Guidelines by registrants should speed the examination by the Division's staff of registration statements on Form N-2.

The Guidelines are not rules of the Commission and, except as noted, represent only the views of the staff of the Division, not the Commission. The Guidelines should be read with the Investment Company Act Releases cited in them. The policies stated in the Guidelines may be changed, if necessary. The Guidelines to Form N-1A are also applicable to Form N-2 unless the context dictates otherwise.

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Guide 1—Use of Proceeds

In response to Item 7, the registrant should disclose how long it will take to invest all or substantially all of the proceeds from an offering in accordance with its investment objectives. If the registrant expects the investment period to exceed three months, the reasons for the expected delay should be stated. It is the view of the Division of Investment Management ("Division") that an investment company which takes in excess of six months to invest net proceeds will not be operating in accordance with its investment objectives and policies as disclosed in its registration statement. Freedom of action to take in excess of six months is considered by the Division to be prohibited by sections 8(b)(1) and 13(a) of the Investment Company Act of 1940 ("1940 Act") (15 U.S.C. 80a-8(b)(1), 80a-13(a)), and the registrant would be required to seek its shareholders' consent to a change of investment objectives if after six months it had not invested net proceeds in accordance with its investment objectives. In the case of an initial public offering of a business development company ("BDC"), the Division is of the view that section 58 of the 1940 Act (15 U.S.C. 80a-57) requires that 65% of the registrant's assets should be invested in the types of securities designed to meet its stated investment objective within two years after commencement of the offering. The Division will not consider a registrant to be invested in accordance with the applicable requirements if it is invested in money market instruments or other securities which do not conform with the registrant's stated investment objective and policies.

Guide 2—Issuer Repurchase of Shares

Issuer repurchases of shares in the secondary market or through tender offers (collectively "share repurchases") are limited by section 23 of the 1940 Act (15 U.S.C. 80a-23) and rule 23c-1 thereunder (17 CFR 270.23c-1) and are subject to sections 10(b), 13(e), and 14(e) (15 U.S.C. 78j(b), 78m(e), and 78n(e)) of the Securities Exchange Act of 1934 ("1934 Act") and the rules thereunder, particularly (i) rule 10b-5 (17 CFR 240.10b-5); (ii) rule 10b-13 (17 CFR 240.10b-13) (with respect to tender offers); (iii) rule 10b-18 (17 CFR 240.10b-18), rule 13e-1 (17 CFR 240.13e-1), and rule 13e-3 (17 CFR 240.13e-3) (with respect to the types of share repurchases specified in those rules); and (iv) rule 13e-4 (17 CFR 240.13e-4) and regulation 14E (17 CFR 240.14e-1 *et seq.*) (in the case of tender offers). Registrants are urged to raise any questions with respect to the applicability of provisions of the 1934 Act and the rules thereunder and related disclosure issues with the staffs of the Office of Trading Practices of the Division of Market Regulation and the Office of Tender Offers of the Division of Corporation Finance prior to commencing any share repurchases, whether by secondary market purchases or through tender offers.

In response to Item 8(f), registrants contemplating making share repurchases should disclose the expected timing of and procedures associated with such repurchases, including, in the case of a tender offer, when the purchase price will be determined and how shareholders may readily ascertain the net asset value per share during the period that the tender offer is open.[1] If tender offers are contemplated, the prospectus should disclose that, if a tender offer is made, notice will be provided describing the tender offer and that the notice will contain information shareholders should consider in deciding whether or not to tender their shares and detailed instructions on how to tender shares.[2]

[1] The price at which a registrant may purchase its shares in a tender offer may be (and usually is) expressed in terms of its net asset value at the close of business on the day the offer ends. Thus, the net asset value of a registrant's shares during a tender offer will be material information to investors in determining whether or not to tender shares.

[2] Rule 13e-4(f)(8)(i) (17 CFR 240.13e-4(f)(8)(i)) requires a tender offer to be open to all security holders of the class of securities subject to the tender offer. Therefore, no record dates may be specified with respect to the eligibility of a shareholder to participate in any tender offer that may be made, since all shareholders must be able to participate in the offer until the close of the offering period. In addition, rule 13e-4(f)(8)(ii) (17 CFR 240.13e-4(f)(8)(ii)) requires that the consideration paid to any holder during the tender offer be the highest paid to any other security holder during the tender offer. Therefore, deducting a service fee from consideration paid to shareholders is not allowed because the effect would be to lower the price paid to those shareholders tendering a small amount of shares relative to the price paid to shareholders tendering a large number of shares.

The Division believes that a statement in the prospectus that the registrant will make share repurchases for its shares may be inconsistent with the fiduciary duties of the board of directors of the registrant to consider, at the time of the transaction, the merits of the share repurchase and to determine that the share repurchase would be in the best interests of the registrant and registrant's shareholders based on the circumstances at the time the repurchase is made. To avoid such a result, a registrant contemplating repurchasing shares on a specified date in the future or on a regular (*e.g.*, quarterly) or frequent basis should neither state nor imply in its prospectus that the repurchase will be automatic. Nor should the registrant provide any assurance that share repurchases will reduce or eliminate the discount of its share's market price to net asset value. To avoid investors from drawing unwarranted inferences that there is an automatic right to tender stock back to the registrant (in the case of a tender offer), and to avoid any implication that the board of directors have limited its discretion in determining whether or not to proceed with a share repurchase based upon conditions at the time of the repurchase and the best interests of the registrant and its shareholders, a registrant should prominently disclose in the prospectus that the board of directors will consider making share repurchases (or tender offers), and the factors that the Board will consider, including how frequently the board will consider making repurchases. In addition, while the disclosure need not be as detailed as that which would appear in an offer to purchase delivered to shareholders in connection with a tender offer, it should disclose the types of factors that would preclude a share repurchase.

The means by which share repurchases will be funded generally would be material and thus these means and any risks inherent in the policies relating to funding should be disclosed. Therefore, if the registrant intends to incur debt to finance a share repurchase, the registrant should disclose the maximum amount of debt that may be incurred for that purpose, the restrictions imposed by the 1940 Act on leverage, and the attendant risks of leveraging.[3] In addition, the registrant should discuss the effect that share repurchases and related financings might have on expense ratios; portfolio turnover; and on the ability of the registrant to achieve its investment objectives. The ability of the registrant to qualify as a regulated investment company under the Internal Revenue Code (or the extent to which the registrant's Board will consider such risk in deciding to proceed with a share repurchase which will be funded through the liquidation of portfolio securities) should also be discussed. Finally, registrants should discuss the potential tax consequences to investors and the registrant of share repurchases in response to items 10(d) or 22, as appropriate.

Occasionally, a registrant may wish to make an "odd-lot" tender offer (*i.e.*, an offer to purchase all of the shares held by shareholders who hold less than 100 shares) in order to reduce its administrative costs and give small shareholders an opportunity to sell shares without brokerage costs. The Division is of the view that an "odd-lot" tender offer is permitted under rule 23c-1 [4] if it complies with the conditions set forth in that rule and the applicable provisions of, and the rules and regulations under, the 1934 Act, including rule 13e-4(g)(5) (17 CFR 240.13e-4(g)(5)), which specifically permits odd-lot tenders. The Division is of the view that purchases made in accordance with the applicable rules would not violate rule 23c-1(a)(9), which requires that repurchases made in reliance on rule 23c-1 not be made in a manner or on a basis which discriminates unfairly against any holders of the class of securities purchased. The Division believes that holders who tender their shares in odd-lot tender offers are treated fairly because they are given the opportunity to sell their shares at the lesser of the fund shares' market price or net asset value [5] without incurring the high brokerage costs usually associated with odd-lot transactions. The registrant's remaining shareholders are benefitted because the elimination of odd-lot holders usually results in a reduction in the registrant's administrative expenses.

As noted above, odd-lot tender offers are subject to the anti-fraud provisions of the 1934 Act, and a registrant making such an offer has the responsibility to make adequate disclosure of materially pertinent information in connection with such tender offers, including the reasons for making the offer, the terms and conditions of the offer, tax consequences to tendering shareholders, and any significant developments in the affairs of the registrant since its most recent report to shareholders.

Guide 3—Change of Control Provisions in the Registrant's Charter or By-laws

If the registrant has any provisions in its charter or by-laws that would have an effect of delaying, deferring or preventing a change of control (such as super-majority voting requirements on matters related to merger, consolidation, sale of assets or liquidation, or classification of directors with staggered terms of office), a description of these provisions should be set forth in the prospectus in response to Item 10(a)(vi) and, if one is otherwise required, in the synopsis. Each applicable provision should be separately identified and its substance and effects discussed.

The following information about such provisions should be discussed in response to Item 10(a)(vi): (1) The rationale for adopting these provisions; (2) the positive and negative effects of these provisions (such as the effect of depriving shareholders of an opportunity of selling their shares at a premium over prevailing market price); (3) whether the voting requirements to change the nature of the company's business, approve extraordinary corporate transactions, convert to an open-end investment company, or remove directors are higher than those imposed by federal or state law; and (4) whether the board of directors or trustees have considered the provisions and determined that they are in the best interest of shareholders.[6]

Guide 4—Conversion to an Open End Company

Some closed-end investment company prospectuses disclose that the board of directors of the registrant will consider converting the company to an open-end fund after a specified period of time. Because shares of an open-end company are sold and redeemed at net asset value, the prospect of a conversion is often intended to reduce the discount to

[3] *See* section 18 of the 1940 Act (15 U.S.C. 80a-18) and Guide 6 to Form N-2. Guide 6 contains a detailed discussion of the Division's views on the risks associated with leverage.

[4] Section 23(c)(2) of the 1940 Act (15 U.S.C. 80a-23(c)(2)) is not applicable to odd-lot tender offers because they are not made to all holders of the class of securities to be purchased. Section 23(c)(3) (15 U.S.C. 80a-23(c)(3)) authorizes the Commission to permit repurchases either by issuing a rule or by order upon application. Pursuant to that section, the Commission has adopted rule 23c-1, which permits a closed-end fund to repurchase its securities subject to the conditions in that rule.

[5] Rule 23c-1(a)(6) (17 CFR 270.23c-1(a)(6)).

[6] In addition, *see* Securities Exchange Act of 1934 Release No. 15230 (October 13, 1978) (43 FR 49863 (Oct. 25, 1978)) which discusses disclosure requirements for proxy and information statements containing anti-takeover and similar proposals.

net asset value of the registrant's share price. If conversion to an open-end company is disclosed as a possible course of action in the prospectus, the prospectus should discuss the factors which the registrant's board of directors will consider in determining whether to propose a conversion. The requisite shareholder vote to effect a conversion should also be disclosed.

An investment in an open-end company raises risks for investors that are different from an investment in a closed-end company, and these risks should be discussed in a prospectus which raises the possibility of conversion to an open-end company. For example, because a shareholder of an open-end investment company may present his shares for redemption any time, and payment must be made within seven days of presentation at their net asset value, conversion to open-end status may require changes in how the registrant's portfolio is managed in order to meet the liquidity requirements applicable to open-end funds. Because portfolio securities may have to be liquidated to meet redemptions, this could affect the registrant's ability to meet its investment objective or use investment policies and techniques that are more appropriate for a fixed portfolio rather than one subject to constant demands for redemption and inflows of cash.

The registrant also should disclose whether it contemplates charging sales or redemption fees upon conversion to an open-end fund and whether redemptions will be made in cash or securities. If the registrant, after conversion, intends to retain the option of meeting redemptions with portfolio securities, the costs and risks imposed on the redeeming shareholders of receiving such securities also should be discussed.

Guide 5—Dividend Reinvestment Plans

Item 10(a)(v) of Form N-2 requires the registrant to describe any dividend reinvestment plan available to shareholders. It is the position of the Commission staff that securities issued by a registrant in connection with a plan are not required to be registered under the Securities Act of 1933 ("1933 Act") if there is no "sale for value" within the meaning of section 2(3) of the 1933 Act (15 U.S.C. 77b(3)).[7] As a general matter, no sale for value would occur when a shareholder elects, before the declaration of a dividend, to receive a dividend in stock in lieu of cash, no sales load is deducted upon issuance of the additional shares,[8] and the shareholder provides no consideration (besides the foregone cash dividend) for the additional securities. In the case of a dividend reinvestment plan that provides for the purchase of shares for additional consideration ("cash purchase plan"), a sale by an issuer would not be deemed to occur where: (a) The securities are purchased in the secondary market on behalf of the plan participant by an agent not affiliated with the registrant, its adviser, or underwriter; and (b) the registrants' participation in the plan is limited to administrative functions such as bookkeeping.[9]

Guide 6—Leverage and Senior Securities

Section 18 of the 1940 Act (15 U.S.C. 80a-18) imposes restrictions on a closed-end investment company's capital structure. Under section 18(c) (15 U.S.C. 80a-18(c)), a closed-end investment company may issue only one class of senior securities representing indebtedness and one class of senior securities representing preferred stock. Section 18(a)(1) (15 U.S.C. 80a-18(a)(1)) requires a company that offers senior stock or senior debt securities to maintain a 200% and 300% net asset coverage, respectively, immediately following the offering and on an ongoing basis as a condition to declaring dividends or distributions.

A registrant that uses a leveraged capital structure creates additional investment risks for its shareholders. Where a registrant uses or has reserved the authority to create a leveraged capital structure by issuing senior securities, cross reference to the discussion of these risks should be included on the cover page of the prospectus as required by Item 1(a)(x).

The following factors could increase investment risk and the volatility of the price of the registrant's shares and should be discussed in the prospectus: (1) That leveraging exaggerates any increase or decrease in the value of the registrant's portfolio; (2) that the costs of borrowing may exceed the income from the portfolio securities purchased with the borrowed money; (3) the decline in net asset value if the investment performance of the additional securities purchased fails to cover their cost (including any interest paid on the money borrowed or dividend requirements of preferred stock) to the registrant (including the effect on common stock dividend payments); (4) that a failure to pay dividends or make distributions could result in the registrant ceasing to qualify as a regulated investment company under the Internal Revenue Code; and (5) that if the asset coverage for preferred stock or debt securities declines to less than 200% or 300%, respectively (as a result of market fluctuations or otherwise), the registrant may be required to sell a portion of its investments when it may be disadvantageous to do so.

Special risks also are created where the registrant issues short-term debt or auction rate preferred stock to fund the purchase of long-term debt or fixed income securities ("borrowing short and lending long"). The registrant should discuss the consequences to holders of its senior securities and equity securities, respectively, of fluctuations in short-term and long-term rates and the effect on these securities if short-term rates exceed long-term rates.

Where the registrant is offering debt or buying securities on margin,[10] disclosure also should include a discussion of whether the registrant's assets will be used as security for the borrowings or whether the borrowings will be unsecured.

If the senior securities are to be issued with a specified rating by a rating agency (such as Standard & Poor's), the risk disclosure in the prospectus required by Item 8(c) of Form N-2 should make it clear that the rating does not eliminate or mitigate the risks of investing in the Registrant's securities. The prospectus should describe the effects on each class of the registrant's securities if the rating is lowered or withdrawn and the relationship of the ratings on senior securities to the investment quality of the securities in which the registrant will invest.

The prospectus should describe the financial impact on common shareholders of the issuance of senior securities, including the impact of the costs related to such issuances (*e.g.*, that the underwriting commissions, offering

[7] Securities Act Rel. No. 929 (July 29, 1936). *See also* Investment Company Act Rel. No. 6480 (May 10, 1971) (36 FR 9627 (May 27, 1971)). Registrants should note that the issuance of shares in connection with a dividend reinvestment plan is restricted by Section 23(b) of the 1940 Act (15 U.S.C. 80a-23(b)) which prohibits closed-end investment companies from issuing shares at a price below net asset value.

[8] Investment Company Act Rel. No. 6480; *id.*

[9] Securities Act Rel. No. 5515 (July 22, 1974) (39 FR 26520 (Aug. 8, 1974)); Securities Act Rel. No. 4790 (July 13, 1965) (30 FR 9059 (July 20, 1965)). The operation of a dividend reinvestment plan may involve the creation of a separate investment company. *Id. See also* Lucky Stores (pub. avail. July 6, 1974).

[10] Section 12(a)(1) of the 1940 Act (15 U.S.C. 80a-12(a)(1)) limits margin transactions to such short-term credits as are necessary for the clearance of transactions.

expenses, rating agency fees and organization expenses will be borne by the holders of the common shares) and the effects of dividend and interest requirements on distributions to common shareholders.

Registrants should provide a concise explanation of the asset coverage tests required by section 18 of the 1940 Act and their effects, particularly where two classes of senior securities are, or might be, issued. Registrants should consider providing simplified numerical examples to illustrate how the asset coverage tests will operate.

Section 18(i) of the 1940 Act (15 U.S.C. 80a-18(i)) requires that preferred shareholders have voting rights and have equal voting rights with other outstanding voting stocks, except as provided by section 18(a) (15 U.S.C. 80a-18(a)) or otherwise required by law. Section 18(a) gives the holders of a class of senior securities the right to elect directors in the event specified asset coverage tests are not met or dividends are not paid. Such voting rights should be described in the prospectus.

Guide 7—Synopsis

Guide 33 to Form N-1A sets forth the Division's views as to the appropriate content of a synopsis. A synopsis included in a prospectus of a closed-end fund should include the items specified in that Guide, and: (i) A brief description of the principal trading market for the registrant's securities; if none, so state; (ii) the principal speculative or risk factors peculiar to the registrant, if any; and (iii) a summary of the plan of distribution for the registrant's securities, including a concise description of any subscription agreement or escrow arrangements.

Guide 8—Continuous Offerings

Closed-end companies offering securities on a best efforts basis may have continuous offering periods that extend beyond 30 days. Such offerings may be made in accordance with rule 415 under the 1933 Act (17 CFR 230.415). Rule 415 imposes certain conditions on continuous offerings, including a requirement that the registrant provide an undertaking to file post-effective amendments in the event of the occurrence of any events which "represent a fundamental change in the information set forth in the registration statement * * *." *See* Item 33(d) of Form N-2. A fundamental change will have occurred where the registrant has made a material acquisition or a series of acquisitions that are in the aggregate material, or the consummation of these acquisitions become probable. Where a closed-end fund has structured a continuous offering involving a series of closings (with each closing being held at such time as subscription thresholds are met), sales of fund securities must be stopped from the time that a fundamental change in the affairs of the registrant becomes probable until a post-effective amendment describing the change becomes effective. In addition, registrants using multiple closings must comply with the 1940 Act's requirement's on pricing of securities. See sections 23(b) and 63(2)(A) (with respect to business development companies) of the 1940 Act (15 U.S.C. 80a-23(b) and 80a-62(2)(A)).

Registrants conducting continuous offerings are precluded from making any share repurchases, whether in the secondary market or by means of a tender offer, under rule 10b-6 under the Securities Exchange Act (17 CFR 240.10b-6), absent an exception to or exemption from that rule. Registrants are urged to contact the Office of Trading Practices of the Division of Market Regulation concerning any question regarding rule 10b-6.

Guide 9—Foreign Securities

A registrant that intends to invest 10 percent or more of its assets in foreign securities that are not publicly traded in the United States should concisely address in the prospectus where applicable, the risks associated with: (1) Currency fluctuations; (2) restrictions on, and cost associated with, the exchange of currencies; (3) the difficulty in obtaining or enforcing a court judgment abroad; (4) reduced levels of publicly available information concerning issuers; (5) restrictions on foreign investment in other jurisdictions; (6) reduced levels of governmental regulation of foreign securities markets; (7) difficulties in effecting the repatriation of capital invested abroad; (8) difficulties in transaction settlements and the effect of this delay on shareholder equity; (9) foreign withholding taxes; (10) political, economic, and similar risks, including expropriation and nationalization; (11) different accounting, auditing, and financial standards; (12) price volatility; and (13) reduced liquidity in the markets in which the fund will invest. In response to Items 20 (f) and (g), the Statement of Additional Information of any fund which invests more than 10 percent of its assets in foreign securities should discuss custodial arrangements for foreign securities.

In response to Items 9(a)(ii) (A) and (D), the prospectus should also provide a basis for an investor to assess the expertise and experience of the fund's investment adviser (and any person making a significant contribution to the investment advice provided to the registrant), with respect to the foreign markets in which the fund will invest and, in the case of a foreign adviser, the adviser's knowledge of regulatory requirements of the United States securities laws should be indicated.

In the case of a "country fund," or a fund that invests substantially all of its assets in securities of issuers organized under the laws of a single foreign country or region, the prospectus should address the following: (1) Restrictions placed by the foreign jurisdiction on foreign investment, including the material terms and conditions imposed on the fund by any statutes, regulations or orders relating to its investing activities; (2) restrictions or prohibitions placed on foreign investment in any major industry or market sector, such as the defense industry, energy or transportation; (3) restrictions placed on the total amount or type of securities in any single issuer that may be held by a foreign investor; and (4) any other restrictions of the foreign jurisdiction that would operate to limit the ability of the registrant to implement its investment policies or to operate in the manner described in its prospectus and SAI. The registrant also should discuss political and economic conditions, economic forecasts by government officials if available, capitalization, volume of trading and unusual characteristics of the securities markets of the jurisdiction, and the regulation of the foreign securities markets in which it intends to invest.

Registrants using a foreign custodian should comply with the provisions of rule 17f-5 under the Investment Company Act.

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17 CFR Part 270

[Release No. IC-17096; International Series—111; File No. S7-22-89]

RIN 3235-AD19

Acquisition by Registered Investment Companies of the Equity Securities of Foreign Securities Firms

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule amendments and requests for comment.

SUMMARY: The Commission is publishing for public comment rule amendments that would facilitate the acquisition by a registered investment company and any

company or companies controlled by such company ("acquiring company") of the equity securities of foreign securities firms. The proposed rule amendments would allow the acquisition of such securities, provided that those securities met criteria comparable to those applicable to equity securities of United States securities-related businesses. The Commission proposes these amendments because of numerous applications that have been filed seeking an exemption to permit registered investment companies to purchase equity securities of foreign securities firms.

DATE: Comments must be received on or before October 10, 1989.

ADDRESS: Send comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Comments should refer to File No. S7-22-89. All comments will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street NW., Washington, DC 20549.

FOR FURTHER INFORMATION CONTACT: Brian P. Kindelan, Special Counsel, (202) 272-2048, or C. Christopher Sprague, Staff Attorney, (202) 272-7779, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Commission is asking for public comment on proposed amendments to rule 12d3-1 (17 CFR 270.12d3-1) under section 12(d)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*) (the "Act"). The proposed amendments would facilitate the acquisition by registered investment companies and companies controlled by them of the equity securities of foreign securities firms.

Executive Summary

Section 12(d)(3) of the Act (15 U.S.C. 80a-12(d)(3)) makes it unlawful "for any registered investment company and any company or companies controlled by such registered investment company to purchase or otherwise acquire any security issued by or any other interest in the business of any person who is a broker, a dealer, is engaged in the business of underwriting, or is either an investment adviser of an investment company or an investment adviser registered under [the Investment Advisers Act of 1940] (15 U.S.C. 80b-1 *et seq.*) * * *." [1] Rule 12d3-1 under the Act, however, permits a registered investment company, or any company or companies controlled by such registered investment company ("acquiring company"), to acquire any security issued by any person that, in its most recent fiscal year, derived more than 15 percent of its gross revenues from securities-related activities,[2] provided certain quantitative and qualitative conditions are satisfied.[3] Of particular relevance here is the condition that, at the time of acquisition, any equity security acquired must be a "margin security," as defined in Regulation T (12 CFR 220.1 et seq.) ("Regulation T") promulgated by the Board of Governors of the Federal Reserve System (the "Board").

Several applicants for exemption from section 12(d)(3) have argued that the margin security requirement prevented them from acquiring the equity securities of foreign securities firms, because an equity security must have a public market in the United States to meet that requirement.[4] The Commission typically has granted the requested exemptions, subject to the acquired securities meeting criteria comparable to those set out in the Board's margin security definition. The proposed amendments would codify many of the standards in those orders. The standards are based particularly on the policies that underlie the requirements for inclusion on the list of over-the-counter margin stocks ("OTC margin stocks").

One set of such requirements concerns the liquidity of the acquired security. These requirements address characteristics of both the market in which the security is traded and of the security itself. Concerning the market, the equity security of the foreign securities firm would have to be listed on a "qualified foreign exchange" meeting certain requirements as to structure, size and stability. For example, to assure a depth of market comparable to that of United States national securities exchanges, the qualified foreign exchange would be required to have had an annual trading volume in stocks totalling at least 7.5 billion United States dollars in the year preceding the acquisition.[5] Concerning the security itself, the proposed amendments also would impose conditions related to the security's marketability, requiring that the equity security have been listed on a qualified foreign exchange for at least six months prior to the acquisition.[6] Finally, the issuer of the equity security to be acquired would be required to have made public all information that it is required to make public in its home country and to have filed with any stock exchange on which its securities are traded the filings required by that exchange.[7] Other conditions of the proposed amended rule are set out in the proposed rule text.

The proposed amended rule would have only prospective effect. Thus, recipients of nonconforming prior orders would continue to be permitted to acquire foreign securities firm equity securities in accordance with those orders, notwithstanding the adoption of the proposed amended rule. The Commission has not proposed to

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[1] These prohibitions do not apply where "(A) such person is a corporation all the outstanding securities of which (other than short-term paper, securities representing bank loans, and directors' qualifying shares) are, or after such acquisition will be, owned by one or more registered investment companies; and (B) such person is primarily engaged in the business of underwriting and distributing securities issued by other persons, selling securities to customers, or any one or more of such or related activities, and the gross income of such person normally is derived principally from such business or related activities." Section 12(d)(3)(A), (B).

[2] Rule 12d3-1(d)(1) defines "securities-related activities" as "a person's activities as a broker, as a dealer, from the business of underwriting, as an investment adviser registered under the Investment Advisers Act of 1940, as amended, or as an investment adviser to a registered investment company." Section 12(d)(3) of the Act, in pertinent part, prohibits an acquiring company from acquiring any security issued by or any other interest in "an investment adviser of an investment company." Proposed amended rule 12d3-1 would track the language in section 12(d)(3) by omitting the word "registered" from the phrase "investment adviser to a registered investment company" in the current definition of "securities-related activities" as well as in the definition of "securities-related business." Absent this change, acquiring companies cannot rely on rule 12d3-1 to acquire interests in a company that serves as an investment adviser to an investment company, foreign or domestic, that is not registered with the Commission.

[3] Rule 12d3-1(a) also provides that for purposes of section 12(d)(3) of the Act, an acquiring company may acquire without limitation any security of any issuer that, in its most recent fiscal year, derived 15% or less of its gross revenues from securities-related activities, unless the acquiring company would control such person after the acquisition. *See* text accompanying note 15, *infra*.

[4] *See infra* notes 24-26. In a letter to the Division of Investment Management, the Investment Company Institute ("ICI") requested that rule 22d3-1 be amended to permit an investment company to purchase the equity securities of foreign securities firms without first obtaining an exemptive order. *See* Letter from Susan P. Hart to Kathryn B. McGrath, Director, Division of Investment Management, dated April 29, 1987.

[5] *See* paragraph (d)(6)(iii) of the proposed amended rule.

[6] *See* paragraph (b)(5)(i) of the proposed amended rule.

[7] *See* paragraph (b)(5)(iv)(C) of the proposed amended rule. *Cf.* rule 12g3-2(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) ("Exchange Act") (which exempts securities of any foreign private issuer from section 12(g) of the Exchange Act (15 U.S.C. 781(g)), conditioned on the furnishing of such publicly disseminated information and other data to the Commission).

supersede these orders, although it invites comment on this issue, because it believes flexibility is appropriate in this evolving international area. Upon the adoption of the proposed amended rule, any acquisition that falls outside the scope of those orders would have to be made either in accordance with the standards of the proposed amended rule, or pursuant to another exemptive order where alternative conditions are substituted.

Background

Section 12(d)(3) of the Act states that it shall be unlawful "for any registered investment company and any company or companies controlled by such registered investment company to purchase or otherwise acquire any security issued by or any other interest in the business of any person who is a broker, a dealer, is engaged in the business of underwriting, or is either an investment adviser of an investment company or an investment adviser registered under [the Investment Advisers Act of 1940] * * *."[8] The section was intended to prevent investment company assets from being subjected to the entrepreneurial risks associated with securities-related businesses, particularly because, at the time the section was enacted, many such businesses were organized as private partnerships.[9] A partnership interest could subject the investment company to the liabilities of the entire partnership and, moreover, could be difficult to sell. Prevention of this risk, however, was not the only purpose of the section.[10] The section also was designed to (1) prevent investment companies from being controlled by brokers, dealers, underwriters, or investment advisers, and (2) restrict certain reciprocal practices between investment companies and brokers, dealers, underwriters or investment advisers.[11]

Section 12(d)(3) prevented investment companies from participating in some desirable investment opportunities that did not implicate the policies behind the section. This observation led to the adoption in 1964 of former rule 12d-1,[12] which allowed investment companies to acquire the securities of companies engaged to a limited degree in securities-related activities, but which companies were primarily and predominantly engaged in other businesses.[13] In 1984, citing "dramatic changes in the securities industry since 1940," the Commission further altered the section 12(d)(3) restrictions by replacing rule 12d-1 with rule 12d3-1.[14]

Unlike rule 12d-1, rule 12d3-1 allows a registered investment company, or any company or companies controlled by such company, to purchase securities of issuers substantially engaged in securities-related activities. Rule 12d3-1 distinguishes between issuers that derive 15% or less of their gross revenues from securities-related activities and those issuers that derive more than 15% of their gross revenues from securities-related activities. Under the rule, the limitations of section 12(d)(3) are not deemed to apply to any security of any issuer that, in its most recent fiscal year, derived 15% or less of its gross revenues from securities-related activities, unless the investment company would control the issuer after the acquisition.[15] In addition, an investment company may acquire any security of any issuer that, in its most recent fiscal year, derived more than 15% of its gross revenues from securities-related activities if certain quantitative and qualitative conditions are met.[16] The qualitative conditions require that: (1) an equity security be a "margin security" as defined in Regulation T, and (2) a debt security be classified as "investment grade" by the acquiring company's board of directors.[17]

There are several ways that an equity security can meet the definition of "margin security" under Regulation T. Margin security is defined as any (1) security registered or admitted to unlisted trading privileges on a national securities exchange, (2) OTC margin stock,[18] (3) OTC margin bond, (4) OTC

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[8] These prohibitions do not apply to certain acquisitions as discussed at note I, *supra*.

[9] In the Senate hearings on the Act, David Schenker, the Commission's counsel for the Investment Trust Study, stated: "Section 12(c)(2) [which ultimately became section 12(d)(3)] merely states that an investment company cannot buy an interest in a brokerage firm, a distributing company, or an investment banking house * * *. You can see the reason for that. They may not want to subject all the assets of the investment trust to the risks of the underwriting business. So we see no difficulty if they avail themselves of the corporate fiction and limit their liabilities to the amount of money they want to invest. . . ." Investment Trusts and Investment Companies: Hearings on S. 3580 before a Subcomm. of the Comm. on Banking and Currency, 76th Cong., 3d Sess. 243 (1940). *See* generally Investment Company Act Rel. No. 13725 (Jan. 17, 1984) (49 FR 2912, Jan. 24, 1984) (hereinafter "Release 13725") (Release 13725 proposed amendments to rule 12d-1 to permit investment companies to acquire securities of issuers substantially engaged in securities-related activities.).

[10] As the Commission stated in Release 13725, *supra* note 9, if prevention of this risk were the only purpose of section 12(d)(3), investment companies could have been allowed to purchase the stock of any securities firm, provided it was a corporation, and thereby maintain limited liability. However, as discussed in *supra* note 1, the section permits such purchases only if the entity (a) is a corporation all the outstanding securities of which (other than short-term paper, securities representing bank loans, and directors' qualifying shares) are, or after such acquisition will be, owned by one or more registered investment companies; and (b) is primarily engaged in the business of underwriting and distributing securities issued by other persons, selling securities to customers, or any one or more of such or related activities, and the gross income of such entity normally is derived principally from such business or related activities. Thus, section 12(d)(3) makes sense only if it also seeks to prevent potential conflicts of interest between the investment company and the securities firm.

[11] For example, the section 12(d)(3) prohibition seeks to prevent an investment company from investing in a broker-dealer to reward the broker-dealer for selling the company's shares, rather than investing based solely on merit. *See* Release 13725, *supra* note 9. As the Commission stated, "placing a floor on the quality of securities that an investment company may acquire under the rule may lessen any harm from certain reciprocal practices in which an investment company and a broker-dealer could engage." Investment Company Act Rel. No. 14036 (July 13, 1984) (49 FR 29362, July 20, 1984) (final rule revision) (hereinafter "Release 14036") at n.4.

[12] Rule 12d-1 was redesignated as rule 12d3-1 in 1984. *See* Release 14036, *supra* note 11.

[13] Investment Company Act Rel. No. 4044 (Sept. 4, 1964) (29 FR 12915, Sept. 15, 1964).

[14] In the release proposing adoption of rule 12d3-1 (Release 13725), the Commission noted that "an increasing number of securities-related businesses have incorporated, enabling investors in those businesses to limit their liability to the amount of their original investment." Release 13725, *supra* note 9. In that release, the Commission also observed that an increasing number of non-securities businesses had become involved in securities-related activities through mergers with or acquisitions of securities-related businesses.

[15] *See* rule 12d3-1(a).

[16] *See* rule 12d3-1(b). For a full discussion of the quantitative conditions of rule 12d3-1, consult Release 14036, *supra* note 11.

[17] *See* Release 14036, *supra* note 11. In Release 14036, the Commission stated that the qualitative conditions of the rule promote two objectives: (a) That the securities acquired by an investment company be liquid, and (b) that of lessening the effect of any reciprocal practices between an investment company and a broker-dealer. It is also instructive to study the Board's definition of margin security, because that concept is incorporated into rule 12d3-1. Liquidity is a paramount concern embodied in the Board's definition of margin security. For example, the Board amended the definition of "margin security" in 1984 to include securities designated as being National Market System securities by the National Association of Securities Dealers. Federal Reserve System Docket No. 0512 (Sept. 5, 1984) (49 FR 35756, Sept. 22, 1984) (final rule). The Board adopted that amendment based on the conclusion of its staff that "liquidity and other factors [of the NMS securities] compare favorably with securities traded on major exchanges". Federal Reserve System Docket No. 0512 (Mar. 7, 1984) (49 FR 9741, Mar 15, 1984) (proposed amendments).

[18] OTC margin stock is defined as any equity security not traded on a national securities exchange that the Board has determined has the degree of national investor interest, the depth and breadth of market, the availability of information respecting the security and its issuer, and the character and permanence of the issuer to warrant being treated like an equity security traded on a national securities exchange. 12 CFR 220.2(s) (1988).

security designated as qualified for trading in the National Market System under a designation plan approved by the Commission ("NMS security"), or (5) security issued by either an open-end investment company or unit investment trust that is registered under section 8 of the Act (15 U.S.C. 80a–8).[19]

A security issued by a foreign securities firm may qualify as a margin security if it is listed or has unlisted trading privileges on a national securities exchange that is registered under section 6 of the Exchange Act (15 U.S.C. 78f).[20] To have its securities listed on a national securities exchange, a foreign securities firm would have to register its securities under section 12 of the Exchange Act, which, among other things, would require the company to make a variety of disclosures in its application to the Commission.

Foreign securities also may be deemed margin securities by being included in the list of OTC margin stocks. In 1982, the Board amended the criteria for inclusion on the list of OTC margin stocks to allow the equity securities of foreign issuers to be eligible.[21]

Rule 12d3–1, therefore, permits acquisitions by registered investment companies of the equity securities of only those foreign securities firms that meet the margin security definition, or that derive 15% or less of their gross revenues from securities-related activities.

In the release adopting rule 12d3–1, the Commission predicted that investment in foreign companies engaged in securities-related activities would not be limited significantly by the rule, because for many such investments, investment companies would be able to rely on the blanket exemption (*i.e.*, the exemption applicable to an issuer deriving 15% or less of its gross revenues from securities-related activities), or on the exemption provided for debt securities issued by securities-related businesses.[22] However, investment companies now have considerable interest in acquiring equity interests in foreign securities firms that are not covered by the existing exemptive rule.

Since the adoption of rule 12d3–1,[23] the Commission has received several applications for exemption from section 12(d)(3) to allow registered investment companies to acquire the equity securities of foreign securities firms. To date, the Division of Investment Management ("Division"), by delegated authority, has authorized acquisitions of the equity securities of certain Japanese securities firms,[24] certain European banks engaged in securities-related activities,[25] and certain foreign securities firms listed on specified foreign stock exchanges.[26]

The applicants that received the exemptive orders permitting the acquisition of the equity securities of major Japanese securities firms complied with all of the conditions of rule 12d3–1, except for the "margin security" requirement.[27] The orders were based on representations that the securities met quality standards comparable to those embodied in the margin security requirement. Specifically, the applicants represented that each of the Japanese securities firms was listed on the Tokyo Stock Exchange (First Section), the listing requirements for which were comparable, in terms of share distribution, total market value and earning power, to those imposed by the (i) New York and American Stock Exchanges, (ii) National Association of Securities Dealers ("NASD") to become eligible for listing on the NASD automated quotation system ("NASDAQ"), and (iii) Board for inclusion on the OTC margin security list. In addition, shares of the Japanese securities firms were traded on the Tokyo and Osaka stock exchanges, which, at the time of the application, respectively ranked second and third worldwide in terms of total market value of equity shares listed, according to an applicant. Also significant was the fact that all Japanese companies with publicly issued securities are required to file with the Japanese Minister of Finance ("Minister") annual reports (which are publicly available) containing information relating to the company's objectives, stated capital, securities issued and financial position, the nature and state of its business operations, and such other information as the Minister may request. Amended reports must be filed with the Minister upon the occurrence of any material change of information. The applicants further represented that the financial

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[19] *See* 12 CFR 220.2 (o) and (v) (1988).

[20] 15 U.S.C. 78f. The American Stock Exchange and the New York Stock Exchange, for example, are each registered as national securities exchanges under section 6 of the Exchange Act. The American Stock Exchange and New York Stock Exchange each allow the securities of foreign companies to be listed with them. *See* American Stock Exchange Company Guide, section 110; New York Stock Exchange Listed Company Manual, section 103.

[21] Federal Reserve System Docket No. 0372 (May 12, 1982) (47 FR 21756, May 20, 1982). As the Board stated in the adopting release:

Foreign issuers were precluded from OTC List eligibility in the past because of the relative lack of access to such issuers' financial information. The strengthened disclosure rules of the Securities and Exchange Commission now make it possible to obtain comprehensive and up to date financial information on many foreign issuers. Because of these improvements, it is no longer necessary to restrict OTC List candidates to domestic issuers. Foreign as well as domestic issuers must, however, be registered or filed with the Securities and Exchange Commission in order to be eligible for inclusion on the OTC List.

[22] See Release 14036, *supra* note 11. The Commission observed that an investment company would still be able to acquire debt securities of foreign securities firms under rule 12d3–1, because such acquisitions are conditioned on the company's board of directors classifying the debt securities as investment grade. The proposed amendments would retain that condition, and thus would not affect acquisitions of foreign securities firm debt securities.

[23] Subsequent to Release 14036, *supra* note 11, the Commission amended rule 12d3–1 to permit money market funds to purchase put options from persons engaged in securities-related businesses. Investment Company Act Rel. No. 14983 (Mar. 12, 1986) (51 FR 9773, Mar. 21, 1986).

[24] Lifetime Global Equity Trust, Investment Company Act Rel. Nos. 15757 (May 28, 1987) (52 FR 20818, June 8, 1987) (notice of application) and 15823 (June 24, 1987) (order); Daily Money Fund, Investment Company Act Rel. Nos. 15325 (Sept. 25, 1986) (51 FR 35313, Oct. 2, 1986) (notice of application) and 15363 (Oct. 20, 1986) (order); Merrill Lynch Pacific Fund, Inc., Investment Company Act Rel. Nos. 15039 (Apr. 4, 1986) (51 FR 12413, Apr. 10, 1986) (notice of application) and 15077 (Apr. 30, 1986) (order); The Japan Fund, Inc., Investment Company Act Rel. Nos. 14432 (Mar. 20, 1985) (50 FR 12427, Mar. 28, 1985) (notice of application) and 14471 (Apr. 16, 1985) (order). *See also* Investment Company Institute (pub. avail. Sept. 30, 1987) (in which the Division took a no-action position as to purchases of the equity securities of the twelve major Japanese securities firms).

[25] Germany Fund, Investment Company Act Rel. Nos. 16028 (Oct. 2, 1987) (52 FR 37691, Oct. 8, 1987) (notice of application) and 16095 (Oct. 29, 1987) (order); The Helvetia Fund, Inc., Investment Company Act Rel. Nos. 15889 (July 21, 1987) (52 FR 28215, July 28, 1987) (notice of application) and 15920 (Aug. 13, 1987) (order).

[26] Daily Money Fund, Investment Company Act Rel. Nos. 16049 (Oct. 14, 1987) (52 FR 38987, Oct. 20, 1987) (notice of application) and 16119 (Nov. 10, 1987) (order) ("Daily Money Fund"). The order permits the applicants to acquire foreign securities firm equity securities meeting specified criteria that are listed on one or more of the foreign stock exchanges set out in the application, provided such exchanges continue to meet the fixed standards set out in the order. At the time the Daily Money Fund order was issued, the following foreign stock exchanges met those standards: Association of Exchanges, Australia; Brussels, Belgium; Rio De Janeiro and Sao Paulo, Brazil; Toronto, Canada; Paris, France; Federation of Exchanges (limited to the Frankfurt and Dusseldorf Exchanges), Germany; Hong Kong; Milan, Italy; Tokyo, Japan; Amsterdam, Netherlands; Stockholm, Sweden; Basel, Geneva, and Zurich, Switzerland; and London, United Kingdom. It should be noted that certain of these foreign stock exchanges no longer appear to meet the standards specified in Daily Money Fund, and would not currently qualify under the proposed rule amendments because of lower turnover ratios. The same conditions as to the foreign exchange, the equity security and its issuer were included in an application granted subsequent to Daily Money Fund. Prudential-Bache Global Fund, Inc., Investment Company Act Rel. Nos. 16691 (Dec. 12, 1988) (53 FR 50614, Dec. 16, 1988) (notice of application) and 14647 (Jan. 10, 1989) (order).

[27] *See* orders cited in note 24, *supra*.

statements contained in annual reports must be certified by a certified public accountant or an incorporated accounting firm which has no special interest in the reporting corporation. Finally, the applicants represented that the Japanese securities firms were required to publish their annual reports in English.

The applicants in The Helvetia Fund and Germany Fund orders,[28] also agreed to satisfy all the conditions of rule 12d3–1, except the "margin security" requirement. Those applications concerned the proposed acquisition of the equity securities of foreign banks involved substantially in securities-related activities. In each case, the applicant represented that the securities it sought to acquire, although listed only on foreign stock exchanges, would be eligible for listing on one or more of the following: The New York Stock Exchange, the American Stock Exchange or NASDAQ. Each applicant represented that the disclosure requirements applicable to the banks were the substantial equivalent of the disclosures required by the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) ("Securities Act"). The applicants also represented that the banks were subject to various ongoing disclosure requirements. For example, the banks in the Germany Fund order are required by German law to publish annual reports disclosing, among other things, all material facts and events occurring since the prior annual report. The applicant also represented that all of the German banks governed by the order publish their annual reports in English.

Finally, in Daily Money Fund,[29] the applicants were permitted to acquire equity and convertible debt securities that met certain quality standards and were listed on certain "qualified foreign exchanges".[30] These conditions were, to a large extent, patterned after the requirements for inclusion on the list of OTC margin stocks, and have been incorporated in subsequent exemptive orders under rule 12d3–1.[31]

Discussion

The past several years have witnessed a dramatic increase in the internationalization of the world's securities markets. Investment companies have participated actively in this internationalization process.[32] Indeed, a significant part of the recent increase in United States investments in foreign markets is attributable to a surge in investments by domestic mutual funds and closed-end investment companies in foreign securities.[33] The equity securities of companies that are securities firms, or that fall within the definition of "securities firm," often figure prominently in the equity markets of a particular foreign country.[34]

Several recent Commission proposals have responded to the desire of investors to trade in financial markets around the world.[35] Complementing such efforts are the proposals of some foreign countries to open their securities markets to investors.[36] Through the proposed amendments to rule 12d3–1, the Commission would be using its exemptive power under section 6(c) of the Act (15 U.S.C. 80a–6(c)) to assist in these efforts.

Section 6(c) provides that the Commission, by rules and regulations upon its own motion, may, among other things, conditionally or unconditionally exempt any person or any class or classes of persons, from any provision of the Act, "if and to the extent that such exception is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions" of the Act. The exemption that would be provided by the proposed amendments to rule 12d3–1, if adopted, would be appropriate in the public interest by responding to the developments discussed above and by increasing the range of investment opportunities available to acquiring companies. As discussed more fully below, the Commission also believes the proposed amended rule would be consistent with the protection of investors and the purposes fairly

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[28] *See supra* note 25.

[29] *See supra* note 26.

[30] The exchanges deemed to be qualified under the conditions of that order are those exchanges listed in note 26, *supra*, subject to the condition that they continue to meet the following minimum criteria: (1) The exchange has listed equity shares with a market value of at least 25 billion United States dollars, (2) the equity shares of at least 150 companies are listed on the exchange, (3) the exchange has had an average daily trading volume over the preceding six month period of at least 25 million United States dollars, and (4) the exchange has had, in the previous year, a minimum turnover ratio of at least 20% of its total market capitalization. As discussed, Daily Money Fund and Prudential-Bache Global Fund, *supra* note 26, which had these foreign exchange conditions, each set out fixed criteria to describe what constitutes a qualified foreign exchange. Accordingly, recipients of those orders may acquire foreign securities firm equity securities traded on a foreign stock exchange only so long as that exchange continues to meet the fixed criteria. The proposed amended rule would impose fixed conditions as to the foreign stock exchange on which the equity security is traded, and thus would function similarly. The Daily Money Fund order also is conditioned on the acquired securities themselves meeting the following standards: (1) Daily quotations for both bid and asked prices for the stock are continuously available to the general public, (2) the stock has been publicly traded for at least six months, (3) the issuer or a predecessor in interest has been in existence for at least three years, (4) the issuer has at least 10 million United States dollars of capital, surplus and undivided profits, (5) the issuer is required by exchange or governmental regulation to file publicly (i) reports of any important financial or structural corporate changes, (ii) semi-annual profit and loss statements, and (iii) annual reports of independently audited assets and liabilities, profits and losses, and changes in financial position, (6) the issuer must have a minimum market capitalization of 20 million United States dollars, and (7) the stock must have (i) an average daily trading volume of at least 500 shares and (ii) an average daily trading volume totaling at least 25,000 United States dollars.

[31] *See* Prudential-Bache Global Fund, Inc., *supra* note 26. *See also* The Thai Fund, Inc., Investment Company Act Rel. Nos. 16803 (Feb. 8, 1989) (54 FR 6982, Feb. 15, 1989) (notice of application) and 16851 (Mar. 8, 1989) (order), in which the applicant was permitted to acquire the equity securities of Thai securities firms that were listed on the Securities Exchange of Thailand, subject to the same conditions as to the equity security and its issuer that were set out in Daily Money Fund, *supra* note 26. In addition, the applicant represented that it would invest only in securities that met criteria concerning total market value, earning power and share distribution so as to be eligible for listing on one or more of the following: the New York Stock Exchange, the American Stock Exchange or NASDAQ as a National Market System security. The applicant did not, however, comply with Daily Money Fund's requirements as to the foreign stock exchange, because the Securities Exchange of Thailand is considerably smaller than the exchanges set out in Daily Money Fund. Nonetheless, the applicant offered alternate conditions, including (a) that it would not invest more than 2% of its assets, determined as of the time of purchase, in the securities of any one Thai securities firm, and (b) that it would maintain in one place all of the necessary documentation relating to its investment decisions regarding securities issued by the Thai securities firms and employ an independent third party to review periodically its compliance with the terms of the order.

[32] *See* Report of the Staff of the U.S. Securities and Exchange Commission to the Senate Comm. on Banking, Housing and Urban Affairs and the House Comm. on Energy and Commerce, Internationalization of the Securities Markets (July 27, 1987) (hereinafter "Internationalization Report") at II–2, VI–1. The Internationalization Report noted that since 1983, the number of domestic open-end investment companies that concentrated their portfolio investments in foreign securities had nearly tripled, and the total assets of those companies had grown from $3.5 billion to over $14 billion.

[33] *See* Internationalization Report, *supra* note 32, at II–78.

[34] *E.g.*, Germany Fund, *supra* note 25, in which the applicant represented that the German banks in which it proposed to invest represented 9.13% of the Frankfurter Alldemgemeine Zeitung Index (which is composed of a broadly representative list of major industrial, mining, financial and utility stocks).

[35] *E.g.*, Rel. No. 33–6836, International Series Rel. No. 103 (July 11, 1989) (54 FR 30063, July 18, 1989) (revised proposed regulation and request for comment regarding offshore offers and sales); Rel. No. 33–6839 (July 11, 1989) (54 FR 30076, July 18, 1989) (proposed rule and rule amendments regarding resale of restricted securities); Rel. No. 33–6841 (July 24, 1989) (54 FR 32226, August 4, 1989) (proposed multijurisdictional disclosure system).

[36] For example, the South Korean Ministry of Finance recently announced its plan to allow some direct trading by foreigners on its stock market by 1991. The ceiling on foreign investment in local securities firms also may be raised. *See* Korea Sets Timetable for Financial Markets Reform, Financial Times, Nov. 14, 1988, at 27.

intended by the policy and provisions of the Act because the conditions of the proposed amendments provide standards comparable to those provided by current rule 12d3–1.

The Commission believes now, as it did when it adopted rule 12d3–1, that the quality standards applicable to the equity securities of foreign securities firms should be comparable to those applicable to the equity securities of domestic issuers.[37] Accordingly, the Commission proposes amendments to rule 12d3–1 that would allow acquiring companies to purchase the equity securities [38] of foreign securities firms,[39] provided such securities meet certain conditions as to liquidity and other factors. The proposed amendments are designed to permit the acquisition of the equity securities of foreign securities firms that do not meet the definition of margin security. Thus, acquisitions of foreign securities firm equity securities that do meet the definition of margin security would be unaffected by the proposal.

Consistent with the existing rule, the various determinations required of investment companies concerning whether a foreign securities firm equity security meets the proposed amended rule's standards for acquisition need only be made at the time of acquisition. An acquiring company therefore need not divest itself of a security of a foreign securities firm if, subsequent to its acquisition, any particular condition is no longer met.

In keeping with the objectives of the rule, the proposed standards relating to the equity securities of foreign securities firms are comparable (and in certain instances identical) to the requirements for inclusion of securities on the list of OTC margin stocks.[40] Like the margin stock requirements, the requirements of the proposed amendments focus on the characteristics of the market in which the security is traded and on the characteristics of the security itself. Adequate disclosure to investors is another objective promoted by the proposed amendments.

Two of the requirements for inclusion on the list of OTC margin stocks relate to the market for the security.[41] One requirement is that daily quotations for both bid and asked prices for the stock be continuously available to the general public. This requirement relates to liquidity,[42] and is included without modification in the proposed amendments. The other OTC margin requirement is that four or more dealers stand willing to make, and do in fact make, a market in the stock and regularly submit bona fide bids and offers to an automated quotations systems for their own accounts. Because this requirement is appropriate to an over-the-counter stock market, but not to a stock exchange, the proposed amendments require instead that the security to be acquired be listed on a foreign stock exchange that meets specified standards.

Under the proposed amendments, an acquiring company could acquire an equity security of a foreign securities firm only if that security were listed on at least one foreign stock exchange meeting the following characteristics ("qualified foreign exchange"): (a) Trading on the exchange occurs at least four days per seven-day week (except when the exchange is closed for national holidays),[43] (b) neither exchange rules nor foreign governmental regulations restrict the ability of an acquiring company to trade its holdings on the exchange (unless such restrictions apply equally to all persons),[44] (c) the exchange has had an annual trading volume in stocks over the preceding year totalling at least 7.5 billion United States dollars,[45] and (d) the exchange has had, in the preceding year, a turnover ratio of at least 20% of its total market capitalization.[46] As discussed in notes 45 and 46, the criteria regarding turnover ratio and trading volume are derived from figures representative of national securities exchanges in the United States.[47] The

[37] *See* Release 14036, *supra* note 11 at 4B.

[38] As in current rule 12d3–1, the proposed amended rule would define "equity security" in accordance with rule 3a11–1 under the Exchange Act (17 CFR 240.3a11–1 (1988)). Rule 3a11–1 defines equity security to include, among other things, any security convertible into an equity security.

[39] The proposed amended rule would not separately define "foreign securities firm," since such entities would be embraced by existing definitions in the rule, which refer to "persons" engaged in "securities-related activities." Section 2(a)(28) of the Act (15 U.S.C. 80a–2(a)(28)) defines "person" as "a natural person or a company."

[40] Regulation T states that OTC margin stock shall meet the following requirements:

(1) Four or more dealers stand willing to, and do in fact, make a market in such stock and regularly submit bona fide bids and offers to an automated quotations system for their own accounts;

(2) The minimum average bid price of such stock, as determined by the Board, is at least $5 per share;

(3) The stock is registered under section 12 of the Exchange Act, is issued by an insurance company subject to section 12(g)(2)(G) of the Exchange Act, is issued by a closed-end investment management company subject to registration pursuant to section 8 of the Act, is an American Depository Receipt (ADR) of a foreign issuer whose securities are registered under section 12 of the Exchange Act, or is a stock of an issuer required to file reports under section 15(d) of the Exchange Act;

(4) Daily quotations for both bid and asked prices for the stock are continuously available to the general public;

(5) The stock has been publicly traded for at least six months;

(6) The issuer has at least $4 million of capital, surplus, and undivided profits;

(7) There are 400,000 or more shares of such stock outstanding in addition to shares held beneficially by officers, directors or beneficial owners of more than 10 percent of the stock;

(8) There are 1,200 or more holders of record, as defined in Rule 12g5–1 (17 CFR 240.12g5 1) of the stock who are not officers, directors or beneficial owners of 10 percent or more of the stock, or the average daily trading volume of such stock as determined by the Board is at least 500 shares; and

(9) The issuer or a predecessor in interest has been in existence for at least three years.

[41] 12 CFR 220.17 (a)(1) and (a)(4) (1988).

[42] Registered investment companies issuing redeemable securities are required under rule 22c–1 of the Act (17 CFR 270.22c–1 (1988)) to compute current net asset value no less frequently than once daily. The requirement of the proposed amended rule would therefore allow such an investment company to make this computation as to foreign securities firm stocks in its portfolio.

[43] This condition is designed to provide the acquiring company with ample opportunity to trade its holdings of the foreign securities firm's equity securities.

[44] This condition is designed to ensure that the acquiring company may trade without restriction in the foreign stock market. *Cf.* The Thai Fund, Inc. (pub. avail. Oct. 29, 1987), in which the applicant represented that because non-Thai nationals may purchase Thai securities under only very limited circumstances, it was necessary to create a Thai entity through which the fund could purchase Thai securities. Through this entity, the fund was able to trade freely. The Division's no-action position would not be affected by the proposal or adoption of amended rule 12d3–1. Moreover, the Commission may grant an exemptive order to an applicant that does not meet this proposed condition, provided comparable safeguards are present.

[45] Trading volume is indicative of the level of activity in the market. Qualified foreign exchanges should be comparable to United States national stock exchanges with respect to this criterion. The annual trading volume figure (7.5 billion United States dollars) approximates the market value of stocks sold on the Cincinnati Stock Exchange during 1988, as well as the trading volume figure of Daily Money Fund (*i.e.*, 25 million United States dollars daily, which equates to 7.5 billion United States dollars annually), *supra* note 26. *See* SEC Monthly Statistical Review, Vol. 48, No. 2. Measurement of share volume in United States dollars rather than in number of shares is consistent with the reporting practices of Federation Internationale des Bourses de Valeurs. Any trading volume figure adopted would be reviewed periodically by the Commission to assure that it continues to be sufficient or relevant as a standard.

Whenever a currency conversion to United States dollars would be required to determine compliance with a condition of the proposed amended rule, the exchange rate in existence at the time of acquisition must be used. *See* paragraph (d)(11) of the proposed amended rule.

[46] Turnover ratio for a stock exchange is obtained by dividing the annual share volume by the average number of shares listed during that year. It provides a general indication of the frequency with which shares listed on an exchange are traded. The turnover ratio appearing in the proposed rule amendments is the same as that in Daily Money Fund, *supra* note 26, and also approximates the turnover ratio for the American Stock Exchange for 1988 (*i.e.*, 28.8%).

[47] Under the ICI proposal to amend rule 12d3–1 (*see supra* note 4), the acquisition of the equity

Continued

Commission seeks comment on alternative formulations of the trading volume and turnover ratio criteria.[48]

The remaining margin stock requirements focus on the security and its issuer. The proposed rule would incorporate several of these criteria, with modifications. The proposed rule would require that (1) the equity security of the foreign securities firm have been publicly traded for at least six months prior to being acquired, (2) the average daily trading volume of such equity security over the six months preceding the acquisition be at least 500 shares,[49] (3) there be 400,000 or more shares of such stock outstanding, not counting shares held beneficially by officers, directors, or beneficial owners of more than ten percent of the equity security,[50] (4) the foreign securities firm have capital, surplus and undivided profits (or their equivalent) collectively totalling at least 4 million United States dollars,[51] and (5) the foreign securities firm have been in existence for at least three years prior to the acquisition.

The margin stock requirements also provide that the minimum average bid price of the stock shall be at least $5 per share, a characteristic that demonstrates some level of character and permanence on the part of the issuer.[52] However, some foreign securities firms possessing character and permanence comparable to that of United States companies meeting the $5 per share standard may have shares that trade well below the equivalent of $5 per share.[53] Accordingly, the Commission proposes an alternative standard.[54] The margin stock requirements contemplate an average daily trading volume for the stock of at least 500 shares and a minimum average bid price of at least $5 per share, which amounts to an average daily trading volume valued at a minimum of $2,500. The proposed amendments would require the trading volume in the foreign equity security measured in dollar terms to exceed a specified level. The figures disclosed in exemptive applications indicate that this level may be substantially higher than $2,500 and accordingly, the proposed amended rule would require an average daily trading volume equal in value to at least $25,000.[55]

The remaining margin stock requirement[56] is keyed primarily to security registration under section 12 of the Exchange Act, and thereby requires certain disclosures to the investing public. In keeping with the basic purpose of that margin stock requirement, a foreign securities firm would be required to have made public all information that it is required to make public in its home country and to have filed with any stock exchange on which its securities are traded the filings required by that exchange.[57] Specifically, the foreign securities firm would be required (A) to have made publicly available all information that it was required to make public since the beginning of its last fiscal year pursuant to the law of the country of its domicile or in which it is incorporated or organized, and (B) to have made all filings required since the beginning of its last fiscal year by any stock exchange on which its securities are traded.[58] The Commission believes that public availability of this information will protect acquiring companies and their shareholders. Comment is sought on the appropriateness of the disclosures contemplated by the proposed amended rule.

While proposed amended rule 12d3–1 imposes specific conditions as to an acquiring company's acquisition of the equity securities of foreign securities firms, the Commission anticipates that investment advisers will continue to consider the interests of the acquiring company and its shareholders in determining whether to acquire the equity securities of a foreign securities firm.

Cost/Benefit of Proposed Action

Although acquiring companies would incur some costs in making the determinations necessary to ensure that the conditions of the proposed amended

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security of a foreign securities firm would be conditioned only on the security being listed on a "principal national securities exchange." The Commission believes, however, that it is preferable for the proposed amendments to contain specific requirements as to the foreign stock exchange on which the foreign securities firm equity security is traded. These requirements would provide a more objective standard as a basis for the amended rule's availability.

[48] There are other aspects of the foreign market (such as the time it takes to settle transactions) that may affect liquidity but are not incorporated into the proposed amended rule. Comment is sought on whether other factors should be made a part of the proposed amended rule, and what those factors are. The Commission also seeks comment on whether a turnover criterion for the equity security itself would be an appropriate substitute for the proposed exchange turnover criterion.

[49] This condition is taken from the margin stock requirement that there be either 1,200 or more holders of record who are not officers, directors or beneficial owners of 10 percent or more of the stock *or* the average daily trading volume of the stock as determined by the Board be at least 500 shares. In many foreign countries, it may be problematic to ascertain the number of shareholders because such information need not be made public. *See* Internationalization Report, *supra* note 32, at III–84 (noting that under European Economic Community Council Directive, "disclosure of shareholder interests below an established threshold need not be made, and this threshold may be set by member states at as high as 20 percent of the equity"). Accordingly, the proposed rule amendments would require an average daily trading volume of at least 500 shares, which the Commission believes should be ascertainable.

[50] The 400,000 share requirement also was taken from the margin stock requirements. Apart from the exclusion of holders of more than 10% of the equity securities, this requirement focuses on the number of shares outstanding, rather than the number of holders of the stock, and hence should be ascertainable in most instances. However, comment is sought specifically on the feasibility of this criterion.

[51] This condition is a modification of a margin stock requirement, changed to reflect the fact that the terms capital, surplus and undivided profits may be defined differently in foreign countries than in the United States. *See* Internationalization Report, *supra* note 32, at IV–8, IV–13. Accordingly, a registered investment company may acquire securities of a foreign securities firm under the proposed rule if it determines that the firm has assets equivalent to $4 million of capital, surplus and undivided profits as those terms are defined under generally accepted accounting principles.

[52] The character and permanence of the issuer are factors considered by the Board in determining whether to classify the issuer's stock as "OTC margin stock." *See supra* note 18.

[53] *See* Daily Money Fund, *supra* note 26. *See also* application of Merrill Lynch Pacific Fund, Inc. (File No. 812 6314), Investment Company Act Rel. Nos. 15039 (Apr. 4, 1986) (51 FR 12413, Apr. 10, 1986) (notice of application) and 15077 (Apr. 30, 1986) (order), in which the applicant represented that the market prices per share of each of the twelve major Japanese securities firms were well below the yen equivalent of $5 per share.

[54] The Commission acknowledges that some United States issuers that may possess a significant degree of character and permanence would be excluded from the margin security definition if their shares traded below $5 per share. A number of the applicants for exemption from the margin security requirement of rule 12d3–1 indicated that it would be appropriate not to hold foreign securities firms to the $5 per share standard. Accordingly, the proposed amended rule posits an alternative standard.

[55] This figure was proposed by the applicants in Daily Money Fund, *supra* note 26, and incorporated into the order. *See also* Prudential-Bache Global Fund, Inc., *supra* note 26, (in which the same condition was proposed by the applicant and incorporated into the order). Comment is sought specifically on the suitability of this criterion.

[56] The stock must be registered under section 12 of the Exchange Act, issued by an insurance company subject to section 12(g)(2)(G) of the Exchange Act, issued by a closedend investment management company subject to registration pursuant to section 8 of the Act (15 U.S.C. 80a–8), an American Depository Receipt (ADR) of a foreign issuer whose securities are registered under section 12 of the Exchange Act, or the stock of an issuer required to file reports under section 15(d) of the Exchange Act (15 U.S.C. 78o(d)). 12 CFR 220.17(a)(3) (1988).

[57] Of course, the disclosures required under the proposed amended rule would not be a substitute for the disclosures that could be required under other United States securities laws, such as section 5 of the Securities Act (15 U.S.C. 77c).

[58] *Cf.* rule 12g3–2(b) of the Exchange Act (17 C.F.R. 240.12g3–2(b)) (which exempts securities of any foreign private issuer from section 12(g) of the Exchange Act, conditioned on the furnishing of such information and other data to the Commission).

rule are complied with, the proposed amendments to rule 12d3–1 would not impose any significant additional burdens on investment companies. On the contrary, investment companies to which the rule would apply would generally file fewer applications for exemption. The proposed amendments also would provide investment companies and companies controlled by them with a greater range of foreign securities in which to invest. The Commission would benefit from the proposed amendments because its staff would review fewer applications for exemption in this area. Comments are requested on these matters, however, and on the costs or benefits of any other aspect of the proposed amendments.

Summary of Initial Regulatory Flexibility Act Analysis

The Commission has prepared an Initial Regulatory Flexibility Analysis in accordance with 5 U.S.C. 603 regarding proposed amended rule 12d3–1. Although the proposed amended rule as presently drafted would have a significant impact on a substantial number of small entities, the other significant alternatives considered by the Commission would not have achieved the rule's objectives, and thus were not proposed. The proposed amended rule promotes the objectives discussed in the proposing release in a way that minimizes the impact on small entities. The Analysis explains that proposed amended rule 12d3–1, which would be adopted under the authority granted to the Commission in sections 6(c) and 38(a) of the Act, would facilitate the acquisition of the equity securities of foreign securities firms by small entities and other acquiring companies. It states that the proposed amended rule is intended to protect investors from the abuses that led to the enactment of section 12(d)(3) of the Act, and to reduce the number of applications filed with the Commission regarding the acquisition of the equity securities of foreign securities firms. Any company with net assets of $50 million or less would be a small entity subject to the proposed amendments to rule 12d3–1. It is estimated that out of 3,479 active investment companies registered with the Commission as of March 31, 1989, 1,925 of such companies would be considered small entities. The Analysis indicates that the proposed amended rule contains no reporting or recordkeeping requirements and does not overlap, duplicate or conflict with other federal laws. To the extent that the proposed amended rule would eliminate the need for acquiring companies to file applications seeking orders under section 12(d)(3), it would reduce costs incurred by small entities and other acquiring companies in preparing and filing applications.

The Analysis discusses the following significant alternatives to the proposed, amended rule that were considered by the Commission: (a) That acquisitions of foreign securities firm equity securities be conditioned only on a finding by the company's board of directors that such securities are as liquid as securities meeting the margin security definition, (b) that such acquisitions be conditioned only on the security being listed on a principal national securities exchange, (c) that the share turnover and share volume criteria be omitted from the proposed amended rule, and (d) that a disclosure regime different from that being proposed be applied to the foreign securities firms subject to the rule.

The first alternative is a performance standard that would simplify the compliance requirements of the proposed amended rule for small acquiring companies, in that fewer criteria would have to be considered prior to an acquisition. This reduced compliance burden, which also would be promoted by the second alternative, might have been particularly beneficial to small investment companies with limited research staffs. The Commission rejected these approaches, however, because the specific standards of the proposed amended rule should provide better guidance to small entities and other acquiring companies. Moreover, those approaches would not have fulfilled the objectives of section 12(d)(3) and the rule.

The Commission also declined to omit conditions as to share turnover and share volume. Although that approach also would have simplified the compliance requirements for small acquiring companies, those conditions of the proposed amended rule promote liquidity, which is integral to rule 12d3–1. The Commission also believes that the disclosure contemplated by the proposed amended rule is consistent with the policies underlying the margin security concept. Any other disclosure requirement, although it would result in a different compliance requirement for small entities, would not promote those policies. Finally, because it is equally important that small acquiring companies be protected by the conditions of the proposed amended rule, the Commission opted not to exempt such small entities from the coverage of the rule. A copy of the Initial Regulatory Flexibility Analysis may be obtained by contacting C. Christopher Sprague, Esq., Mail Stop 5–2, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

List of Subjects in 17 CFR Part 270

Investment companies, Reporting and recordkeeping requirements, Securities.

Text of Amended Proposed Rule

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

Part 270 of Chapter II of Title 17 of the Code of Federal Regulations is proposed to be amended as shown.

1. The authority citation for part 270 continues to read in part as follows:

Authority: Secs. 38, 40, 54 Stat. 841, 842; 15 U.S.C. 80a–37, 80a–39; The Investment Company Act of 1940, as amended, 15 U.S.C. 80a–1 et seq.; unless otherwise noted. * * * Section 270.12d3–1 is also issued under Sec. 6(c) (15 U.S.C. 80a–6(c)).

2. By revising § 270.12d3–1 to read as follows:

§ 270.12d3–1 Exemption of Acquisitions of Securities Issued by Persons Engaged in Securities-Related Businesses.

(a) For purposes of section 12(d)(3) of the Act, the acquisition by a registered investment company, or any company or companies controlled by such registered investment company ("acquiring company") of any security issued by any person that, in its most recent fiscal year, derived 15 percent or less of its gross revenues from securities-related activities shall not be deemed an acquisition of securities issued by a securities-related business unless the acquiring company would control such person after the acquisition.

(b) The acquisition by an acquiring company of any security issued by any person that, in its most recent fiscal year, derived more than 15 percent of its gross revenues from securities-related activities ("issuer") shall be exempt from the provisions of section 12(d)(3) of the Act, Provided, that:

(1) Immediately after the acquisition of any equity security of the issuer, the acquiring company owns not more than 5 percent of the outstanding securities of that class of the issuer's equity securities;

(2) Immediately after the acquisition of any debt security, the acquiring company owns not more than 10 percent of the outstanding principal amount of the issuer's debt securities;

(3) Immediately after any such acquisition, the acquiring company has invested not more than 5 percent of the value of its total assets in securities of the issuer;

(4) At the time of acquisition, any debt security of the issuer acquired by the acquiring company is investment grade as determined by the board of directors of the acquiring company; and

(5) At the time of acquisition, any equity security of the issuer acquired by the acquiring company is a "margin security" as defined in Regulation T promulgated by the Board of Governors of the Federal Reserve System (12 CFR 220.2(o)) or

(i) Has been listed on a qualified foreign exchange for at least six months prior to the acquisition,

(ii) Has had an average daily trading volume in the six months preceding the acquisition of at least 500 shares equal in value to at least 25,000 United States dollars,

(iii) Is part of a class of equity securities consisting of at least 400,000 shares issued and outstanding, not counting shares held beneficially by officers, directors, or beneficial owners of more than ten percent of the stock,

(iv) The issuer of which (A) has, at the time of acquisition, capital, surplus and undivided profits (as those terms are defined under generally accepted accounting principles) collectively totalling at least 4 million United States dollars or the substantial equivalent of such items, (B) has been in existence for at least three years prior to the acquisition, and (C) has made publicly available all information that it was required to make public since the beginning of its last fiscal year pursuant to the law of the country of its domicile or in which it is incorporated or organized, and has made all filings required since the beginning of its last fiscal year by any stock exchange on which its securities are traded, and

(v) Is quoted daily as to both bid and asked prices and such prices are continuously available to the general public.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, no registered investment company shall acquire (1) a general partnership interest in a securities-related business, or (2) any security issued by its investment adviser, promoter, or principal underwriter or any affiliated person of such investment adviser, promoter, or principal underwriter that is a securities-related business, unless otherwise permitted under sections 12(d)(3) (A) and (B).

(d) For purposes of this rule,

(1) *Securities-related activities* are a person's activities as a broker, as a dealer, from the business of underwriting, as an investment adviser registered under the Investment Advisers Act of 1940, as amended, or as an investment adviser to an investment company;

(2) An issuer's gross revenues from its own securities-related activities and from its ratable share of the securities-related activities of enterprises of which it owns 20 percent or more of the voting or equity interest should be considered in determining the degree to which an issuer is engaged in securities-related activities. Such information may be obtained from the issuer's annual report to shareholders, the issuer's periodic reports or registration statement filed with the Commission, or the issuer's chief financial officer;

(3) A *securities-related business* is a person who directly or indirectly is a broker, a dealer, engaged in the business of underwriting, an investment adviser registered under the Investment Advisers Act of 1940, as amended, or an investment adviser to an investment company;

(4) *Equity security* shall be as defined in Rule 3a-11 under the Securities Exchange Act (17 CFR 240.3a11-1);

(5) *Debt securities* shall include all securities of an issuer other than equity securities;

(6) *Qualified Foreign Exchange* is a stock exchange located in a country other than the United States that meets the following requirements:

(i) Trading on the exchange occurs at least four days per seven-day week (except when the exchange is closed for national holidays);

(ii) Neither the rules of the exchange nor laws or regulations of the country in which the exchange is located restrict the ability of an acquiring company to trade its holdings on the exchange (unless such restrictions apply equally to all persons);

(iii) The exchange has had an annual trading volume in stocks in the preceding year equal in value to at least 7.5 billion United States dollars; and

(iv) The exchange has had, in the preceding year, a turnover ratio of at least 20% of its total market capitalization;

(7) Determination of the percentage of an acquiring company's ownership of any class of outstanding equity securities of an issuer shall be made in accordance with the procedures described in rule 16a-2 under the Securities Exchange Act (17 CFR 240.16a-2);

(8) Where an acquiring company is considering acquiring or has acquired options, warrants, rights or convertible securities of a securities-related business, the determination required by paragraph (b) of this section shall be made as though such options, warrants, rights or conversion privileges had been exercised;

(9) The following transactions will not be deemed to be an acquisition of securities of a securities-related business:

(i) Receipt of stock dividends on securities acquired in compliance with this rule;

(ii) Receipt of securities arising from a stock-for-stock split on securities acquired in compliance with this rule;

(iii) Exercise of options, warrants, or rights acquired in compliance with this rule;

(iv) Conversion of convertible securities acquired in compliance with this rule; and

(v) Acquisition of puts, as defined in rule 2a-7(c)(3) under the Act (17 CFR 270.2a7(c)(3)), provided that, immediately after the acquisition of any put, the company will not, with respect to 75 percent of the total value of its assets, have invested more than five percent of the total value of its assets in securities underlying puts from the same institution. An unconditional put shall not be considered a put from that institution, provided that, the value of all securities issued or guaranteed by the same institution and held by the investment company does not exceed ten percent of the total value of the company's assets. For the purposes of this section, a put will be considered to be from the party to whom the company will look for payment of the exercise price and an unconditional put, as defined in rule 2a-7(c)(6) under the Act (17 CFR 270.2a-7(c)(6)), will be considered to be a guarantee of the underlying security or securities the exercise price;

(10) Any class or series of an investment company that issues two or more classes or series of preferred or special stock, each of which is preferred over all other classes or series with respect to assets specifically allocated to that class or series, shall be treated as if it is a registered investment company; and

(11) Whenever a currency conversion to United States dollars is required to determine compliance with a condition of this rule, the exchange rate in existence at the time of acquisition shall be used.

(e) No provision of this rule supersedes the requirements prescribed in Investment Company Act Release No. 13005,[1] dated February 2, 1983 (48 FR

[1] Available from Securities and Exchange Commission, Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549.

5894; February 9, 1983), with respect to repurchase agreements with brokers or dealers.

Date: August 3, 1989.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-18732 Filed 8-10-89; 8:45 am]

BILLING CODE 8010-01-M

SUSQUEHANNA RIVER BASIN COMMISSION

18 CFR Part 803

Regulations and Procedures for Review of Projects

AGENCY: Susquehanna River Basin Commission (SRBC).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Susquehanna River Basin Commission proposed to amend its project review regulations in order to clarify language, eliminate redundant sections, and eliminate or modify requirements that are updated or difficult to implement.

DATES: Comments from interested parties should be submitted on or before September 25, 1989.

ADDRESSES: Send comments on the proposed amendments to: Robert J. Bielo, Executive Director, Susquehanna River Basin Commission, 1721 N. Front St., Harrisburg, PA 17102-2391.

FOR FURTHER INFORMATION CONTACT: Richard A. Cairo, Secretary to the Commission, SRBC, 1721 N. Front St., Harrisburg, PA 17102-2391, Telephone: (717) 238-0423.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful.

The Proposal

The Commission wishes to amend its Regulations & Procedures for Review of Projects under which the Commission carries out its project review responsibilities pursuant to the Susquehanna River Basin Compact, Pub. L. 91-575. The purpose of the amendments are twofold: (1) To clarify the language of some sections in order to improve their administration and avoid confusion on the part of project sponsors; and (2) update other sections of the regulations to correct deficiencies and meet new conditions. A section by section analysis of the proposed amendments follows:

Section 803.4

The title of this section is being revised to indicate that both review and approval are required for the type of projects listed. Also, revisions have been included to clarify the procedure employed by the Commission in acting on a project application, i.e. approve, disapprove or approve with conditions. Finally, a phrase has been added noting that ground-water withdrawals, as described in § 803.62, must be approved by the Commission. This phrase had inadvertently been omitted from § 803.4 when § 803.62 was promulgated in 1978.

Section 803.22

The Commission has found that, because the signatory parties do not, in most cases, have regulations comparable to the Commission's consumptive use and ground-water withdrawal regulations, it is better to have the applications for consumptive use and ground-water withdrawal submitted directly to the Commission instead of through a signatory party. The revisions to § 803.22 provide for such direct submissions.

Section 803.23

This Section contains language similar to § 803.22 and it therefore had to be adjusted accordingly. Also, because all ground-water withdrawal requirements are being set forth in § 803.62, all references to ground-water withdrawal applications and the contents thereof are being stricken from § 803.23.

Section 803.61

Amendments to this Section regulating consumptive uses of water are a combination of clarification and update.

The definition of consumptive use at paragraph (a)(1) is being recast to make it clear that consumptive uses only includes that water not returned to either the ground water or surface water of the basin.

The previous definition suggested that water not returned directly to the source from which it originated constituted a consumptive use. Also, a definition of "compensation" is added at new paragraph (a)(3) to indicate that this is water provided from surface storage or ground water as make-up for a project's consumptive use.

In paragraph (b)(1), the "regulation of flows and supplies of surface and ground waters" is added as a purpose of the regulation and, in paragraph (b)(2), the exemtion clause is amended to indicate that consumptive uses not exceeding "a thirty day average" of 20,000 gpd are exempt. The previous wording of the regulation did not specify an average consumptive use, thereby contributing to some confusion over the application of the regulation to short-term consumptive uses exceeding 20,000 gpd.

Changes to paragraph (c)(1)(ii) recognizes that virtually all ground-water sources of water are connected to streamflow and that therefore the regulation should apply to any consumptive use of ground water exceeding the exempted amount. This removes the nebulous concept of "hydraulic connection" from the regulation and clearly notifies ground-water users that they will be treated the same as surface water users for purposes of consumptive use regulation.

Clarifying language is also added to program (c)(1)(iii) with respect to the place where make-up water should be released and the flow that should be maintained on the affected stream.

In order to provide more flexibility to applicants in meeting the requirements of the regulations, the list of methods for providing compensation in a new paragraph (c)(1)(iv) is expanded to include: (1) The use of water from a public water supplier where Q7-10 flows are maintained by a minumum flow-by or conservation releases; (2) ground-water pumpage; and (3) purchase and release of waters stored in other subbasins.

In a similar vein the list of alternatives to compensation set forth in paragraph (c)(2) will be expanded to include payment of a monetary charge to the Commission. Under paragraph (c)(3), the Commission retains the authority to determine an acceptable method of compensation or an alternative to compensation.

A portion of paragraph (d) is changed to indicate that the Commission will assume the responsibility for determining when compensation is required and notify the project sponsor. This is in keeping with present Commission practice whereby streamflows in the basin are constantly monitored by staff.

Finally, in a new paragraph (g), the Commission proposes to place the burden of compliance upon the actual consumptive user rather than upon the public water supplier who simply provides the water and experiences incidental losses in the distribution system. As stated above, consumptive users on such a public water supply system may still satisfy the requirement for compensation if the supplier

maintains a Q7-10 or higher flow on the affected stream through a conservation release on minimum flow-by.

Section 803.62

The introductory paragraphs have been modified to provide a specific description of criteria under which ground-water withdrawal projects will be reviewed. The amount of withdrawal triggering the application is not stated in terms of a thirty-day average for the same reasons noted above. Also, language has been added to require reporting and periodic review of projects having a previously grandfathered withdrawal that have increased their withdrawal amount without adding a new source. Finally, project sponsors are specifically directed to complete and file ground-water withdrawal applications with the Commission.

Paragraph (a) is changed to reflect a reduction in the length of the required pumping test from 72 hours to 48 hours which will be more consistent with the requirements of the member states. A withdrawal application form is specified (Form SRBC #24) and changes in the wording are made to allow for some flexibility in the withdrawal application contents. Although much of the application will be the same for all projects, some parts can not be modified to fit the individual project.

Paragraph (b) is modified to clarify the existing metering requirement for gound-water withdrawals. Exemptions to the metering requirement are listed.

Paragraph (c) specifies the monitoring and periodic reporting requirements for ground-water withdrawals subject to the regulation. This revised paragraph consolidates and simplifies existing paragraphs (d) and (e) on monitoring and water quality and ties the reporting requirements more closely to the data requested in Form SRBC #30 which is available from the Commission. The long list of specific water quality parameters in the existing regulations are stricken so as to allow for more flexibility.

Paragraph (d), as in paragraph (f) of the existing regulations, allows the Commission to modify the requirements of paragraphs (a), (b) or (c) if the essential purposes of the ground-water regulation continue to be served. This also builds flexibility into the regulation.

Paragraph (e), (f) and (g) are additions and reflect the need for periodic review of approved withdrawals, for planning in areas of rapid growth, and for protection of existing wells from excessive interference from new withdrawals.

Existing paragraphs (g) and (h) of this section are being removed because "Conservation" and "System Losses" are now addressed in § 803.63 of the Regulations.

List of Subjects in 18 CFR Part 803

Administrative practice and procedure, Water resources.

The Proposed Amendment

Accordingly, pursuant to the authority granted under the Susquehanna River Basin Compact, Pub. L. 91-575; 84 Stat. 1509 et seq., the Susquehanna River Basin Commission proposes to amend Part 803 of its regulations and procedures for review of projects (18 CFR Part 803) as follows:

PART 803—REVIEW OF PROJECTS

1. The authority citation for Part 803 continues to read as follows:

Authority: Sec. 3.4(9), 3.10, and 15.2, Pub. L. 91-575, 84 Stat. 1509 et seq.

2. Section 803.4 is amended by revising the section heading, the introductory text of paragraph (a) and paragraph (a)(2) to read as follows:

§ 803.4 Projects requiring review and approval.

(a) As determined from applications or otherwise, the Commission shall review and either approve, approve with conditions, or disapprove the following proposed projects within the Susquehanna River Basin.

* * * * *

(2) Any project involving either the consumptive use of water (as described in § 803.61), a ground-water withdrawal (as described in § 803.62), or the transfer of water into or from the basin.

* * * *

3. Subpart B, § 803.22 is amended by revising the introductory text of paragraphs (a) and (b) to read as follows:

§ 803.22 Submission of application.

(a) Except as stated in paragraph (b) of this section, projects requiring a permit or other form of regulatory approval from a State or Federal agency having authority regarding water resources use, development, control and conservation.

* * * * *

(b) Projects not subject to the jurisdiction of the above agencies and projects involving a consumptive use of water as regulated under § 803.61 or a ground-water withdrawal as regulated under § 803.62.

* * * * *

4. Subpart B, § 803.23 is amended by revising the introductory text of paragraphs (a) and (b), paragraph (b)(1) and by removing and reserving paragraph (c)(2)(vii)(b) to read as follows:

§ 803.23 Contents of application.

(a) Except as stated in paragraph (b) of this section, projects requiring a permit or other form of regulatory approval from a State or Federal agency having regulatory authority regarding water resources use, development, control and conservation.

* * * * *

(b) Projects not subject to the jurisdiction of the above agencies and projects involving a consumptive use of water as regulated under § 803.61 or a ground-water withdrawal as regulated under § 803.62.

(1) With the exception of applications for ground-water withdrawals under § 803.62 hereof, the sponsor's application shall address the aspects pertinent to the project listed in paragraph (c) of this section. The requirements for ground-water withdrawal applications are described in § 803.62.

* * * * *

5. Subpart D, § 803.61 is amended by revising paragraphs (a)(1), (b)(1), (b)(2), (c)(1) (ii) and (iii), (c)(2), (c)(3), the fourth sentence of (d) and by adding new paragraph (a)(3), (c)(1)(iv) and (g) to read as follows:

§ 803.61 Consumptive uses of water.

(a) * * *

(1) *Consumptive Use.* Water withdrawn from ground water of surface water, via a man-made conveyance system, and not returned to the ground water of surface water of the basin thereby making it unavailable for other water uses or purposes.

* * * * *

(3) *Conpensation.* Water provided from surface storage or ground-water as make-up for a project's consumptive use.

(b) * * *

(1) Compensation shall be required for consumptive uses of water during periods of low flow. Compensation is required during periods of low flow for the purposes of protection of public health; stream quality control; economic development; protection of fisheries; recreation; dilution and abatement of pollution; the regulation of flows and supplies of surface and ground waters; the prevention of undue salinity; protection of the Chesapeake Bay; and other purposes as determined by the Commission.

(2) Consumptive uses by a project not exceeding a thirty-day average of 20,000 gpd from surface or ground waters are exempt from the requirement unless

such uses adversely affect the purposes outlined in paragraph (b)(1) of this section.

(c) * * *

(1) * * *

(ii) Ground-water source. Compensation for the project's consumptive use of ground water shall be required when the stream flow is less than the applicable low flow criterion. For the purposes of implementing this regulation, the Commission will identify the appropriate stream gaging station for determining the applicable low flow.

(iii) The required amount of compensation shall be provided by the applicant or project sponsor at the point of taking (for a surface source) or another appropriate site as approved by the Commission to satisfy the purposes outlined in Paragraph (b)(1) of this section. If compensation for consumptive use from a surface source is be provided upstream from the point of taking, such compensation shall assure no diminution of the flow immediately downstream from the point of taking which would otherwise exist naturally, plus any other dedicated augmentation.

(iv) Compensation may be provided by one, or a combination of the following:

(*a*) Construction or acquisition of storage facilities.

(*b*) Purchase of available water supply storage in existing public or private storage facilities, or in public or private facilities scheduled for completion prior to completion of the applicant's project.

(*c*) Purchase of water to be released as required from a water purveyor.

(*d*) Releases from an existing facility owned and operated by the applicant.

(*e*) Use of water from a public water supplier utilizing raw water storage that maintains a conservation release or flow-by, as applicable, of Q7–10 or greater at the public water supplier's point of taking.

(*f*) Ground water.

(*g*) Purchase and release of waters stored in other subbasins or watersheds.

(*h*) Other Alternatives.

(2) Alternatives to compensation may be appropriate such as discontinuance of that part of the project's operation that consumes water, imposition of conservation measures, or utilization of an alternative source that is unaffected by the compensation requirement, or a monetary payment to the Commission in an amount to be determined by the Commission from time-to-time.

(3) The Commission shall, in its sole discretion, determine the acceptable manner of compensation or alternatives to compensation, as applicable, for consumptive uses by a project. Such a determination will be made after considering the project location, anticipated amount of consumptive use and its effect on the purposes set forth in paragraph (b)(1) of this section, and any other pertinent factors.

(d) * * * When the project is operational, the Commission shall be responsible for determining when compensation is required and shall notify the project sponsor accordingly. * * *

* * * * *

(g) Public water suppliers, except to the extent that they are diverting the waters of the basin, shall be exempt from the requirements of this section; provided, however, that nothing herein shall be construed to exempt individual consumptive users connected to any such public water supply system from the requirements of the section.

6. Subpart D, § 803.62 is amended by revising the introductory text and paragraphs (a), (b), (c), (d), (e), (f), and (g) and by removing and reserving paragraph (h), to read as follows:

§ 803.62 Ground-water withdrawals.

Any project sponsor proposing to withdraw groundwater form a single well or a well field in excess of a thirty-day average of 100,000 gpd or proposing to increase an existing withdrawal to more than a thirty-day average of 100,000 gpd shall obtain Commission approval of the withdrawal. These withdrawals may be limited by the Commission to the amount (quantity and rate) of ground water that can be withdrawn from an aquifer or aquifer system without causing long-term progressive lowering of groundwater levels, rendering competing supplies unreliable, causing water quality degradation that may be injurious to any existing or potential ground or surface water use, causing permanent loss of aquifer storage capacity, or having substantial impact on low flow of perennial streams. Projects withdrawing more than a 30-day average of 100,000 gallons per day prior to the effective date of this Section are exempt from the above approval requirements, provided that the current withdrawal rate does not exceed the amount withdrawn before the said effective date. Any such exempted project that increases its 30-day average withdrawal to a level above that which it was withdrawing prior to the said effective date shall be subject to the monitoring and reporting requirements described in paragraph (c) of this section and the 5-year review described in paragraph (e) of this section. Any sponsor of a project subject to Commission review and approval shall complete a ground-water withdrawal application. Also, after obtaining approval for the withdrawal, the sponsor shall comply with metering, monitoring, and conservation requirements as follows:

(a) Withdrawal Application (Form SRBC #24). Information required by the Commission is specified in the ground-water withdrawal application and includes but is not limited to the following:

(1) Drillers' and/or geologists' report.

(2) Location map(s) showing all project wells and other pertinent information.

(3) Results of a minimum, 48-hour constant rate pumping test. Note: Review and approval of the test procedures to be used by the applicant are necessary before the test is started.

(4) A chemical analysis of ground water from the proposed source.

(b) Metering. Ground-water users shall meter all approved ground-water sources. The meters shall be accurate to within five percent of the actual flow. Withdrawals for all commercial farm irrigation, sand and gravel operations, and temporary dewatering operations shall be exempt from the requirement for metering. They shall, however, record pump capacity and elapsed hours of operation. This information shall be reported as monthly totals annually or more frequentty if required by the permitting agency.

(c) Monitoring and Reporting. Periodic monitoring and reporting of water levels, well production, and ground-water quality are required of all aproved ground-water withdrawals. The required information is listed in Form SRBC #30 (Ground-Water Withdrawal Reporting Form) and includes but is not limited to the following:

(1) Ground-water levels shall be measured weekly in all approved production wells and reported to the Commission annually. Additional water levels may be required in one or more observation wells as determined by the Commission.

(2) Production from approved ground-water sources shall be recorded weekly and reported to the Commission annually.

(3) Samples of ground-water for water quality analysis shall be obtained and the results reported to the Commission every three years. The required chemical constituents to be included in the analysis are listed in Form SRBC #30.

Note: The information may be provided to the Commission either on Form SRBC #30 or other similar document containing all of the required information.

(d) The Commission may, in its discretion, modify the requirements of paragraphs (a), (b), or (c) of this section if the essential purposes of the groundwater program continue to be served.

(e) Approvals by the Commission for ground-water withdrawals shall be subject to review at intervals of 5 years, after whcih the Commission may, at its discretion, choose to modify the approval based on information obtained from monitoring or other sources.

(f) Planning. If projections indicate that a project's ground-water supply will be constrained in the future by either the quantity or quality of available ground water, the Commission may, in its discretion, require the submission of a water resource-development plan prior to accepting any new withdrawal applications for the same or related projects.

(g) Interference with Existing Wells. If review of the application or other substantial data demonstrates that operation of a proposed ground-water withdrawal will significantly affect or interfere with an existing well or wells, the project sponsor may be required to provide, at its expense, an alternate water supply or other mitigating measures.

Dated: August 3, 1989.

Respectfully submitted.

Robert J. Bielo,

Executive Director.

[FR Doc. 89-18815 Filed 8-10-89; 8:45 am]

BILLING CODE 7040-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 200 and 205

[Docket No. R-89-1448; FR-2677]

Mortgage Insurance for Land Development; Title X of the National Housing Act; Proposed Termination of Program

AGENCY: Office of the Secretary, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule seeks to terminate the mortgage insurance program authorized under Title X of the National Housing Act (12 U.S.C. 1749aa–174911). Under Title X, HUD insures mortgages to finance the purchase and development of land, including building sites, water and sewer systems, streets and lighting, and other installations needed for residential communities. Termination is based on the serious adverse financial condition of the program, the program's inability to achieve its statutory goals, the Secretary's judgment that restructuring the program would not be an effective way of correcting these deficiencies, and the fact that termination of the program would have virtually no effect on the availability of financing for land development across the Nation.

DATE: Comments must be received by October 10, 1989.

ADDRESS: Interested persons are invited to submit comments regarding this rule to the Office of the General Counsel; Rules Docket Clerk; Room 10276; Department of Housing and Urban Development; 451 Seventh Street, SW.; Washington, DC 20410. Communications submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

As a convenience to commenters, the Rules Docket Clerk will accept public comments transmitted by facsimile ("FAX") machine. The telephone number of the FAX receiver is (202) 755–2575. (This is not a toll-free number.) Only public comments of six or fewer total pages will be accepted via the FAX transmittal. This limitation is necessary in order to assure reasonable access to the equipment. Comments sent by FAX in excess of six pages will not be accepted. Receipt of FAX transmittals will not be acknowledged, but the sender may request confirmation of receipt by calling the Rules Docket Clerk ((202) 755–7584). (This is not a toll-free number.)

FOR FURTHER INFORMATION CONTACT: Edwin W. Baker; Single Family Development Division; Office of Housing; Department of Housing and Urban Development; 451 Seventh Street, SW.; Washington, DC 20410. Telephone: (202) 755–6720. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: Title X of the National Housing Act (12 U.S.C. 1749aa–174911) was added by the Housing and Urban Development Act of 1965. Under this program, HUD is given discretionary authority to insure mortgages for land purchase and development in connection with new subdivisions and new communities. The improvements that may be installed by the developer and financed with the mortgage proceeds include: installations for water lines; water supply; sewage disposal; complete water or sewage systems; and roads, streets, curbs, gutters, sidewalks, and storm drains. Title X projects must be designed for primarily residential use, although a reasonable amount of related non-residential use is permitted. In connection with the program, HUD is directed to adopt requirements designed to encourage the maintenance of a diversified local home-building industry; broad participation by builders, particularly small builders; and the inclusion of a proper balance of housing for families of low and moderate income.

On June 29, 1989, Secretary Kemp announced HUD's suspension of the Title X program. He announced that HUD would discontinue the processing of Title X applications that had not received a legally binding commitment by June 29, 1989, and would return application fees. Projects with legally binding commitments issued before June 29, 1989 would be eligible for insurance, subject to a specific examination for evidence of fraud or misrepresentation. The Secretary further stated that HUD would publish a rule proposing to terminate the program. Today's Notice solicits public comment on this proposed termination.

The Secretary proposes to terminate the Title X program on the basis of the following factors: the serious adverse financial condition of the program, its inability to meet its statutory goals, the Secretary's judgment that restructuring the program would not be an effective way of correcting these deficiencies, and the fact that its termination would have virtually no effect on the availability of financing for land development across the Nation. The following discussion addresses each of these points.

1. Financial Condition of the Title X Program

Land development projects insured under the Title X program are among the riskiest of HUD-insured projects. The development of land is inherently more speculative than the development of structures. Moreover, due to the long development process under the Title X program (typically four to five years), HUD must make accurate projections far into the future about the economic conditions and market demand for the improvements that are planned ultimately to be erected on the property. The difficulty of making such projections is amply illustrated by the housing depression currently afflicting a number of areas and even entire regions, of the country—a condition that few foresaw in either its depth or breadth.

Title X has proved to be a financial disaster to the Department and to the American people. The program has experienced exceptionally high claim rates, and it has already inflicted massive losses on the Department's insurance fund, with substantial additional losses anticipated. The

program is actuarially unsound, a situation that is particularly troublesome since it involves a program that is intended to be self-supporting (see section 1008 of the National Housing Act).

An analysis of the operations of the program from 1977 to October 1988 reveals the following:

—Fifty-eight loans were insured under the program (approximately five per year). These mortgages generated $12.5 million in insurance premiums and fees for the fund and were insured for a total of $505,146,309 (approximately $8.7 million per loan).

—Claims have been paid on 25 of the 58 loans. This represents a claim rate of 43 percent. It should be noted, however, that 13 of the 58 loans are still in the construction phase, during which an insurance claim is far less likely to occur than late in the life of the loan. Based on historical trends, defaults are likely to be experienced by at least some of these projects. Thus, the 43 percent claim rate understates—and probably significantly so—the scope of the problem. Claim rates of the order incurred by the Title X program are astronomically high for any program, but especially for one such as Title X that is designed to be operated in an actuarially sound manner. As a point of comparison, the percent claim rate for the section 221(d) multifamily mortgage insurance program for the period 1974 through 1988 was 9.87 percent for HUD-processed loans and 17.31 percent for the Section 221(d) coinsurance program.

—HUD has experienced no significant reduction in Title X financial problems despite changes that were instituted between 1983 and 1985 to improve the program. These changes included: restricting the number of lots or units in a single phase project to the number of lots that can reasonably be sold within two years after final endorsement; limiting the number of acres in land banks to 50 percent of the total project acreage; and requiring a risk analysis test as one of the factors used to determine whether the lots can be sold quickly enough to generate funds required to retire the debt. From the issuance of the revised Title X handbook in October 1983 to October 1988, HUD insured 27 projects. The mortgages of eight of these post-1983 projects have been, or are in the process of being, assigned to the Department—a claim rate of 30 percent. Since 13 of these post-1983 projects are in the construction phase, this 30 percent claim rate, as noted above, understates the scope of the financial problem for these loans.

—By October 1988, 13 of the 25 Title X projects for which HUD has paid claims since 1977 have been sold, resulting in a total loss to the Federal government of more than $50 million and an average loss of almost $4 million per claim. Losses on the remaining 12 projects have not, as yet, been determined. However, assuming comparable losses upon the disposition of these projects, HUD anticipates a total loss on the 25 claims of approximately $90 million. The ultimate loss will exceed $90 million, since HUD has issued legally binding commitments for a number of projects that are still in the pipeline.

—The Government's future losses under the program can only be expected to increase if the program is allowed to continue, since the amounts sought to be insured under individual Title X applications are increasing. In March 1989, HUD insured one mortgage for $78 million, and applications being processed included two applications, each of which involved a mortgage in excess of $75 million.

Consequently, HUD believes that approved Title X projects, together with the propose projects in the pipeline, will continue to subject the FHA insurance fund to unacceptable financial losses. In moving to discontinue the Title X program, the Secretary has considered his obligation to ensure sound financial management of the General Insurance Fund and the fact that the Title X program was intended to be financially self-sufficient. The continuation of a program that involves such an unacceptably high insurance claim rate is inconsistent, in the Secretary's judgment, with his obligation to manage the Fund prudently. This is especially so, since, as noted below, Title X has not achieved its statutory goals.

2. Inability to Promote Statutory Purposes

Section 1005 of the Act states:

> The Secretary shall adopt such requirements as he deems necessary in land development covered by mortgages insured under Title X to encourage * * * and the inclusion of a proper balance of housing for families of moderate or low income.

Various HUD directives acknowledge the statutory goal of encouraging the inclusion of a proper balance of low- and moderate-income housing (see *e.g.*, paragraph 2–4, HUD Handbook 4800.1 Rev–1, dated October 1983). However, HUD has been unable, through its handbooks and regulations, to achieve this desired program goal.

The HUD Inspector General draft audit report dated March 31, 1987 reviewed 17 Title X projects in three HUD regions that produced 11,300 housing units. These projects collectively were insured for a total of $212 million. The review revealed that only a single project may have provided housing for moderate-income persons, and no project provided housing for families with low incomes.

HUD believes that the inability to attain this goal is inherent in the Title X program and in the very nature of the financing of land development. Housing located on land developed under the program is typically new construction that is designed for sale to prospective homeowners. This type of housing generally costs more than low-income families, and even many moderate-income families, can afford to pay. In addition, undeveloped land suitable for use in the program is generally located in suburban areas, and involves an "up-scale" emphasis that is often beyond the reach of even moderate-income families. Finally, given the high risk level and economic uncertainties that attend loans for land development, developers naturally desire the economic "cushion" afforded by higher-priced homes. Thus, the central thrust of Title X is away from the very income groups the statute directs the Department to focus upon in administering the program.

3. Can Title X Be Fixed?

The Department has carefully considered whether Title X's central ills—an astronomical claim rate and an inability to meet the program's statutory purposes—can be cured by restructuring the program and committing more HUD resources and staff to its administration. Even assuming that such an investment of resources would be possible in this period of Budget restraint, the Department does not believe that the effort would pay off.

The private sector currently finances virtually all land development projects without the need for Federal insurance. Although data are limited, the Department estimates that between 4,000 and 6,000 subdivisions are developed annually in the United States. By comparison, activity under the Title X program since 1977 has averaged only five applications per year. Looked at another way, Title X's share of the land development market has averaged only about *.001*—one-tenth of one percent—of the national total—an infinitesimal contribution to the total financing for land development.

If the Department undertook to "fix" Title X, we believe that the result would reduce the current five applications per year to zero. Any restructuring of the program would include more rigorous requirements to ensure the participation of small builders and a significant

proportion of low- and moderate-income families in the housing ultimately developed. It also would involve stricter underwriting standards and other measures to ensure that insured projects represented a substantially improved mortgage insurance risk. The Department believes that "tightening" the program in these ways—ways literally required by Title X—would virtually end any developer interest in the program. Thus, continuation of the program confronts the Department with an impossible dilemma: permit the program to continue as is and tolerate continued financial hemorrhaging, or take steps to revamp the program and, in so doing, effectively kill it. The Department believes that neither of these alternatives is acceptable: the proper response is simply to terminate the program.

4. Effect on the Availability of Financing for Land Development

Finally, it should be noted that the termination of Title X would have virtually no effect on the availability of financing for land development across the Nation. As indicated above, the private sector finances the overwhelming number of land developments, with Title X's share of the market being negligible.

For these reasons, HUD is proposing to revise Part 205—Mortgage insurance for land development (Title X), to add a new § 205.2. This new section would state that projects with legally binding commitments issued before June 29, 1989, and projects with notes that were initially endorsed before June 29, 1989, would be governed by the eligibility and other requirements of part 205 (subpart A) as it currently exists. No other projects would be eligible for insurance under Title X. Subpart B and § 205.1 (definitions) would be retained to govern the rights and obligations under existing Title X mortgage insurance contracts. The remainder of part 205 would be removed. Miscellaneous cross-references to part 205 Title II would be removed, except for cross-references contained in the delegation provisions in part 200, subpart D, which will be addressed in a separate final rule.

Findings and Certifications

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk at the above address.

This rule does not constitute a "major rule" as that term is defined in section 1(d) of the Executive Order on Federal Regulations issued by the President on February 17, 1981. An analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities. The elimination of the program would not have a significant economic impact, since conventional insurance for land development projects is available and is used by developers much more frequently than is Title X. As noted above, approximately .1 percent of subdivisions in the United States are developed under Title X. Moreover because few Title X-insured mortgages are provided to small entities, HUD does not believe that a substantial number of small entities would be affected.

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that the rule will not have a significant impact on family formation, maintenance, or well-being. While the proposed rule would eliminate a mortgage insurance program that furthers the development of subdivisions available for housing for families, relatively few lots are developed annually under the program, and alternative conventional financing is available. HUD, thus, does not believe that the rule would have significant "family impact."

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, federalism, has determined that the final rule does not involve the preemption of State law by Federal statute or regulation and does not have "federalism implications." The rule would eliminate a little-used mortgage insurance program to assist private developers. It should have no appreciable impact on State or local governments.

This rule was not listed in the Department's Semiannual Agenda of Regulations published on April 24, 1989 (54 FR 16708) under Executive Order 12291, Federal Regulation, and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program number is 14.125.

List of Subjects

24 CFR Part 200

Administrative practice and procedure; Claims; Equal Housing Opportunity; Fair Housing; Housing standards; Loan programs: housing and community development; Mortgage insurance; Organization and functions (Government agencies); Reporting and recordkeeping requirements; Minimum Property Standards; Incorporation by reference.

24 CFR Part 205

Community facilities; Mortgage insurance; Land development.

Accordingly, the Department would amend 24 CFR parts 200 and 205 as follows:

PART 200—INTRODUCTION

1. The authority citation for part 200 would be revised to read as follows:

Authority: Titles I and II, National Housing Act (12 U.S.C. 1701–1715z–18); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

§ 200.27 [Removed]

2. Section 200.27 would be removed.

PART 205—MORTGAGE INSURANCE FOR LAND DEVELOPMENT (TITLE X)

3. The authority citation for part 205 would continue to read as follows:

Authority: Sec. 1010, National Housing Act (12 U.S.C. 1749jj); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

4. A new § 205.2 would be added to read as follows:

§ 205.2 Applicability

Projects with legally binding commitments issued before June 29, 1989, and projects with notes that were initially endorsed before June 29, 1989, under Title X of the National Housing Act will be governed by the eligibility and other requirements of 24 CFR Part 205 (Subpart A) in effect before (*insert effective date of final rule*). No other

projects will be eligible for insurance under Title X.

§ 205.5 through 205.249 [Removed]

5. Sections 205.5 through 205.249 would be removed.

Dated: July 21, 1989.

Jack Kemp,

Secretary.

[FR Doc. 89-18766 Filed 8-10-89; 8:45 am]

BILLING CODE 4210-32-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

Oil and Gas and sulphur Operations in the Outer Continental Shelf; Safety and Pollution-Prevention Equipment

AGENCY: Minerals Management Service, Interior.

ACTION: Reopening of comment period; notice of meeting.

SUMMARY: Current rules governing offshore oil and gas operations require that safety and pollution-prevention equipment (i.e., surface safety valves, underwater safety valves, and subsurface safety valves) be manufactured in accordance with a quality assurance program specified in the rule. On July 6, 1988, the Minerals Management Service (MMS) issued a notice of proposed rulemaking which would amend existing rules to update the American National Standard Institute/American Society of Mechanical Engineers (ANSI/ASME) SPPE-1 quality assurance standard from the 1985 edition to the 1988 edition and to provide for the recognition of the American Petroleum Institute's (API) quality assurance program, API Spec Q1 in combination with API Spec 14A and Spec 14D, as an acceptable alternate or optional quality assurance program for the manufacture of safety and pollution-prevention equipment. This notice reopens the comment period for additional time to allow the public to review supplements to API Spec 14A and Spec 14D. This notice also announces a public meeting to discuss the proposed rule change.

DATES: Comments must be received or postmarked by September 15, 1989. The public meeting will be held on Thursday, August 31, 1989, at 9:00 a.m.

ADDRESS: Comments should be mailed or hand delivered to the Department of the Interior; Minerals Management Service; Mail Stop 646; 381 Elden Street; Herndon, Virginia 22070; Attention: Gerald D. Rhodes.

The Public Meeting will be held at the Houston Airport Marriott, Houston International Airport, Houston, Texas.

FOR FURTHER INFORMATION CONTACT: M.L. Courtois; Chief, Offshore Inspection and Enforcement Division; Minerals Management Service; Mail Stop 647; 381 Elden Street; Herndon, Virginia 22070; or telephone (703) 787-1576.

SUPPLEMENTARY INFORMATION: The current regulation requires that safety and pollution-prevention equipment be manufactured under the 1985 edition of the ANSI/ASME SPPE-1 quality assurance program. On July 6, 1988, MMS issued a notice of proposed rulemaking (53 FR 25349) to amend the regulations to recognize the API quality assurance program using API Spec Q1 in combination with API Spec 14A and Spec 14D as an acceptable alternative to the ANSI/ASME quality assurance program using ANSI/ASME SPPE-1 and to incorporate the 1988 edition of ANSI/ASME SPPE-1 in lieu of the 1985 edition. Since that time, API has issued its August 1989 Supplements to API Spec 14A and Spec 14D. These supplements provide for operators to report receipt of API Spec 14A and Spec 14D equipment to manufacturers. They also provide for the reporting of equipment failures to API and the manufacturers. Since several of the comments received in response to the proposed rule concerned similar reporting provisions, MMS is reopening the comment period to allow parties to review the supplements to API Spec 14A and Spec 14D and to submit additional comments on the basis of these supplements.

The proposed rule remains unchanged from the rule proposed in the **Federal Register** Notice of July 6, 1988, except that the editions of API Spec 14A and Spec 14D proposed to be incorporated by reference include Supplement 1 of August 1989 for each of the documents.

The MMS is also holding a public meeting to discuss the proposed rule. The public meeting will be held at the time and location given above.

Comment submitted during the original comment period need not be resubmitted.

Dated: August 4, 1989.

William D. Bettenberg,

Associate Director for Offshore Minerals Management.

[FR Doc. 89-18864 Filed 8-10-89; 8:45 am]

BILLING CODE 4310-MR-M

Office of Surface Mining Reclamation Enforcement

30 CFR Part 920

Maryland Permanent Regulatory Program; Public Notice; Permitting; Reporting Requirements; Bond Forfeiture.

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

ACTION: Proposed rule.

SUMMARY: OSMRE is announcing the receipt of proposed amendments to the Maryland permanent regulatory program (hereinafter referred to as the Maryland program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendments are intended to incorporate rule changes initiated by the State. The proposed amendments change certain definitions, administrative procedures for permitting and regulating coal mining, and the powers and duties of the Land Reclamation Committee.

This notice sets forth the times and locations that the Maryland program and proposed amendments to that program are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendments, and the procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received on or before 4:00 p.m. on September 11, 1989. If requested, a public hearing on the proposed amendments will be held at 1:00 p.m. on September 5, 1989. Requests to present oral testimony at the hearing must be received on or before 4:00 p.m. on August 28, 1989.

ADDRESSES: Written comments should be mailed or hand delivered to: Mr. James C. Blankenship, Jr., Director, Charleston Field Office, at the address listed below. Copies of the proposed amendments and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays.

Each requester may receive, free of charge, one copy of the proposed amendments by contacting OSMRE's Charleston Field Office.

Office of Surface Mining Reclamation and Enforcement, Charleston Field Office, Attention: Maryland

Administrative Record, 603 Morris Street, Charleston, West Virginia 25301, Telephone: (304) 347-7158
Maryland Bureau of Mines, 69 Hill Street, Frostburg, Maryland 21532, Telephone: (301) 689-4136.

FOR FURTHER INFORMATION CONTACT: James C. Blankenship, Jr., Director, OSMRE, Charleston Field Office, Telephone: (304) 347-7158.

SUPPLEMENTARY INFORMATION:

I. Background

On February 18, 1982, the Secretary of the Interior approved the Maryland program. Information regarding general background on the Maryland program, including the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Maryland program can be found in the February 18, 1982, Federal Register (47 FR 7214-7217).

Subsequent actions concerning amendments to the Maryland program are contained in 30 CFR 920.16.

II. Discussion of Proposed Amendments

By letter dated June 15, 1989, the Maryland Bureau of Mines (MDBOM) submitted copies of Senate Bills (SB) 118, 119 and 120. They were passed and entered as Chapters 481, 309 and 310, respectively, by the 1989 Maryland General Assembly, as proposed amendments to Maryland's approved program in accordance with 30 CFR 732.17(g).

SB 118, which concerns the deep mining of coal, applies to Sections 7-5A-05, 7-5A-05.1, 7-5A-05.2, 7-5A-09, 7-5A-10, and 7-5A-13 of the Maryland Annotated Code (MAC), Natural Resources Article.

MAC section 7-5A-05(c) was revised to require the applicant to publish a public notice of intended mining. The State formerly issued the public notice. The contents of the public notice are delineated in this section.

MAC section 7-5A-05(d) was revised to require that a public hearing, if requested, is to be held at least 15 days but not more than 60 days after the MDBOM provides public notice of the hearing. Further, the MDBOM shall notify the applicant and publish the hearing date in a newspaper. Copies of the application are to be available for public inspection and a record of the hearing is to be made available to the public.

MAC section 7-5A-05.1 was added to require MDBOM to adopt regulations to protect against, prevent, or correct material damage due to mine subsidence. Existing regulations in the Code of Maryland Administrative Regulations (COMAR) are to remain in effect under this section until any changes are proposed and adopted.

Section 7-5A-05.2 was added to require an operator to replace the water supply of affected legitimate landowners whose underground or surface source has been adversely affected by deep mining operations. It defines Maryland Department of Natural Resources requirements and responsibilities in this area and allows use of deep mining funds to replace affected water supplies if the operator fails to do so.

MAC section 7-5A-09(c) was revised to modify the wording regarding duration of bond liability with respect to a mining operation. A bond may not be fully released until all permit conditions and State regulations have been satisfied.

MAC section 7-5A-10(d) was revised to require that forfeited funds be directed to the Deep Mining Fund and used for reclaiming the land affected by the operation from which the specific bond was forfeited. It also specifies that forfeited funds in excess of the site specific reclamation requirements may be used to reclaim any other land adversely affected by deep mining.

MAC section 7-5A-13(c) regarding reclamation inspections, and MAC section 7-5A-13(d) regarding refunding or forfeiting bond were both deleted. Section (c) required the MDBOM to conduct at least annual inspections of the completed mine sites to determine the adequacy of the reclamation work. Section (d) required the MDBOM to refund or forfeit bond no later than five years from the filing date of the completion report.

SB 119, which concerns the strip mining of coal, applies to MAC sections 7-502(n), 7-505(c)(1), 7-505(d)(1), 7-505(k), 7-507(a), 7-507(b), 7-509, and 7-514(d).

A new definition was added to MAC section 7-501 (n). The term "surface coal mining" is defined as "open pit mining" or "strip mining."

MAC sections 7-505(c)(1) and 7-505(d)(1) were changed to require MDBOM approval of the text of an applicant's public notice for permits and permit revisions prior to publication.

MAC section 7-505(k) was added to require prior written approval of the MDBOM before transfers, assignments, or sale of right granted under a permit may be executed.

MAC section 7-507(a) was reworded to clarify the requirement of an annual and monthly production personnel-safety-reclamation status report.

MAC section 7-507(b) was revised to require submission of the Mining and Reclamation Progress Report for every strip mine operation which continues in operation beyond one year.

MAC section 7-509 was revised to require submission of a completion report by each operator after completion of all coal removal and reclamation. MDBOM review of this report is generally defined along with further operator requirements, options, and actions.

SB 120, which concerns strip mining of coal and the powers and duties of the Land Reclamation Committee, applies to MAC sections 7-203(h), 7-205(b) and (c), 7-505(c) and (d), 7-507(c)(3), and 7-510(b).

MAC section 7-203(h) was added. It allows utilization of funds from any source for the reclamation and revegetation of areas affected by bituminous coal mining.

MAC section 7-205(b) was deleted and replaced with MAC section 7-205(b)(1) and (2). The Land Reclamation Committee's (LRC) authority to determine the amount of revegetation bonds was deleted. The LRC may "approve, reject, or modify reclamation plans for Surface Coal Mine Permit Applications". Other elective and mandatory responsibilities are delineated.

MAC section 7-205(c) was deleted and replaced. The mandatory annual report regarding each major watershed in Garrett and Allegany counties was deleted. The replacement provision requires the LRC to notify the department if it believes a violation of law, regulation or permit conditions exists. The Department is required to respond to the committee's notification.

MAC section 7-507(c)(3) was deleted. It allowed LRC members to enter any open-pit operation to determine land reclamation conditions and progress. It also provided LRC authority to suspend the permit until corrective action was taken.

MAC section 7-510(b) which required LRC approval for the Department to receive and expend funds for reclamation and revegetation of any strip mined area was deleted.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(b), OSMRE is now seeking comments on whether the amendments proposed by Maryland satisfy the applicable program approval criteria of 30 CFR 732.15. If the amendments are deemed adequate, they will become part of the Maryland 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 OSMRE Charleston 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 4:00 p.m. on August 28, 1989. 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 OSMRE 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 OSMRE representatives to discuss the proposed amendments may request a meeting at the OSMRE 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 at the locations under "ADDRESSES". A written summary of each meeting will be made a part of the Administrative Record.

List of Subjects in 30 CFR Part 920

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: August 3, 1989.

Jeffrey D. Jarrett,

Assistant Director, Eastern Field Operations.

[FR Doc. 89-18825 Filed 8-10-89; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 6F3366/P487; FRL 3628-4]

Pesticide Tolerances for Iprodione

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes to establish a permanent tolerance for residues of the fungicide iprodione in or on potatoes. This regulation to establish the maximum permissible level for residues of iprodione in or on this raw agricultural commodity was requested by Rhone-Poulenc, Inc.

DATE: Comments, identified by the document control number (PP 6F3366/P487), must be received on or before August 28, 1989.

ADDRESS: By mail, submit written comments to: Public Docket and Freedom of Information Section, Field Operations Division (H7506C), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 246, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 246 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Susan Lewis, Acting Product Manager (PM) 21, Registration Division (H-7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Rm. 227, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-557-1900.

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of March 19, 1986 (51 FR 9514), which announced that Rhone-Poulenc, Inc., P.O. Box 12014, 2 T.W. Alexander Drive, Research Triangle Park, NC 27709, had submitted a pesticide petition (PP 6F3366) to EPA proposing that 40 CFR part 180 be amended by establishing tolerances for the combined residues of the fungicide iprodione [3-(3,5-dichlorophenyl)-N-(1-methylethyl)-2,4-dioxo-1-imidazolidinecarboxamide], its isomer [3-(1-methylethyl)-N-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboxamide], and its metabolite [3-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboxamide] in or on potatoes at 0.5 part per million (ppm).

A rule was published in the **Federal Register** of June 8, 1988 (53 FR 21452) that established a tolerance for a period of 1 year from the date of publication of the rule in the **Federal Register**. Based on the review of the potato-processing data, the Agency will determine whether the issuance of a permanent tolerance is appropriate. No comments were received in response to the rule.

The data submitted in the petition and other relevant material have been evaluated. Rhone-Poulenc, Inc., submitted a potato-processing study that adequately demonstrates that iprodione, its isomer, and its metabolite are not likely to concentrate in potato waste. Based on these data, the published tolerance that expired on June 8, 1989 for iprodione, its isomer, and its metabolite would adequately cover iprodione residues in potatoes. This document proposes to establish a permanent tolerance for iprodione, its isomer, and its metabolite in or on potatoes at 0.5 ppm.

The toxicological data considered in support of the proposed tolerance include:

1. A three-generation rat reproduction study using dosage levels of 0, 250, 500, and 2,000 ppm with a no-observed-effect level (NOEL) of 500 ppm (25 milligrams per kilogram of body weight per day (mg/kg bwt/day)), a reproductive lowest-effect level (LEL) of 2,000 ppm (100 mg/kg bwt/day), and a systemic NOEL equal to or greater than 2,000 ppm (100 mg/kg bwt/day);

2. A rabbit teratology study in which the following doses were administered by gavage: 0, 20, 60, and 200 mg/kg bwt, resulting in a teratogenic NOEL equal to or greater than 60 mg/kg bwt;

3. A rat teratology study in which the following doses were administered by gavage: 0, 40, 90, and 200 mg/kg bwt, with a developmental toxicity NOEL equal to 90 mg/kg/bwt and an LEL of 200 mg/kg bwt;

4. A 24-month feeding/oncogenicity study in rats using dosage levels of 125, 250, and 1,000 ppm (6.25, 12.5, and 50 mg/kg bwt/day), which showed no oncogenic effects under the conditions of the study;

5. An 18-month oncogenicity study in mice using dosage levels of 200, 500, and 1,250 ppm (28.6, 71.4, and 178.6 mg/kg bwt/day), which showed no oncogenic effects under the conditions of the study.

6. A 1-year dog feeding study using dosage levels of 168, 600, and 3,600 ppm (4.2, 15, and 90 mg/kg bwt/day) with a NOEL of 168 ppm (4.2 mg/kg bwt/day) and an LEL of 600 ppm (15 mg/kg bwt/day); and

7. A 90-day dog feeding study using dosage levels of 600, 2,400, and 7,200 ppm (20, 60, and 180 mg/kg bwt/day) with a NOEL of 2,400 ppm (60 mg/kg bwt/day) and an LEL of 7,200 ppm (180 mg/kg bwt/day).

Data currently lacking is an appropriate animal metabolism study. The registrant will be submitting this study to the Agency by the end of 1989.

The acceptable daily intake (ADI) based on the NOEL of 4.2 mg/kg bwt/day from the 1-year dog feeding study and using a hundredfold safety factor is calculated to be 0.04 mg/kg bwt/day. The total exposure from the previously established tolerances using data on anticipated residues (estimate of residues of pesticides found on food at the time of consumption) from field studies and percent crop treated data plus the proposed tolerance is 0.011223 mg/kg bwt/day and utilizes 28.1 percent of the ADI for the overall U.S. population.

The June 8, 1988 Federal Register Notice for Iprodione on potatoes stated that the tolerance and the previously established tolerances utilize a total of 109.4 percent of the ADI for the U.S. population; however, the Agency believes that the actual residues to which the public is likely to be exposed are considerably less than indicated by the TMRC for the following reasons:

1. Not all the planted crop for which a tolerance is established is normally treated with the pesticide.

2. Most treated crops have residue levels which are below the established tolerance level.

3. Not all crops contributing to the TMRC (PADI) are likely to be consumed by an individual. Therefore the Agency now used anticipated residues and percent crop treated for the ADI anaylsis since this more accurately reflects the amount of pesticide residue likely to be consumed than does the tolerance.

There are no regulatory actions pending against the registration of iprodione. The metabolism of iprodione in plants and animals, except for an appropriate toxicology laboratory animal metabolism study as noted above, is adequately understood for purposes of the tolerance. An analytical method, gas liquid chromatography using an electron capture detector, is available in Volume II of the "Pesticide Analytical Manual" for enforcement purposes.

Based on the data and information considered by the Agency, it is concluded that the pesticide is useful for the purposes for which the tolerance is sought, and it is concluded that the proposed tolerance will protect the public health. Therefore, it is proposed that the tolerance be established as set forth below.

As provided for in the Administrative Procedures Act (5. U.S.C. 553 (d) (3), the time for comment period is shortened to less than 30 days because of the necessity to expeditiously provide a means to control sclerotinia on potatoes.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 6F3366/P487]. All written comments filed in response to this petition will be available in the Public Docket and Freedom of Information Section, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects In 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Recording and recordkeeping requirements.

Dated: August 4, 1989.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

§ 180.399 [Amended]

2. In § 180.399 *Iprodione; tolerances for residues* by amended paragraph (a) by removing the footnote 1 in the entry for potatoes and at the end of the table.

[FR Doc. 89-18948 Filed 8-10-89; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 10 and 15

[CGD 84-060]

RIN 2115-AB67

Licensing of Pilots; Manning of Vessels-Pilots; Prince William Sound Pilotage

AGENCY: Coast Guard, DOT.

ACTION: Notice of withdrawal.

SUMMARY: The Coast Guard is withdrawing the proposal regarding Prince William Sound Pilotage contained in the Supplemental Notice of Proposed Rulemaking published in the **Federal Register** on June 6, 1988 (53 FR 20654). A study group has been appointed by the Commandant of the Coast Guard to examine a number of issues relating to pilotage, including Prince William Sound pilotage (see 54 FR 31130). Further action on the remainder of the proposals in this docket (CGD 84-060) will be held in abeyance until the completion of the pilotage study.

FOR FURTHER INFORMATION CONTACT: Mr. John J. Hartke, Merchant Vessel Personnel Division (G-MVP/12), Room 1210, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593-0001, (202) 267-0217.

Dated: August 7, 1989.

J.D. Sipes,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 89-18837 Filed 8-10-89; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF DEFENSE

48 CFR Part 205

Department of Defense Federal Acquisition Regulation Supplement; DFARS Publicizing Contract Actions

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule and request for public comment.

SUMMARY: The Defense Acquisition Regulatory (DAR) Council is considering changes to the Defense Federal Acquisition Regulation Supplement (DFARS), to delete DFARS 205.101(a)(2) and DFARS 205.201(S-70). These changes are being proposed as the coverage is considered to be an unnecessary duplication of the FAR.

DATE: Comments concerning the proposed rule must be received by September 11, 1989, to be considered in formulating a final rule. Please cite DAR Case 89-403 in all correspondence related to this issue.

ADDRESS: Interested parties should submit written comments to: Defense acquisition Regulatory Council, ATTN: Mr. Charles W. Lloyd, Executive Secretary, DAR Council, ODASD(P)/DARS, c/o OASD(P&L) (M&RS), Room 3D139, The Pentagon, Washington, DC 20301-3062.

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Lloyd, Executive Secretary, DAR Council, telephone (202) 697-7266.

SUPPLEMENTARY INFORMATION:

A. Background

The Defense Acquisition Regulatory Council is considering the following deletions from the DFARS as unnecessary duplication of the FAR. DFARS 205.101(a)(2) is deleted as the existing coverage in FAR 5.101(a)(2) adequately covers the requirements. DFARS 205.210(S-70) is deleted as it is an unnecessary supplementation of FAR 5.201.

B. Regulatory Flexibility Act

The proposed rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98-577 and publication for public comment is not required. Therefore, the Regulatory Flexibility Act does not apply. However, comments from small entities concerning the affected DFARS Subpart will be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite DFARS Case 89-610D in correspondence.

C. Paperwork Reduction Act.

The rule does not contain informtion collection requirements which require the approval of OMB under 44 U.S.C. 3501 et. seq.

List of Subjects in 48 CFR Part 205

Government Procurement.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

Therefore, it is proposed that 48 CFR part 205 be amended as follows:

PART 205—PUBLICIZING CONTRACT ACTIONS

1. The authority citation for 48 CFR part 205 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

§ 205.101 [Removed]

2. Section 205.101 is removed in its entirety.

§ 205.201 [Amended]

3. Section 205.201 is amended by removing paragraph (S-70).

[FR Doc. 89-18774 Filed 8-10-89; 8:45 am]

BILLING CODE 3810-01-M

Notices

Federal Register
Vol. 54, No. 154
Friday, August 11, 1989

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

Agricultural Research Service

Intent To Grant an Exclusive License to the University of Nebraska

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to greant to the University of Nebraska, Lincoln, Nebraska, an exclusive license to U.S. Patent No. 4,265,048, "Automatic Moisture Control for Roller Applicator," issued May 5, 1981.

DATES: Comments must be received on or before October 10, 1989.

ADDRESSES: Send comments to: USDA ARS–Office of Cooperative Interactions, Beltsville Agricultural Research Center, Baltimore Boulevard, Building 005, Room 401, BARC–W, Beltsville, Maryland 20705.

FOR FURTHER INFORMATION CONTACT: M. Ann Whitehead of the Office of Cooperative Interactions at the Beltsville address given above; telephone: 301/344–2786, (FTS) 344–2786.

SUPPLEMENTARY INFORMATION: The USDA-ARS intends to grant to the University of Nebraska, Lincoln, Nebraska, an exclusive license in the United States to practice the invention disclosed in U.S. Patent No. 4,265,048 "Automatic Moisture Control for Roller Applicator," issued May 5, 1981. Patent rights to this invention are assigned to the United States of America as represented by the Secretary of Agriculture. The exclusive license will be royalty bearing and will comply with the provisions of 35 U.S.C. 209 and 37 CFR 404.7.

It is in the public interest to so license this invention so as to jointly market this invention with University of Nebraska owned U.S. Patent No. 4,223,479. The inventions are closely related; effective practice of one invention requires the practice of the other. Bringing the inventions to the point of practical application requires their marketing and marketing of the inventions cannot be achieved if they are not marketed together.

The license will be granted unless ARS receives written evidence and argument which convincingly establishes that the intended course of actions is not in the public interest.

William H. Tallent,
Assistant Administrator.

[FR Doc. 89–18854 Filed 8–10–89; 8:45 am]
BILLING CODE 3410-03-M

Food Safety and Inspection Service

[Docket No. 89–024N]

National Advisory Committee on Microbiological Criteria for Foods; Meeting and Announcement of New Members

Notice is hereby given that a meeting of the National Advisory Committee on Microbiological Criteria for Foods, Meat and Poultry Subcommittee will be held on Wednesday, Thursday, and Friday, August 30 to September 1, 1989. The hours of the meeting are as follows: 10:00 a.m. to 5:00 p.m. on Wednesday, 8:30 a.m. to 5:00 p.m. on Thursday, and 8:30 a.m. to 1:00 p.m. on Friday. The meeting will be held at the Residence Inn-O'Hare, 9450 W. Lawrence Avenue, Chicago, Illinois 60601.

Notice is hereby given that six new members have been added to the Committee. The new members are: Dr. Catherine E. Adams, Special Assistant to the Administrator, Food Safety and Inspection Service, Washington, DC; Dr. Frank M. Calia, Vice Chairman and Director of Education, University of Maryland, School of Medicine, College Park, MD; Dr. David W. Dreesen, Associate Professor, Department of Medical Microbiology, University of Georgia, College of Veterinary Medicine, Athens, GA; Dr. Ranzell Nickelson, II, President, Applied Microbiological Service, Inc., College Station, TX; Dr. Merle D. Pierson, Head, Department of Food Science and Technology, Virginia Polytechnic Institute and State University, Blacksburg, VA; and Dr. David M. Theno, Jr., Director of Technical Services, Foster Farms, Livingston, CA.

The Committee provides advice and recommendations to the Secretaries of Agriculture and Health and Human Services concerning the development of microbiological criteria by which the safety and wholesomeness of food can be assessed, including criteria for microorganisms that indicate whether foods have been produced using good manufacturing practices.

The subcommittee will be meeting to review and discuss assignments referred to them by the full committee and to prepare comments on those assignments.

The Committee meetings are open to the public on a space available basis. Comments of interested persons may be filed before or after the meeting and should be addressed to Ms. Catherine M. DeRoever, Director, Executive Secretariat, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 3175, South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC 20250. Background materials are available for inspection by contacting Ms. DeRoever on (202) 447–9150.

Done at Washington, DC on August 8, 1989.

Lester M. Crawford,
Chairman.

[FR Doc. 89–18836 Filed 8–10–89; 8:45 am]
BILLING CODE 3410-DM-M

Forest Service

Relocation of a Segment of Questar Pipeline Company's Mainline # 41 Gas Transmission Pipeline; Manti-La Sal National Forest, Carbon, Emery and Sanpete Counties, Utah

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare environmental impact statement (EIS).

SUMMARY: The Forest Service will prepare an environmental impact statement for a proposal to relocate a 4.25 mile segment of Mainline # 41. The purpose is to bypass an area where coal mining has been proposed and avoid potential damage from mining induced subsidence. The segment of the pipeline proposed for relocation is authorized under a Forest Service Special-Use Permit.

DATE: Comments concerning the scope of the analysis should be received in writing by September 14, 1989.

ADDRESSES: Send written comments to George Morris, Forest Supervisor, Manti-La Sal National Forest, 599 West Price River Drive, Price, Utah 84501.

FOR FURTHER INFORMATION CONTACT: Aaron Howe, Engineering/Minerals Staff Officer, (801) 637-2817.

SUPPLEMENTARY INFORMATION: .

The Forest Supervisor must evaluate the proposal and any viable alternatives (including the "no action" alternative) to decide whether or not to allow the pipeline to be moved and to modify the existing Special-Use Permit. The proposal, depending on which alternative is approved, could require an amendment to the Manti-La Sal National Forest Land and Resource Management Plan. Issues and concerns to be addressed in the EIS will be determined through project scoping. For this purpose, the Forest is requesting written comments as discussed above and will hold a public meeting in Price, Utah on August 30, 1989. The proposed action involves only National Forest system lands administered by the Manti-La Sal National Forest. Other alternatives could involve adjacent lands and other land owners or agencies. George Morris, Forest Supervisor, will be the responsible official in regard to National Forest System lands, The Forest anticipates release of the Draft EIS for public review on January 29, 1990.

The comment period on the draft environment impact statement will be 45 days from the date the notice of availability appears in the **Federal Register**. It is very important that those interested in the proposed action participate at that time. To be the most helpful, comments on the draft environmental impact statement should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (see The Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3).

In addition, Federal court decisions have established that reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewers' position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final environmental impact statement. *City of Angoon* v. *Hodel*, (9th Circuit, 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final.

Dated: August 2, 1989.

George A. Morris,

Forest Supervisor, Manti-La Sal National Forest.

[FR Doc. 89-18553 Filed 8-10-89; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Endangered Species: Issuance of Permit; St. George's School (P437)

On December 28, 1988, notice was published in the **Federal Register** (53 FR 47568) that an application had been filed by St. George's School, Newport, Rhode Island 02840, for a permit to take by capture, tag, measure, weight, and release sea turtles from the species green turtle (*Chelonia mydas*), loggerhead turtle (*Caretta caretta*), hawksbill turtle (*Eretmochelys imbricata*), leatherback turtle (*Dermochelys coriacea*), olive ridley turtle (*Lepidochelys olivacea*), and Kemp's ridley turtle (*Lepidochelys kempii*) for scientific purposes.

Notice is hereby given that on August 4, 1989, as authorized by the provisions of the Endangered Species Act of 1973, the National Marine Fisheries Service issued a Permit for the above taking, subject to certain conditions set forth therein.

Issuance of this Permit, as required by the Endangered Species Act of 1973, is based on the finding that such Permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of the Permit; and (3) will be consistent with the purposes and policies set forth in Section 2 of the Act. This Permit was also issued in accordance with and is subject to parts 220-222 of Title 50 CFR, the National Marine Fisheries Service regulations governing endangered species permits.

The Permit is available for review in the following offices:

Office of Protected Resources, National Marine Fisheries Service, 1335 East West Highway, Room 7324, Silver Spring, Maryland 20910;

Director, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, Massachusetts 01930; and

Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Blvd., St. Petersburg, Florida 33702.

Dated: August 4, 1989.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service.

[FR Doc. 89-18795 Filed 8-10-89; 8:45 am]

BILLING CODE 3510-22-M

National Marine Fisheries Service, Endangered Marine Mammals: Permit Application; Sigma Chemical Co. (P419B)

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531-1544), and the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR Parts 217-222).

1. *Applicant:* Sigma Chemical Company, P.O. Box 14508, St. Louis, Missouri 63178.

2. *Type of Permit:* Scientific Research.

3. *Species of Marine Mammal:* Sperm whale (*Physeter catodon*).

4. *Requested Activity:* As presented by the Applicant, "Activities encompassed by this Permit Application include importation, purchase, possession, research, processing, sale, transportation, distribution, exportation and reexportation of Sperm Whale Myoglobin, Sperm Whale Apomyoglobin and Sperm Whale Apomyoglobin DITC Glass via intrastate commerce, interstate commerce and foreign commerce by Sigma and other researchers supplied by Sigma."

5. *Duration of Activity:* 2 years.

6. *Location of Activity:* Imported from Great Britain.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, c/o Office of Protected Resources, National Marine Fisheries Service, Room 7330, 1335 East-West Hwy., Silver Spring, Maryland 20910, within 30 days of the publication

of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review by interested persons in the following offices:

Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Hwy., Room 7330, Silver Spring, Maryland 20910;

Director, Northwest Region, National Marine Fisheries Service, BIN C15700, 7600 Sand Point Way, Seattle, Washington 98115;

Director, Northeast Region, National Marine Fisheries Service, NOAA, One Blackburn Drive, Gloucester, Massachusetts 01930;

Director, Southwest Region, National Marine Fisheries Service, NOAA, 300 South Ferry Street, Terminal Island, California 90731–7451; and

Director, Southeast Region, National Marine Fisheries Service, NOAA, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: August 4, 1989.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs.

[FR Doc. 89–18796 Filed 8–10–89; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals: Issuance of Permit; Southest Fisheries Center, NMFS (P77#34)

On June 8, 1989, notice was published in the **Federal Register** (54 FR 24577) that an application had been filed by the NMFS, Southwest Fisheries Center, P.O. Box 271, La Jolla, California 92038, for a scientific research permit to take up to 30 harbor porpoise (*Phocoena*).

Notice is hereby given that on August 4, 1989, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) the National Marine Fisheries Service issued a Permit for the above taking, subject to certain conditions set forth therein.

Issuance of this Permit is based on a finding that the proposed taking is consistent with the purposes and policy of the Marine Mammal Protection Act. The Service has determined that this research satisfies the issuance criteria for scientific research permits. The taking is required to further a bona fide scientific purpose and does not involve unnecessary duplication of research. No lethal taking is authorized.

The Permit is available for review in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1335 East West Highway, Room 7324, Silver Spring, Maryland 20910; and

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

Dated: August 4, 1989.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service.

[FR Doc. 89–18797 Filed 8–10–89; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishment of Import Limits for Certain Cotton and Wool Textile Products Produced or Manufactured in Thailand

August 7, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: August 14, 1989.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, refer to the Quota Status Report posted on the bulletin boards of each Customs port or call (202) 343–6581. For information on embargoes and quota re-openings, call (202) 377–3715. For information on categories on which consultations have been requested, call (202) 377–3740.

SUPPLEMENTARY INFORMATION:

Authority. Executive order 11651 of March 3, 1972, as amended; Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Article 3 of the Arrangement Regarding International Trade in Textiles.

Inasmuch as recent consultations held between the Governments of the United States and Thailand have not resulted in a mutually satisfactory solution for Categories 374/348 and 448, the United States Government has decided to control imports in these categories for the period January 1, 1989 through December 31, 1989.

The United States remains committed to finding a solution concerning Categories 374/348 and 448. Should such a solution be reached in further consultations with the Government of Thailand, further notice will be published in the **Federal Register.**

A description of the textile and apparel categories in terms of HTS numbers is available in the Correlation: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 53 FR 44937, published on November 7, 1988). Also see 54 FR 4883, published on January 31, 1989.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

August 7, 1989.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on August 14, 1989, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and wool textile products in the following categories, produced or manufactured in Thailand and exported during the twelve-month period which began on January 1, 1989 and extends through December 31, 1989, in excess of the following levels of restraint:

Category	12-month restraint limit [1]
347/348	262,382 dozen.
448	7,677 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1988.

Imports charged to limits for these categories for the period January 1, 1988 through December 31, 1988 shall be charged against the levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

Textile products in Categories 347/348 and 448 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The Committee for the Implementation of Textile Agreements has determined that these actions fall with the foreign affairs

exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Donald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89-18744 Filed 8-10-89; 8:45 am]

BILLING CODE 3510-DR-M

Establishment of an Import Limit for Certain Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in Thailand

August 7, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing a limit.

EFFECTIVE DATE: August 14, 1989.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 343-6581. For information on embargoes and quota re-openings, call (202) 377-3715. For information on categories on which consultations have been requested, call (202) 377-3740.

SUPPLEMENTARY INFORMATION:

Authority. Executive Order 11651 of March 3, 1972, as amended; Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Article 3 of the Arrangement Regarding International Trade in Textiles.

Inasmuch as recent consultations held between the Governments of the United States and Thailand have not resulted in a mutually satisfactory solution for Category 847, the United States Government has decided to control imports in Category 847 for the period May 26, 1989 through May 25, 1990.

The United States remains committeed to finding a solution concerning Category 847. Should such a solution be reached in further consultations with the Government of Thailand, further notice will be published in the **Federal Register.**

A description of the textile and apparel categories in terms of HTS numbers is available in the Correlation: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 53 FR 44937, published on November 7, 1988). Also see 54 FR 24732, published on June 9, 1989.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

August 7, 1989.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Comissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on August 14, 1989, entry into the United States for consumption and withdrawal from warehouse for consumption of silk blend and other vegetable fiber textile products in Category 847, produced or manufactured in Thailand and exported during the twelve-month period which began on May 26, 1989 and extends through May 25, 1990, in excess of 101,346 dozen.[1]

Textile products in Category 847 which have been exported to the United States prior to May 26, 1989 shall not be subject to this directive.

Textile products in Category 847 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(A) prior to the effective date of this directive shall not be denied entry under this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levan,

Acting Chairman, Committee for the Implementation of Textile Agreements

[FR Doc. 89-18745 Filed 8-10-89; 8:45 am]

BILLING CODE 3510-DR-M

Establishment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Thailand

August 7, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA)

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: August 14, 1989.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Report posted on the bulletin boards of each Customs port or call (202) 343-6581. For information on embargoes and quota re-openings, call (202) 377-3715. For information on categories on which consultations have been requested, call (202) 377-3740.

SUPPLEMENTARY INFORMATION:

Authority. Executive Order 11651 of March, 3, 1972, as amended; Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Article 3 of the Arrangement Regarding International Trade in Textiles.

Inasmuch as recent consultations held between the Governments of the United States and Thailand have not resulted in a mutually satisfactory solution for Categories 341/641 and 638/639, the United States Government has decided to control imports in these categories for the period March 31, 1989 through March 30, 1990.

Goods exported in 1988 in Categories 341/641 and 638/639 shall be charged against the 1988 levels of restraint to the extent of any unfilled balances. Goods in excess of these levels shall be charged to the levels established for the March 31, 1989 through March 30, 1990 period.

The United States remains committed to finding a solution concerning Categories 341/641 and 638/639. Should such a solution be reached in consultations with the Government of Thailand, further notice will be published in the **Federal Register.**

A description of the textile and apparel categories in terms of HTS numbers is available in the correlation: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 53 FR 44937, published on November 7, 1988). Also see 54 FR 14986, published on April 14, 1989.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

August 7, 1989.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit,

[1] The limit has not been adjusted to account for any imports exported after May 25, 1989.

effective on August 14, 1989, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in the following categories, produced or manufactured in Thailand and exported during the twelve-month period which began on March 31, 1989 and extends through March 30, 1990, in excess of the following levels of restraint:

Category	12-month limit [1]
341/641	376,081 dozen.
638/639	1,722,290 dozen.

[1] The limits have not been adjusted to account for any imports exported after March 30, 1989.

You are directed to amend the current counting period for Categories 341, 638, 639 and 641 to end on March 30, 1989.

Imports charged to the limits for Categories 341, 638, 639 and 641 for the period January 1, 1988 through December 31, 1988 shall be charged against those levels of restraint to the extent of any unfilled balances.

Textile products in Categories 341/641 and 638/639 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1448(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The Committee for the Implementation of Textile Agreements has determined that these actions fall with the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89-18746 Filed 8-10-89; 8:45 am]

BILLING CODE 3510-DR-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1989; Addition; Clarification

This clarifies the addition of janitorial/custodial service, Griffis Air Force Base, New York to the Procurement List appearing on page 37139 of FR Doc 84-25116 in the issue of Friday, September 21, 1984. That addition was intended to cover buildings included in a master base contract for janitorial service. We have learned recently that there were other contracts for janitorial services on the base at the time of addition. This action rephrases the addition to the Procurement List to indicate clearly that buildings and areas covered by the other contracts are excluded. The rephrased addition is as follows: Janitorial/custodial, Griffis AFB, New York except for buildings 3, 104, 105, 106, 120, 240, 247, 248, 346, 510, all RADC Test Sites, and building 112 (other than the Biological Environmental Office and the hallway leading to that office).

Beverly L. Milkman,

Executive Director.

[FR Doc. 89-18822 Filed 8-10-89; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1989; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely handicapped.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to Procurement List 1989 a commodity to be produced and services to be provided by worksops for the blind or other severely handicapped.

Comments Must be Received on or Before: September 11, 1989.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(A)(2) and 41 CFT 51-2.6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodity and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodity and service to Procurement List 1989, which was published on November 15, 1988 (53 FR 46018):

Commodity

Case, Revolver
1095-00-491-8487

* * * * *

Services

Janitorial/Custodial
U.S. Border Station
International Bridge Plaze Sault Ste. Marie, Michigan

Janitorial-Custodial
910 Tactical Airlift Group (AFRES), Except Bldg. 540
Youngstown Municipal Airport
Vienna, Ohio

Janitorial/Custodial
U.S. Army Reserve Center
DePace Building
Boot and Chestnut Streets
Downingtown, Pennsylvania

Janitorial/Custodial
U.S. Army Reserve Center
1020 Sandy Street
Norristown, Pennsylvania

Janitorial/Custodial
U.S. Army Reserve Center
Potshop and Berks Road
Worcester, Pennsylvania

Beverly L. Milkman,

Executive Director.

[FR Doc. 89-18823 Filed 8-10-89; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1989; Additions and Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to and deletions from procurement list.

SUMMARY: This action adds to and deletes from Procurement List 1989 commodities to be produced and services to be provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: September 11, 1989.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557-1145.

SUPPLEMENTARY INFORMATION: On March 24, May 5, June 16 and 26, 1989, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (54 FR 12262, 19428, 25601 and 26828) of proposed additions to and deletions from Procurement List 1989, which was published on November 15, 1988 (53 FR 46018).

Additions

No comments were received concerning the proposed additions to the Procurement List. After consideration of the material presented to it concerning capability of qualified workshops to provide the services at a fair market price and impact of the additions on the current or most recent contractors, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.6.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the services listed.

c. The actions will result in authorizing small entities to provide the services procured by the Government.

Accordingly, the following services are hereby added to Procurement List 1989:

Assembly, Kit Camoflage Support System
(1080-00-179-6025)
Red River Army Depot
Texarkana, Texas

Commissary Shelf Stocking
Naval Outlying Landing Field
Imperial Beach, California

Commissary Shelf Stocking and Custodial
Fort Gillem, Georgia

Commissary Shelf Stocking and Custodial and Warehousing
Randolph Air Force Base, Texas

Janitorial/Custodial
U.S. Army Reserve Center
547 Philadelphia Avenue
Reading, Pennsylvania

Deletions

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.6.

Accordingly, the following commodities are hereby deleted from Procurement List 1989:

Paper Set, Manifold and Carbon
7530-00-401-6910
7530-01-072-2536
7530-01-072-2537
7530-01-072-2538
7530-01-072-2539
(Requirements for GSA Regions 7 and 9 only)

Beverly L. Milkman,
Executive Director.

[FR Doc. 89-18824 Filed 8-10-89; 8:45 am]
BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Department of the Navy

Finding of No Significant Impact for Proposed Trident D-5 Upgrade Program at Naval Submarine Base, Bangor, WA

Pursuant to the Council on Environmental Quality Regulations (40 CFR parts 1500-1508) implementing procedural provisions of the National Environmental Policy Act (NEPA), the Department of the Navy gives notice that an Environmental Assessment (EA) has been prepared and an Environmental Impact Statement (EIS) is not being prepared for the proposed D-5 Upgrade Program at Naval Submarine Base (SUBASE), Bangor, Washington.

In accordance with 40 CFR 1501.4(e)(2), this Finding of No Significant Impact (FONSI) is being made available for 30 days public review from the date of Federal Register publication before the Navy will make its final determination whether to prepare an EIS. If the determination is made that an EIS is not required, the proposed action will begin without further notice. Comments presenting new information concerning this FONSI should be sent to the address given at the end of this notice.

The proposed action is a $248 million modification, addition, and new construction program to support the Pacific Fleet introduction of the new TRIDENT D-5 missile. This action was previously discussed in a 1974 EIS and Supplements and described in the preliminary Base Master Plan referenced in the EIS. This action also includes new requirements which have arisen since the EIS and Supplements were published. The proposed action will construct nine new buildings, add to or modify ten existing buildings, construct 54 new magazines, modify 32 magazines, build a second explosive handling wharf, and provide utilities and site improvements for facilities upgrade. The new buildings consist of: an Engineering Services Building, a Radiographic Inspection Building, a Motor Inspection Building, a Missile Assembly Building, a Transfer Facility, a Support Equipment Storage Building, a Launcher Storage Building, a Ballast Can Facility, and a Dockside Handling Building. The proposed construction program would commence in 1989 and be completed in 1997.

The current SUBASE Bangor was designed and built to support TRIDENT submarines carrying C-4 missiles. Early planning for the SUBASE included explosive safety arcs and siting considerations for production of the larger D-5 missile, although, at the time SUBASE Bangor was built, the D-5 missile was still many years in the future. The missile is now going through its final testing and is scheduled to deploy in the Atlantic early in 1990. In the Pacific, however, construction of new facilities and upgrading of present facilities will be required before the D-5 missile can be deployed from Bangor.

Alternatives to the proposed action considered in the EA include no action and the construction of only those facilities identified in the 1974 EIS and Supplements and supporting documentation.

The no action alternative would not allow the deployment of D-5 from SUBASE Bangor, since new and altered facilities are required to receive, assemble, transport, store, load, and conduct training associated with the TRIDENT D-5 Weapons System. This alternative would not allow Pacific TRIDENT submarines to receive the missiles that would enable them to operate at full design capability. It would leave a multi-billion dollar strategic deterrent system without the means to utilize the new, technically advanced missile for which the system was designed from its inception. This is essential since the D-5 missile is expected to remain operational well into the twenty-first century, while the current C-4 missile has a remaining life expectancy of just over ten years. This alternative would prevent the Navy from having facilities ready to assemble and deliver the D-5 missiles to submarines prior to the C-4 missile's expected retirement.

The second alternative, allows construction of only those facilities previously discussed in the 1974 EIS, Supplements and supporting documents. While the EIS and Supplements planned for future deployment of the D-5 missile, not all shore facility requirements were known at the time of document preparation. This alternative falls short of D-5 Upgrade requirements in many critical areas, including missile transport, training, and launcher support. Without the projects as specified in the EA proposed action, SUBASE Bangor could not support deployment of the D-5 Weapons System. Similar to the no action alternative, this alternative would leave the Navy without the D-5 capability in the Pacific. The proposed action was determined to be the only practicable way of providing required support facilities.

Impacts associated with the proposed action were not considered significant.

Site preparations and construction will be designed to minimize erosion and to avoid unnecessary disturbance of adjacent areas. Erosion control measures will be used during construction to further reduce soil erosion. Storm water discharge resulting from the proposed construction on areas with existing facilities will be serviced by existing storm water controls (storm water detention and oil-water separation systems) with no adverse impact to the environment. A new permanent storm water detention/sedimentation pond will be constructed to control storm water discharges from facilities constructed in the Devil's Hole watershed. About 0.3 acre of the proposed site for this detention pond is a wetland created by water retention at the intersection of two roads. Construction of the pond is authorized under a U.S. Army Corps of Engineers (COE) Nationwide Wetland Fill Permit. As required, the Navy will notify COE prior to construction. As mitigation for this disturbance, wetland vegetation will be planted on the banks of the pond. Thus no net loss of wetland vegetation will occur and an overall increase in habitat quality will result.

Air emissions resulting from construction and operation of the proposed facilities will be in compliance with Puget Sound Air Pollution Control Agency guidelines and regulations.

Ground water resources are not expected to be affected by any of the D-5 projects. Erosion and sediment control measures mentioned earlier will be included in construction contracts to avoid the potential for erosion and sediment suspension.

No disturbance to any existing hazardous waste sites on SUBASE Bangor will occur, nor will remedial measures planned for any identified waste sites be impacted as a result of the proposed action.

The proposed action will clear about 57 acres of forestlands (about 1.5% of total managed forest resources on SUBASE) dominated by Douglas fir. Timber to be cut ranges in diameter from four to twelve inches. No "old growth" timber stands will be impacted by the proposed action. In mitigation, about 57 acres of previously cleared land will be seeded and planted in herbaceous/shrub species, which will increase plant species diversity and provide wildlife habitat. Federally protected endangered species will not be impacted as a result of the proposed action.

Construction of the proposed explosive handling wharf will require no dredging. Pile driving activity will cause a minor and short-term suspension of sediments in the immediate area of work. Environmental monitoring conducted continuously since 1973 indicates no adverse impacts have resulted from construction or operations of EHW-1. The proposed new wharf will provide additional intertidal and subtidal invertebrate and fisheries habitat. In coordination with the State of Washington, the site for the new wharf will be harvested of geoducks prior to construction and allowed to seed in naturally after construction. In-water construction moratoria during fish migration periods will be incorporated into project design and contract documents. Necessary permits for in-water construction will be secured from the COE. Applicable standards developed by the Washington State Departments of Fisheries and Wildlife, U.S. Fisheries and Wildlife Service, and National Marine Fisheries Service for marine resource protection will be incorporated into design and contract documentation, and facility operation.

The proposed action will not impact archaeological, cultural, or historic resources listed or determined eligible for listing on the National Register of Historic Places.

The number of construction workers at SUBASE Bangor will increase by about 200 during the nine years of planned construction; however, it is anticipated these workers will be recruited from the local area. About 50% of the money spent on construction will remain in the local economy, producing positive economic benefits. About 364 technical support staff personnel will relocate to the Bangor area as a result of the proposed action. This population increase will be small by comparison to normal county growth projections. Since real SUBASE population growth falls well within projected county growth and since new personnel are expected to settle at diverse locations, impacts on housing and schools will be minor. The small increase in traffic will produce only minor impacts to air quality and noise levels.

Since all utility services currently provided to SUBASE are capable of handling the increased loads to be caused by D-5, only minor impacts, if any, are expected.

Based on the information gathered during the preparation of the EA, the Navy finds that the TRIDENT D-5 Upgrade Program at SUBASE Bangor will not have a significant impact on the quality of the human environment.

The EA prepared by the Navy addressing this action may be reviewed at the offices of: Commanding Officer, Strategic Weapons Facility, Pacific, Silverdale, WA 98315-5500 (ATTN: Mr. Glenn Starr, #396-4968).

The EA has also been placed in the following Kitsap County Regional Libraries:

Central Library, 1301 Sylvan Way, Bremerton, WA 98310
Bainbridge Island Branch, 1270 Madison North, Bainbridge Island, WA 98110
Subase Bangor Branch, Building 2500, Silverdale, WA 98383
Downtown Bremerton Branch, 612 5th Avenue, Bremerton, WA 98310
Kingston Branch, Kingston Community Center, Kingston, WA 98346
Little Boston Branch, Little Boston Road NE, Little Boston, WA 98346
Manchester Branch, Main Street, Manchester, WA 98353
Port Orchard Branch, 87 Sidney, Port Orchard, WA 98366
Silverdale Branch, 3450 NW Carlton Street, Silverdale, WA 98383
Poulsbo Branch, 700 NE Lincoln, Poulsbo, WA 98370

The EA is on file and may be reviewed by interested parties at the place of origin, Strategic Systems Programs, Department of the Navy, Washington, DC 20376 (Attn: Mr. Darryl Devnich, Code SP 20162, telephone (202) 697-8054). A limited number of copies of the EA are available to fill single copy requests.

Dated: August 8, 1989.

J. M. Dougherty,

Captain, CEC, USN, Assistant for Civil Engineering, Deputy Chief of Naval Operations (Logistics).

[FR Doc. 89-18862 Filed 8-10-89; 8:45 am]

BILLING CODE 3810-AE-M

Performance Review Board Membership

Pursuant to 5 U.S.C. 4314(C)(4), the Department of the Navy (DON) announces the appointment of members to the DON's numerous Senior Executive Service (SEC) Performance Review Boards (PRB's). The purpose of the Boards is to provide fair and impartial review of the SES performance appraisals prepared by the senior executive's immediate and second level supervisor; to make recommendations to the Secretary of the Navy regarding acceptance or modification of the performance rating, transfer, reassignment, or removal from the SES of any senior executive whose performance is considered to be unsatisfactory; and to make recommendations for monetary performance awards. Composition of the particular Boards will be determined on

an ad hoc basis from among individuals listed below:

Ailes, R.H. RADM
Ashe, O.R. Mr.
Baker, A.D. Mr.
Beach, C.P. Mr.
Beans, J.D. BGEN
Bergquist, K. The Honorable
Blickstein, I.N. Mr.
Calvert, J.F. RADM
Cammack, E.G. Mr.
Camp, J.R. Mr.
Campbell, W. Mr.
Cantrell, W.H. RADM
Carson, W.G. LTGEN
Cassity, J.E. MGEN
Cipriano, J.R. Mr.
Clark, C.C. Ms.
Clark, C.H. Mr.
Coffey, K.J.
Coffey, T. Dr.
Collie, J.D. Mr.
Comstock, E.T. Mr.
Cornett, N.G. Ms.
Costello, J.N. Mr.
Cropsey, S. Mr.
Curtis, III G.H. RADM
De Prete, A. Mr.
Dilworth, G. Mr.
Ditrapani, A.R. Mr.
Dixson, H.L. Mr.
Donalson, E.L. Mr.
Donegan, J.J. CAPT
Everett, D.G. Mr.
Ford, F.B. Mr.
Forssell, A.G. Mr.
Franklin, R. MGEN
Gaffney, P.G. CAPT
Gaines, J.E. Mr.
Geiger, C.G. Mr.
Gentz, R.C. RADM
Goodman, R.O. Mr.
Guenther, J.J. Mr.
Haas, R.L. Mr.
Hallex, R.A. Mr.
Hannah, B. Mr.
Hardman, J.W. Mr.
Harner, P.A. Mr.
Hathaway, D.L. Mr.
Haycock, T.J. Mr.
Herd, J.H. Mr.
Hicks, S.N. Mr.
Higgins, M.L. Mr.
Hillyer, R.H. Mr.
Hines, D.H. RADM
Hitch, P.M. Mr.
Hoffmann, G.C. Mr.
Holloway, L.J. RADM
Horne, R.B. RADM
Hudson, J.I. LTGEN
Johnson, A.E. Mr.
Johnson, JR, R.V. Mr.
Joiner, G.B. Dr.
Kinney, E.T. Mr.
Kiss, R.K. Mr.
Knudsen, R. Dr.
Kreitzer, L.P. Mr.
Lamade, L.L. Mr.
Leach, R.A. Mr.
Lefande, R.A. Dr.
Leuschner, R.L. RADM
Lindahl, W.H. Mr.
Loftus, S. RADM
Lynch, J.G. Mr.
Mackinnon, III, M. RADM
Maclean, W.G. Mr.
Marsh, J.W. Mr.
Masciarelli, J.R. Mr.
Matteo, D.A. Mr.
McCauley, D.W. Mr.
McGrail, C. RADM
Meletzke, D.M. Ms.
Messere, E. Mr.
Metrey, R.E. Mr.
Moore, R.P. Mr.
Murphy, P.M. Mr.
Myatt, J.M. BGEN
Nemfakos, C.P. Mr.
Nickell, J. Mr.
Nieroski, J.S. Mr.
O'Connor, J.J. Mr.
Painter, J.A. Mr.
Panek, R.L. Mr.
Pennisi, R.A. Mr.
Peters, R.K. Ms.
Phelps, F.A. Mr.
Phillips, R.L. BGEN
Price, R.W. Mr.
Rathjen, R.A. Mr.
Reese, H.E. Mr.
Riffey, A.K. RADM
Riggs, R.K. Mr.
Robinson, B.B. Dr.
Rojas, R.R. Mr.
Roth, A.J. Mr.
Routson, S.J. Mr.
Rumpf, R.L. Mr.
Saalfeld, F.E. Dr.
Sansone, W. Mr.
Saul, E.L. Mr.
Schaefer, Jr, W.J. Mr.
Schiefer, G.R. Mr.
Schneider, P.A. Mr.
Seely, J.M. RADM
Selwyn, P.A. Dr.
Shaffer, R.L. Mr.
Shepard, J.J. Dr.
Sheridan, F.L. Mr.
Silva, E.A. Dr.
Sinsky, J. Dr.
Steele, R.H. Mr.
Sterns, F.S. Mr.

Dated: August 7, 1989.

Sandra M. Kay,

Department of the Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 89-18863 Filed 8-10-89; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF ENERGY

Program Interest for Cooperative Agreement

AGENCY: U.S. Department of Energy.

ACTION: Notice of program interest (NOPI) for cooperative agreement applications.

SUMMARY: The U.S. Department of Energy (DOE), pursuant to the DOE Financial Assistance Rules, 10 CFR 600.15, announces the availability of a Notice of Program Interest No. DE-NP02-90CH10414 for Industrial Energy Conservation with Waste Gas Reduction.

FOR FURTHER INFORMATION CONTACT: Mr. Peter Waldman, U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, Illinois 60439, (312) 972-2189.

SUPPLEMENTARY INFORMATION: The U.S. Department of Energy (DOE), Office of Industrial Programs, is planning to fund research and development of innovative concepts that will conserve energy in the industrial sector while utilizing, reducing, or eliminating industrial gaseous wastes. Industrial gaseous wastes are defined as gases emitted from or associated with industrial processes for which there exists no viable commercial means for utilization, reduction or elimination. Concepts for converting the gaseous waste to any other form for disposal purposes are not acceptable for funding. The term "innovative concept" is to be interpreted in a very broad sense and includes, but is not limited to: (a) The development of new processes, technologies, materials, or products; (b) the substitution of materials/products; or (c) significant changes to existing manufacturing processes and operations. The innovative concept may be applicable in more than one industry, enhancing the energy savings potential. Proposed concepts must have an annual net energy savings greater than one trillion Btu/year by the year 2010, if implemented on national scale with an appropriate market penetration.

The following are examples of areas of research and development which might serve as a basis for an application:

1. Application of biotechnology to waste gas utilization, reduction, or elimination. Examples are development of improved catalysts which increase reaction rates resulting in reduced gaseous wastes; recovery of bio-modified hydrocarbons; semiconductor photocatalysis; and improved waste gas cleanup with bioreactors.

2. Reduction or elimination of volatile organic compounds emissions.

3. New processes to utilize or minimize waste gases and/or particulates in all industries (excluding

the ferrous metal but including the nonferrous metals industry).

4. Development of new products to replace existing products whose manufacture, use, and/or disposal produces significant amounts of waste gases.

5. Improved process controls to reduce waste gas generation.

6. Development of unusual processes (e.g., electro-magnetic radiation, high magnetic fields, ultrasound) for improving chemical/mechanical system performance to reduce gaseous waste.

Innovative concepts must be applicable to the industrial sector (SIC 1–49) to be eligible for consideration.

Research and development work may include any or all of (1) exploratory development, (2) engineering development—pilot scale, and (3) engineering development—full scale. Significant cost sharing in the research and development work is essential. Participation and/or support by the affected industry is also essential.

It is anticipated that several awards, totaling approximately $500,000 of DOE funding, will be made in FY 1990 for initial phase activities. DOE funding in subsequent FYs is expected to total $1,000,000 for each subsequent phase, applied to several projects. The NOPI will be issued on August 1, 1989, with complete information on funding, eligibility, application preparation, and evaluation. It will remain open until January 31, 1990. If you are interested in receiving the NOPI, contact Peter Waldman at the above address or phone number. All responsible sources may submit an application, which will be considered.

Issued in Chicago, Illinois, on July 20, 1989.

Edwin H. Hendricks,

Deputy Assistant Manager for Administration.

[FR Doc. 89–18858 Filed 8–10–89; 8:45 am]

BILLING CODE 6450-01-M

Office of Fossil Energy

[FE Docket No. 89–41–NG]

Northridge Petroleum Marketing U.S., Inc.; Application To Extend Blanket Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application for extension of blanket authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on July 7, 1989, of an application filed by Northridge Petroleum Marketing U.S., Inc. (Northridge), requesting that the blanket import authorization previously granted in DOE/ERA Opinion and Order No. 212 (Order 212), issued December 23, 1987 (ERA Docket No. 87–57–NG), be extended for two additional years commencing December 5, 1989, and ending December 4, 1991. Order 212 amended Northridge's original blanket import authorization granted in DOE/ERA Opinion and Order No. 88, issued September 27, 1985, to increase the volume from 100 to up to 200 Bcf of Canadian natural gas and to extend the applicant's authority for a two-year term expiring December 4, 1989.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATE: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed no later than September 11, 1989.

FOR FURTHER INFORMATION:

Thomas Dukes, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3H–087, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9590.

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION:

Northridge, a wholly-owned subsidiary of Northridge Petroleum Marketing, Inc., a Canadian corporation, is registered in the State of Colorado as a natural gas marketing company. Northridge requests authority to continue to import Canadian gas from various Canadian suppliers for its own account or as agent for Canadian suppliers and/or U.S. purchasers. The spot and short-term imported volumes would continue to be sold to a variety of U.S. customers including but not limited to local distribution companies, interstate pipelines, electric utilities, natural gas marketers, agricultural users, pipelines and industrial and commercial end-users.

Northridge states that the specific terms of each import arrangement would be negotiated on an individual basis, including price and volume, and that existing pipeline facilities would be used to transport its gas supplies. Northridge also states that it would continue to file quarterly reports giving details of the individual transactions.

In support of its application, Northridge asserts that the proposed extension of the term of its existing blanket import authorization to import up to 200 Bcf over the term is not inconsistent with the public interest. Northridge states that the extension requested would allow Northridge to continue to make its imported gas available to U.S. purchasers under contract terms that will be competitive in their market areas and that will remain competitive throughout the requested term of the import authority.

The decision on this application will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

NEPA Compliance

The DOE has determined that compliance with the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, can be accomplished by means of a categorical exclusion. On March 27, 1989, the DOE published in the **Federal Register** (54 FR 12474) a notice of amendments to its guidelines for compliance with NEPA. In that notice, the DOE added to its list of categorical exclusions the approval or disapproval of an import/export authorization for natural gas in cases not involving new construction. Application of the categorical exclusion in any particular case raises a rebuttable presumption that DOE's action is not a major Federal action under NEPA. Unless the DOE receives comments indicating that the presumption does not or should not apply in this case, no further NEPA review will be conducted by the DOE.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or

notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590.

Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs, Fossil Energy, Room 3F-056, FE-50, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9478. They must be filed no later than 4:30 p.m., e.s.t., September 11, 1989.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice to all parties will be provided. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR Sec. 590.316.

A copy of Northridge's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, July 31, 1989.

Constance L. Buckley,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 89-18859 Filed 8-10-89; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. TQ89-3-20-000]

Algonquin Gas Transmission Co.; Proposed Changes In FERC Gas Tariff

August 4, 1989.

Take notice the Algonquin Gas Transmission Company ("Algonquin") on August 1, 1989, tendered for filing proposed changes in its FERC Gas Tariff, Second Revised Volume No. 1, as set forth in the revised tariff sheet:

Proposed to be effective September 1, 1989

Thirty-fourth Revised Sheet No. 201.

Algonquin states that pursuant to section 17 of the General Terms and Conditions of its FERC Gas Tariff Second Revised Volume No. 1, it is filing Thirty-fourth Revised Sheet No. 201 to update its latest estimate of purchased gas costs based upon changes by its supplier, Texas Eastern in the rates of the underlying services, as set forth in Texas Eastern's Quarterly PGA dated June 30, 1989 in Docket No. TQ89-3-17-000 and interim PGA dated July 28, 1989 in Docket No. TF89-3-17-000.

Algonquin further states that the rate changes represent a projected increase in Algonquin's purchased gas costs of approximately $530,000 for the effective period of Algonquin's instant Quarterly PGA filing for Rate Schedules F-1, WS-1, E-1 and I-1 from the purchased gas costs in Algonquin's Interim PGA filing in Docket No. TF89-3-20-000.

Algonquin notes that copies of the filing were served upon the affected parties and interested state commissions.

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 Capital Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before August 11, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 89-18747 Filed 8-10-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA89-1-31-004]

Arkla Energy Resources; Filing of Revised Tariff Sheets Reflecting Tariff Adjustment and Take-or-Pay Recovery

August 4, 1989.

Take notice that on July 28, 1989, Arkla Energy Resources (AER), a division of Arkla, Inc., tendered for filing the tariff sheets set forth below.

AER states that this filing is made to substitute and refile two of the tariff sheets included in AER's July 17, 1989 filing as follows.

1. 1st Substitute Original Sheet No. 12F.1, First Revised Volume No. 1. This tariff sheet revises the PGA language in paragraph B, D and E to further clarify the determination of demand costs in the total rate under Rate Schedule G-2.

2. 2nd Substitute Original Sheet No. 187C.1, Original Volume No. 3, Rate Schedule No. X-26. This tariff sheet is being issued to correct the numbering from 1st Substitute to 2nd Substitute.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Sections 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such protests should be filed on or before August 11, 1989. Protests will be considered by the Commission in determining the appropriate parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 89-18748 Filed 8-10-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-58-001]

Bear Creek Storage Co.; Proposed Changes to FERC Gas Tariff

August 4, 1989.

Take notice that on July 31, 1989, Bear Creek Storage Company ("Bear Creek") tendered the following Tariff Sheets to its FERC Gas Tariff, Original Volume

No. 1. The revised tariff sheets are being filed with a proposed effective date of September 1, 1989:

First Revised Sheet No. 5
First Revised Sheet No. 6
First Revised Sheet No. 10

Bear Creek states that First Revised Sheet Nos. 5, 6 and 10 are submitted pursuant to the Stipulation and Agreement dated June 9, 1989 and approved by the Commission on July 26, 1989 in Docket No. RP89-58-000. Bear Creek submits that the provisions of the Stipulation and Agreement will reduce Bear Creek's annual jurisdictional rates and revenues by approximately $11.5 million. Additionally, the Stipulation and Agreement requires Bear Creek to file rates which reflect a revised rate design based upon (1) deliverability, (2) capacity, and (3) injections and withdrawals.

Bear Creek states that copies of the filing will be served upon all of the parties to this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (§§ 385.214 and 385.211). All such protests should be filed on or before August 11, 1989. 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. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,
Acting Secretary.

[FR Doc. 89-18749 Filed 8-10-89; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP89-213-000]

Black Marlin Pipeline Co.; Filing

August 4, 1989.

Take notice that on July 31, 1989, Black Marlin Pipeline Company (Black Marlin) tendered for filing to become a part of Black Marlin's FERC Gas Tariff, Original Volume No. 1, the following tariff sheets:

3rd Revised Sheet No. 1
1st Revised Sheet No. 4
Original Sheet Nos. 5-99
2nd Revised Sheet No. 105
2nd Revised Sheet No. 106
1st Revised Sheet No. 106A
1st Revised Sheet No. 107
1st Revised Sheet No. 108
2nd Revised Sheet No. 109
1st Revised Sheet No. 110
1st Revised Sheet No. 111
2nd Revised Sheet No. 112
1st Revised Sheet No. 113
Original Sheet No. 113A
3rd Revised Sheet No. 215
2nd Revised Sheet No. 215A
2nd Revised Sheet No. 222
3rd Revised Sheet No. 300
4th Revised Sheet No. 301
3rd Revised Sheet No. 302
4th Revised Sheet No. 303
3nd Revised Sheet No. 304

Black Marlin proposed to establish Rate Schedules FTS and ITS under which it will provide "open access" transportation on a firm and interruptible basis respectively in accordance with part 284 B of the Commission's Regulations to eligible shippers under section 311 of the NGPA.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with the Commission's Rules of Practice & Procedure (18 CFR 385.214). All such motions or protests should be filed on or before August 11, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will 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.

Linwood A. Watson, Jr.,
Acting Secretary.

[FR Doc. 89-18750 Filed 8-10-89; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA90-1-32-000 (PGA90-1)]

Colorado Interstate Gas Co.; Filing of Annual Purchased Gas Adjustment Pursuant to Order Nos. 483 and 483-A

August 4, 1989.

Take notice that Colorado Interstate Gas Company (CIG) on August 1, 1989, tendered for filing proposed changes to its FERC Gas Tariff, Original Volume No. 1, to implement its annual purchased gas adjustment under the provisions of Order Nos. 483 and 483-A. The proposed tariff sheets are to be effective October 1, 1989.

CIG states that the revised tariff sheets reflect a demand rate decrease of 41 cents, which is due in large measure to the expiration on October 31, 1989 of PGA recovery of "as billed" charges from Northwest Pipeline Corporation, pursuant to Commission Order issued September 20, 1988 in Docket No. RP88-213. The filing also reflects a 22.85 cent increase in the commodity rate for the G-1, P-1, H-1, F-1 and PS-1 Rate Schedules and an increase of 19.48 cents in the one-part rates under Rate Schedule SG-1, of which 3.53 cents is due to current purchased gas costs projected for the quarter beginning October 1, 1989, and 19.32 cents to the expiration of the current "credit" surcharge (20.87 cents) on September 30, 1989. The proposed rates compare with the rates filed by CIG on May 30, 1989 in Docket No. TQ89-3-32, which rates were accepted by Commission Letter Order of June 30, 1989, to become effective on July 1, 1989.

CIG states that copies of the filing have been served upon CIG's jurisdictional customers and other interested persons, including public bodies.

Any persons desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 N. Capitol St., NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such protests should be filed on or before August 11, 1989. 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. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,
Acting Secretary.

[FR Doc. 89-18751 Filed 8-10-89; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. RP89-214-000 and TM89-5-21-000]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

August 4, 1989.

Take notice that Columbia Gas Transmission Corporation (Columbia) on July 31, 1989, tendered for filing the following proposed changes to its FERC Gas Tariff, Original Volume No. 1:

To Be Effective May 1, 1989

Substitute Twentieth Revised Sheet No. 16B
Substitute Tenth Revised Sheet No. 16B1
Substitute Tenth Revised Sheet No. 16B2

To Be Effective June 1, 1989

Substitute Twenty-first Revised Sheet No. 16B
Substitute Eleventh Revised Sheet No. 16B1
Substitute Eleventh Revised Sheet No. 16B2

To Be Effective August 1, 1989

Twenty-second Revised Sheet No. 16B
Twelfth Revised Sheet No. 16B1
Twelfth Revised Sheet No. 16B2

Columbia states that the foregoing tariff sheets modify and supplement Columbia's previous filings in Docket Nos. RP88–187 and RP89–181 in which Columbia established procedures pursuant to Order No. 500 to recover from its customers the take-or-pay and contract reformation costs billed to Columbia by its pipeline suppliers. Specifically, Columbia proposes to modify its earlier filings to permit it to flow through revised take-or-pay and contract reformation costs from (i) Texas Eastern Transmission Corporation (Texas Eastern) pursuant to a filing made on April 26, 1989 which was accepted by the Federal Energy Regulatory Commission's (Commission) order issued on May 26, 1989 in Docket Nos. RP89–154 and TM89–6–17, (ii) Texas Eastern pursuant to a filing made on April 26, 1989 which was accepted by Commision's order issued on May 26, 1989 in Docket No. RP89–153, (iii) Texas Eastern pursuant to a filing made on May 31, 1989 which was accepted by Commission order issued on June 30, 1989 in Docket No. RP89–184, (iv) Transcontinental Gas Pipe Line Corporation pursuant to a filing made on May 1, 1989 in Docket No. RP89–163 which was accepted by Commission order dated May 31, 1989, and (v) Tennessee Gas Pipeline Company pursuant to a filing made on May 31, 1989 which was accepted by Commission's order issued on June 30, 1989 in Docket No. RP88–191–010.

Additionally, Columbia states that certain tariff sheets relating to Columbia's filings of April 21, 1989 and May 30, 1989 in Docket Nos. RP88–187, *et al.* contained incorrect allocation factors. This inadvertent clerical error resulted in incorrect Fixed Monthly Demand Surcharges to its customers for the flow through of take-or-pay costs attributable to Texas Eastern's Docket No. TM89–4–17. The tariff sheets submitted with the instant filing reflect the revised allocation factors and Fixed Monthly Demand Surcharges.

Copies of the filing were served upon Columbia's jurisdictional customers and intersted state commissions and upon each person designated on the official service list compiled by the Commission's Secretary in Docket Nos. RP88–187, *et al.* and RP89–181, *et al.*

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, Union Center Plaza Building, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before August 11, 1989. 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 proceedings. Any person wishing to become a party must file a motion to intervene. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 89–18752 Filed 8–10–89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ89–5–25–000]

Mississippi River Transmission Corp.; Rate Change Filing

August 4, 1989.

Take notice that on August 1, 1989, Mississippi River Transmission Corporation (MRT) tendered for filing, to be effective September 1, 1989, Thirty-Third Revised Sheet No. 4, Thirteenth Revised Sheet No. 4A, Fourth Revised Sheet No. 4A.1, Fourth Revised Sheet No. 4A.2, First Revised Sheet No. 4A.3, First Revised Sheet No. 4A.4, Original Sheet No. 4A.5, Eighth Revised Sheet No. 62 and Tenth Revised Sheet No. 72 to its FERC Gas Tariff, Second Revised Volume No. 1. MRT states that this filing is being submitted to reflect its quarterly purchased gas cost adjustment (PGA) pursuant to § 154.308 of the Commission's Regulations and the PGA provisions of MRT's tariff, and is designed to track various pipeline and producer cost changes.

MRT notes that its filing is predicated upon the settlement rates made effective by United Gas Pipe Line Company (United) in its pending rate proceedings at Docket Nos. RP88–92–000, *et al.*; and, thus, MRT expressly reserves its rights to increase the rates reflected in this filing in the event of modificaton of United's settlement rates to MRT. The quarterly impact of MRT's PGA filing on its jurisdictional customers is stated to be an increase of approximately $1.9 million for the September 1, 1989–November 30, 1989 quarter.

MRT states that while the instant PGA filing represents MRT's best current estimate of purchased gas costs which it will experience during the September 1, 1989 through November 30, 1989 quarter, § 154.305(c) of the Commission's PGA Regulations requires that projected costs of gas purchased from producer suppliers be based upon contractual obligations that are in existence as of the date the PGA is filed. MRT states that it purchases a substantial volume of short-term, spot market gas for its system supply, and spot market prices tend to be lower in summer months than during fall and winter periods. MRT notes that because the instant PGA, submitted in August, covers a fall/winter quarter, the potential for increases in spot market prices above those reflected in its filing is a real likelihood. Consequently, MRT states that its PGA is being submitted with the understanding that if price increases occur such that MRT's costs of purchased gas during the subject quarter exceed those projected in its filing, MRT may submit an out-of-cycle PGA to so reflect such increases.

MRT further states that the enclosed Sheet No. 4A reflect the most recent fixed take-or-pay charges applicable to MRT as a result of filings of United, Natural Gas Pipeline Company of America and Trunkline Gas Company. MRT states that the quarterly jurisdictional impact of this take-or-pay flowthrough filing is an increase of approximately $.3 million.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 11, 1989. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 89–18753 Filed 8–10–89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP78–85–005]

Panhandle Eastern Pipe Line Co.; Proposed Changes In FERC Gas Tariff

August 4, 1989.

Take notice that Panhandle Eastern Pipe Line Company (Panhandle) on July 31, 1989 tendered for filing Substitute Original Sheet No. 1 and Thirteenth Revised Sheet Nos. 2 through 38 to its FERC Gas Tariff, Original Volume No. 1–A.

Panhandle states that on February 8, 1980 the Commission approved a Stipulation and Agreement (Agreement) in the proceedings entitled *Village of Pawnee, Illinois, et al.* vs. *Panhandle Eastern Pipe Line Company*, in the subject docket. Under the terms of the Agreement, certain Small Customers as defined in Article II of the Agreement, are permitted to add new Priority 1 requirements up to 10 percent of their original annual base period volumes during the first twelve-month period and up to 8 percent of their original annual base period volumes in each succeeding twelve-month period that the Agreement is in effect. Article V of the Agreement requires the Small Customers to report to Panhandle changes in their estimated monthly and annual volumes, which changes are to be reflected as adjustments to the monthly base period volumes for each Small Customer. Thirteenth Revised Sheet Nos. 2 through 38 reflect these adjustments in the monthly base period for each Small Customer. Panhandle proposes an effective date of September 1, 1989.

Panhandle states that copies of this filing have been served on all customers subject to the tariff sheets and applicable state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules and Regulations. All such protests should be filed on or before August 11, 1989. 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. Persons that are already parties to this proceeding need not file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 89-18754 Filed 8-10-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ89-3-28-000]

Panhandle Eastern Pipe Line Co.; Proposed Changes in FERC Gas Tariff

August 4, 1989.

Take notice that Panhandle Eastern Pipe Line Company (Panhandle) on August 1, 1989, tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

Seventy-Third Revised Sheet No. 3-A
Fiftieth Revised Sheet No. 3-B

The proposed effective date of these revised tariff sheets is September 1, 1989.

Panhandle states that these revised tariff sheets filed herewith reflect a non-gas commodity rate decrease of (2.15¢) per Dt pursuant to section 22 of the General Terms and Conditions of Panhandle's tariff (ANGTS tracking mechanism).

Panhandle further states that these revised tariff sheets filed herewith also reflect the following respecting Panhandle's D1 and D2 demand rates:

(1) An increase of $0.15 for D1 pursuant to section 22 of the General Terms and Conditions of Panhandle's tariff (ANGTS tracking mechanism); and

(2) An increase of $0.20 for D1 and no change for D2 pursuant to § 18.4 of the General Terms and Conditions of Panhandle's tariff (pipeline suppliers' demand costs).

Panhandle states that the above-referenced tariff sheets are being filed in accordance with § 154.308 (quarterly PGA filing) of the Commission's Regulations and pursuant to §§ 18.1 and 18.4 (Purchased Gas Demand Rate Adjustments by Pipeline Suppliers) and section 22 (ANGTS tracking mechanism) of Panhandle's FERC Gas Tariff, Original Volume No. 1 to reflect the changes in Panhandle's jurisdictional rates effective September 1, 1989.

Panhandle states that it should be noted that by order dated June 30, 1989, issued in Docket No. RP89-185-000, the Commission accepted for filing section 25 (Seasonal Sales Program) of Panhandle's FERC Gas Tariff, Original Volume No. 1. Purusant to § 25.31 thereof, §§ 18.2, 18.3, 18.5, 18.6, 18.7, and 18.8 are suspended until re-established in accordance with § 25.32. Accordingly, Panhandle is reflecting as a current adjustment only the decrease in the non-gas commodity rates mentioned above.

Panhandle further states it should be noted that Panhandle has not adjusted its D1 and D2 rates to reflect revisions to Trunkline Gas Company's demand rates that may result from Commission approval of the Stipulation and Agreement in Docket No. RP88-180-000, for that Stipulation and Agreement has not been approved but is awaiting Commission action. Should the Stipulation and Agreement become effective during the current period, Panhandle will make an appropirate filing to adjust its D1 and D2 rates.

Panhandle states that copies of its filing have been served on all jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before August 11, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 89-18755 Filed 8-10-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-216-000]

Tennessee Gas Pipeline Co.

August 4, 1989.

Take notice that on August 1, 1989, Tennessee Gas Pipeline Company (Tennessee) filed the following tariff sheets to its FERC Gas Tariff to be effective September 1, 1989, subject to certain conditions:

Second Revised Volume No. 1

Fourteenth Revised Sheet No. 20
Eleventh Revised Sheet No. 20A
Second Substitute Seventh Revised Sheet No. 22

Tennessee states that it is filing these sheets and associated workpapers in compliance with the terms of the Stipulation and Agreement (Stipulation) filed June 13, 1989 in Bear Creek Storage Company, Docket No. RP89-58. Tennessee further states that it is filing the above tariff sheets on the condition that the Commission accept them subject to the rate restoration and surcharge provisions of the Stipulation.

Tennessee requests that the Commission grant any waivers it deems necessary for the acceptance of this filing.

Tennessee states that copies of the filing have been mailed to all parties in this proceeding, affected customers and affected state regulatory commissions.

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 Capital Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before August 11, 1989. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 89-18756 Filed 8-10-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP78-86-004]

Trunkline Gas Co.; Proposed Changes in FERC Gas Tariff

August 4, 1989.

Take notice that Trunkline Gas Company (Trunkline) on July 31, 1989 tendered for filing Fourteenth Revised Sheet No. 21-C.8 to its FERC Gas Tariff, Original Volume No. 1.

Trunkline states that on February 8, 1980 the Commission approved a Stipulation and Agreement (Agreement) in the proceedings entitled *Kaskaskia Gas Company, et al.* vs. *Trunkline Gas Company*, in the subject docket. Under the terms of the Agreement, certain Small Customers as defined in Article II of the Agreement, are permitted to add new Priority 1 requirements up to 10 percent of their original annual base period volumes during the first twelve-month period and up to 8 percent of their original annual base period volumes in each succeeding twelve-month period that the Agreement is in effect. Article V of the Agreement requires the Small Customers to report to Trunkline changes in their estimated monthly and annual volumes, which changes are to be reflected as adjustments to the monthly base period volumes for each Small Customer. Fourteenth Revised Sheet No. 21-C.8 reflects these adjustments in the monthly base period for each Small Customer. Trunkline proposes an effective date of September 1, 1989.

Trunkline states that copies of this filing have been served on all customers subject to the tariff sheets and applicable state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules and Regulations. All protests should be filed on or before August 11, 1989. 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. Persons that are already parties to this proceeding need not file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 89-18757 Filed 8-10-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-183-003]

Williams Natural Gas Co.; Filing

August 4, 1989.

Take notice that on July 31, 1989, Williams Natural Gas Company (WNG) filed Revised Thirteenth Revised Sheet No. 6 to its FERC Gas Tariff, Original Volume No. 1, to be effective December 1, 1989.

WNG states that this filing is in compliance with the Commission's order of June 30, 1989. WNG states that this tariff sheet reflects the elimination of take-or-pay buyout and/or buydown Order No. 500 costs that it previously filed to recover in Docket No. RP89-140-000.

WNG states that copies of this filing are being served on all jurisdictional customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1989)). All such protests should be filed on or before August 11, 1989. 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. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 89-18758 Filed 8-10-89; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for disbursement of $19,824.44, plus accrued interest, obtained from Pedersen Oil, Inc. pursuant to a Consent Order executed on October 15, 1981. The funds will be distributed to successful claimants who purchased motor gasoline from Pedersen between May 1, 1979 through September 30, 1979.

DATE AND ADDRESS: Applications for Refund from the Pedersen escrow fund must be filed in duplicate and must be received within 90 days of publication of this notice in the **Federal Register.** All Applications for Refund from this escrow fund should display a conspicuous reference to Case Number HEF-0147, and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Darlene Gee, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-6602.

SUPPLEMENTARY INFORMATION: In accordance with the procedural regulations of the Department of Energy (DOE), 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The Decision sets forth the procedures that the DOE has formulated to distribute monies obtained from Pedersen Oil, Inc. (Pedersen) to settle pricing violations with respect to the firm's sales of motor gasoline between May 1, 1979 and October 30, 1979 (the audit period).

OHA has determined that a portion of the escrow fund should be distributed to purchasers of Pedersen motor gasoline during the audit period. In order to obtain a refund, each claimant will be required to submit a schedule of its monthly purchases of motor gasoline for Pedersen. The specific requirements which an applicant must meet in order to receive a refund are set out in Section II of the Decision. Residual funds in the escrow account will be used for indirect restitution in accordance with the provisions of the Petroleum Overcharge Distribution and Restitution Act of 1986, Pub. L. 99-509, Title III.

Applications for Refund will now be accepted provided they are filed in duplicate and received no later than 90 days after publication of this Decision and Order in the **Federal Register.** Applicatons should be sent to the

address set forth at the beginning of this notice. All applications received will be available for public inspection between the hours of 1:00 p.m. and 5:00 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: July 19, 1989.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order

Name of Firm: Pedersen Oil, Inc.
Date of Filing: October 13, 1983
Case Number: HEF-0147

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 procedures to distribute funds received as a result of an enforcement proceeding in order to remedy the effects of actual or alleged violations of the DOE regulations. *See* 10 CFR part 205, subpart V. On October 13, 1983, ERA filed a Petition for the Implementation of Special Refund Procedures in connection with a Consent Order entered into with Pedersen Oil, Inc. (Pedersen).

I. Background

Pedersen was a "reseller-retailer" of refined petroleum products as that term was defined in 10 CFR 212.31, and was located in Silverdale, Washington. A DOE audit of Pedersen's records revealed possible violations of the Mandatory Petroleum Price Regulations. 10 CFR part 212, subpart F. More specifically, the audit revealed that between May 1, 1979 and September 30, 1979, Pedersen may have violated the DOE's pricing regulations with respect to its sales of motor gasoline.

In order to resolve its potential civil liabilities arising from the ERA's audit, Pedersen entered into a Consent Order with the DOE on October 15, 1981. The Consent Order refers to ERA's allegations of overcharges, but does not find that any violations occurred. In addition, the Consent Order states that Pedersen does not admit any such violations.

Under the terms of the Consent Order, Pedersen was required to deposit $23,617 into an escrow account for ultimate distribution by the DOE.[1] On May 11, 1982, Pedersen made a deposit of $9,602.44, its only payment into the account. Since that payment was made, Pedersen's assets have been liquidated and a successor firm is also in bankruptcy. Therefore, no further payments are expected. Pedersen, however, was eligible for a refund of $10,222 in a proceeding instituted by OHA to distribute funds remitted to the DOE by the Mobil Oil Corporation. Mobil Oil Corp., 13 DOE ¶ 85,339 (1985). Because of Pedersen's outstanding obligation to the DOE under the terms of its Consent Order, OHA transferred the full amount of Pedersen's refund in the Mobil proceeding to the Pedersen consent order fund. Mobil Oil Corporation/National Acceptance Company of California, 16 DOE ¶ 85,554, (1987). The Pedersen fund now contains $19, 824.44 in principal, or 84% of the amount Pedersen was required to deposit under the terms of the Consent Order. This decision concerns the procedures for the distribution of the funds in the Pedersen escrow account.

On June 3, 1988, the OHA issued a Proposed Decision and Order (PD&O) setting forth a tentative plan for the distribution of refunds to parties that make a reasonable showing of injury as a result of Pedersen's alleged overcharges. In order to give notice to all potentially affected parties, a copy of the PD&O was published in the **Federal Register** and comments regarding the proposed refund procedures were solicited. 53 FR 21910 (June 10, 1988). We received no comments concerning the proposed refund procedures for Pedersen. Therefore, we will adopt the procedures in the PD&O as final procedures for the distribution of the Pedersen refined product funds.

II. Final Refund Procedures

The procedural regulations of the DOE set forth general guidelines to be used by OHA in formulating and implementing a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations in which the DOE is unable to identify readily those persons who may have been injured by the alleged regulatory violations or to determine the amount of such injuries. A more detailed discussion of Subpart V and the authority of OHA to fashion procedures to distribute refunds is set forth in the cases of Office of Enforcement, 9 DOE ¶ 82,508 (1981); and Office of Enforcement, 8 DOE ¶ 82,597 (1981) (Vickers).

Pursuant to the goals of the Subpart V regulations, we will attempt to provide refunds to claimants who demonstrate that they were injured by Pedersen's alleged regulatory violations in its sales of motor gasoline during the May 1, 1979, through September 30, 1979 consent order period. Residual funds in the Pedersen escrow account will be distributed in accordance with the provisions of the Petroleum Overcharge Distribution and Restitution Act of 1986 (PODRA), Public Law No. 99-509, Title III. *See* 51 FR 43964 (December 5, 1986).

A. Calculation of Refund Amounts

The first step in the refund process is the calculation of an applicant's potential refund. To facilitate this process, we intend to rely, in part, on the information gathered by the ERA during its audit of Pedersen. *See, e.g.*, Marion Corp., 12 DOE ¶ 85,014 (1984) (Marion). The ERA identified 20 firms that were allegedly overcharged by Pedersen and calculated the amount of the potential refunds for each of these firms. The firms, together with their potential refunds, are listed in the Appendices to this Decision. The total amount of the Pedersen settlement allocated to the ERA-identified purchasers is $11,046.

The ERA specifically noted, however, that it was unable to identify all of the customers whom Pedersen allegedly overcharged. In order to determine the potential refunds for these purchasers, we proposed to adopt a volumetric refund presumption. This presumption assumes that Pedersen's alleged overcharges were spread evenly over all of the gallons of motor gasoline that Pederson sold during the consent order period.

Under this volumetric presumption, the potential refund for a previously unidentified claimant will be calculated by multiplying the number of gallons of motor gasoline that it purchased from Pedersen during the consent order period times a volumetric factor of $0.0025 per gallon.[2] In addition,

[1] The actual settlement between Pedersen and the DOE totaled $25,000. Of that sum, Pedersen made direct payments totaling $1,383 to the following end/user customers, all located in Tacoma, Washington: Barbie Lumber, Erdahl Trucking, Heinke Painting, Baxter Manufacturing, Jim Lemon's Doors and Cabinets, United Services, Allstate Elevator, and Time DC, Inc. These direct refunds were based upon the ERA's calculations of Pedersen's alleged overcharges. Because these firms have already received refunds for the matters settled by the Pedersen Consent Order, they will not be eligible for a further refund in this proceeding. The balance of the settlement amount, $23,617, was to be deposited into an escrow account for ultimate distribution by the DOE.

[2] Because we were unable to determine the number of gallons of motor gasoline that Pedersen sold to its customers who received direct refunds, *see* supra note 1, and to the 20 ERA-identified purchasers, we computed the volumetric factor by dividing $21,207.44 (the $19,824.44 deposited into the Pedersen escrow, plus the $1,353 Pedersen paid out in direct refunds) by 8,581,892, the total number of gallons of motor gasoline sold by the firm during the consent order period.

successful claimants will receive proportionate shares of the interest that has accrued on the Pedersen escrow account. The total amount of the Pedersen consent order funds allotted to unidentified claimants is $8,792.[3]

The volumetric refund presumption is rebuttable. Because we realize that the impact on an individual claimant may have been greater than its potential refund calculated using the volumetric methodology, a claimant may submit evidence detailing the specific alleged overcharge that it incurred in order to be eligible for a larger refund. *See* Standard Oil Co. (Indiana)/Army and Air Force Exchange Service, 12 DOE ¶ 85,015 (1984).

As in previous cases, only claims for at least $15 in principal will be processed. This minimum has been adopted in refined product refund proceedings because the cost of processing claims for refunds of less than $15 outweighs the benefits of restitution in those instances. *See, e.g.*, Mobil Oil Crop., 13 DOE ¶ 85,339 (1985); *see also* 10 CFR 205.286(b). If an applicant's potential refund is calculated using the volumetric methodology, it must have purchased at least 5,800 gallons of Pedersen motor gasoline in order for its claim to be considered.

B. Determination of Injury

Once a claimant's potential refund has been calculated, we must determine whether the claimant was injured by its purchases from Pedersen, *i.e.*, whether it was forced to absorb the alleged overcharges. Based on our experience in numerous Subpart V proceedings, we will adopt certain presumptions concerning injury in this case. The use of presumptions in refund cases is specifically authorized by DOE procedural regulations. 10 CFR 205.282(e). An applicant that is not covered by one of these presumptions must demonstrate injury in accordance with the non-presumption procedures outlined in the latter part of this Decision.

1. Presumptions Concerning Injury

The presumptions we will adopt in this case are designed to allow claimants to participate in the refund process without incurring inordinate expense, and to enable OHA to consider the refund applications in the most efficient way possible. We will presume that end-users of Pedersen motor gasoline, certain types of regulated firms, and cooperatives were injured by their purchases from Pedersen. In addition, we will presume that resellers and retailers of Pedersen gasoline submitting small claims were injured by their purchases. On the other hand, we will presume that resellers and retailers that made spot purchases of Pedersen motor gasoline and those who sold it on consignment were not injured by their purchases. Each of these presumptions is discussed below, along with the rationale underlying its use.

a. *End-Users.* First, in accordance with prior subpart V proceedings, we will presume that end-users, *i.e.*, ultimate consumers of Pedersen motor gasoline whose businesses are unrelated to the petroleum industry, were injured by the firm's alleged overcharges. Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the consent order period, and were not required to keep records which justified selling price increases by reference to cost increases. Consequently, analysis of the impact of the alleged overcharges on the final prices of goods and services produced by members of this group would be beyond the scope of a special refund proceeding. *See* Marion Corporation, 12 DOE ¶ 85,014 (1984) and cases cited therein. Therefore, end-users need only document their purchase volumes of Pedersen motor gasoline to demonstrate that they were injured by the alleged overcharges.

b. Regulated Firms and Cooperatives. Second, public utilities, agricultural cooperatives, and other firms whose prices are regulated by government agencies or cooperative agreements do not have to submit detailed proof of injury. Such firms would have routinely passed through price increases, including overcharges, to their customers. Likewise, their customers would share the benefits of cost decreases resulting from refunds. *See, e.g.*, Office of Special Counsel, 9 DOE ¶ 82,538 (1982) (Tenneco); Office of Special Counsel, 9 DOE ¶ 82,545 at 85,244 (1982) (Pennzoil). Such firms applying for refunds should certify that they will pass through any refund received to their customers and should explain how they will alert the appropriate regulatory body or membership group to monies received. Purchases by cooperatives that were subsequently resold to nonmembers will generally not be covered by this presumption.

c. *Reseller and Retailer Small Claims.* Third, we will presume that a reseller or retailer seeking a refund of $5,000 or less, excluding accrued interest, was injured by Pedersen's pricing practices. Without this presumption, such an applicant would have to gather records dating as far back as 1973 in order to demonstrate that it absorbed Pedersen's alleged overcharges. The cost to the applicant of gathering this information, and to OHA of analyzing it, could exceed the actual refund amount. Therefore, a small claimant must only document the volumes of motor gasoline it purchased from Pedersen in order to demonstrate injury. *See* Texas Oil & Gas Corp., 12 DOE ¶ 85,069 at 88,210 (1984). ERA-identified resellers and retailers seeking small claims refunds have to submit only a statement indicating their willingness to rely on the information contained in the ERA audit files. Resellers and retailers of Pedersen motor gasoline that are seeking refunds in excess of $5,000 must follow the procedures that are outlined below in section 2.

d. *Spot Purchasers.* Fourth, resellers and retailers that were spot purchasers of motor gasoline from Pedersen, *i.e.*, made only sporadic, discretionary purchases, are presumed not to have been injured and consequently, generally will be ineligible for refunds. The basis for this presumption is that a spot purchaser tended to have considerable discretion as to where and when to make a purchase, and therefore, would not have made a purchase unless it was able to recover the full amount of its purchase price, including any alleged overcharges, from its customers. *See* Vickers at 85,396–97. A spot purchaser can rebut this presumption by demonstrating that its base period supply obligation limited its discretion in making the purchases and that it resold the product at a loss that was not subsequently recouped. *See, e.g.*, Saber Energy, Inc./Mobil Oil Corp., 14 DOE ¶ 85,170 (1986).

e. *Consignees.* Finally, we will presume that consignees of Pedersen motor gasoline were not injured by the firm's alleged pricing violations. *See, e.g.*, Jay Oil Co., 16 DOE ¶ 85,147 (1987). A consignee agent generally sold products pursuant to an agreement whereby its supplier established the prices to be charged by the consignee and compensated the consignee with a fixed commission based upon the volume of products that it sold. A consignee may rebut the presumption of non-injury by demonstrating that its sales volumes and corresponding commission revenues declined due to

[3] The ERA allocated $13,150 of the Pedersen settlement to identified purchasers and the remainder of the settlement, $10,467, to unidentified end-users. Because the Pedersen escrow account contains only 84% of the principal specified in the Consent Order, we reduced these amounts accordingly.

the alleged uncompetitiveness of Pedersen's pricing practices. *See* Gulf Oil Corp./C.F. Canter Oil Co., 13 DOE ¶ 85,388 at 88,962 (1986).

2. Non-Presumption Demonstration of Injury

A reseller or retailer whose allocable share is in excess of $5,000 that does not elect to receive a refund under the small claims presumption will be required to demonstrate its injury. There are two aspects to such a demonstration. First, a firm generally is required to provide a monthly schedule of its banks of unrecouped increased product costs for motor gasoline that it purchased from Pedersen. Cost banks should cover the period May 1, 1979, through July 15, 1979, for retailers, and April 30, 1980, for resellers of Pedersen motor gasoline.[4] If a firm no longer has records of contemporaneously calculated cost banks for motor gasoline, it may approximate those banks by submitting the following information regarding its purchases of motor gasoline from all of its suppliers:

(1) The weighted average gross profit margin that the firm received from motor gasoline on May 15, 1973;

(2) A monthly schedule of the weighted average gross profit margins that it received for motor gasoline during the period May 1, 1979 through July 15, 1979 for retailers and May 1, 1979 through April 30, 1980 for resellers; and

(3) A monthly schedule of the firm's purchase or sales volumes of motor gasoline during the period May 1, 1979 through July 15, 1979 for retailers, and May 1, 1979 through April 30, 1980 for resellers.[5]

The existence of banks of unrecouped increased product costs that exceed an applicant's potential refund is only the first part of an injury demonstration. A firm must also show that market conditions forced it to absorb the alleged overcharges. We will infer this to be true if the prices the applicant paid Pedersen were higher than average market prices for motor gasoline at the same level of distribution.[6] Accordingly, a claimant attempting to demonstrate injury should submit a monthly schedule of the weighted average prices that it paid Pedersen for motor gasoline during the May 1, 1979 through September 30, 1979 consent order period.

If a reseller or retailer that is eligible for a refund in excess of $5,000 does not submit the cost bank and purchase price information described above, it can still apply for a refund of $5,000, plus accrued interest, using the small claims presumption.

If, however, a firm provides the above-mentioned data and we subsequently conclude that the firm should receive a refund of less than the $5,000 small claims threshold, the firm cannot opt for a full $5,000 refund.

C. General Refund Application Requirements

Pursuant to 10 CFR 205.283, we will now accept Applications for Refund from individuals and firms that purchased motor gasoline from Pedersen between May 1, 1979 and September 30, 1979. No "class claims" on behalf of groups of applicants will be permitted. There is no specific application form that must be used. All Applications for Refund should include the following information:

(1) A conspicuous reference to Case Number HEF–0147 and the name and address of the applicant during the period for which the claim is filed, as well as the name to whom the refund check should be made out and the address to which the check should be sent;

(2) The name, title, address and telephone number of a person who may be contacted by OHA for additional information concerning the Application;

(3) The manner in which the applicant used the Pedersen motor gasoline, *i.e.*, whether it was a reseller, retailer, consignee, end-user, etc.;

(4) A monthly schedule of purchases of motor gasoline from Pedersen during the period May 1, 1979 through September 30, 1979. ERA-identified potential claimants seeking small claims refunds have to submit only a statement indicating their willingness to rely on the information contained in the ERA audit files. If the applicant was an indirect purchaser it must also submit the name of its immediate supplier and indicate why it believes the covered product was originally sold by Pedersen;

(5) All relevant material necessary to support its claim in accordance with the injury presumptions and requirements outlined above;

(6) If the applicant was or is in any way affiliated with Pedersen, an explanation of the nature of the affiliation;

(7) A statement as to whether there has been a change in ownership of the entity that purchased the Pedersen motor gasoline during or since the consent order period. If there was such a change, the applicant must submit a copy of the sales agreement, as well as provide the names and addresses of the previous or subsequent owners;

(8) A statement as to whether the applicant is or has been involved in any DOE enforcement preceedings or private actions filed under section 210 of the Economic Stabilization Act. If these actions have been concluded, the applicant should furnish a copy of any final order issued in the matter. If the action is still in progress, the applicant should briefly describe the action and its current status. The applicant must inform OHA of any change is status while its Application for Refund is pending. *See* 10 CFR 205.9(d);

(9) A statement as to whether the applicant has received a refund, from any source, for the alleged overcharges identified in the ERA audits underlying this preceeding;

(10) A statement as to whether the applicant or a related firm has filed any other Applications for Refund in this proceeding;

(11) A statement as to whether the claimant or a related firm has authorized any other individual(s) to file an Application for Refund on the claimant's behalf in the Pedersen proceeding; and

(12) The following statement signed by the applicant or a responsible official of the business or organization claiming the refund: "I swear [or affirm] that the information submitted is true and accurate to the best of my knowledge and belief." *See* 10 CFR 205.283(c).

Applications for refund should be sent to: Pederson Refund Proceeding, Case No. HEF–0147, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585

All applications must be filed in duplicate and must be postmarked within 90 days from the date of publication of this Decision in the **Federal Register**. A copy of each application will be available for public inspection in the Public Reference Room of the Office of Hearings and Appeals. Any applicant that believes that its application contains confidential information must submit two additional copies of its application from which the confidential information has been

[4] We generally require applicants to submit cost banks that continue until a product's price decontrol date. Retailers and resellers of motor gasoline, however, were only required to maintain banks through July 15, 1979, and April 30, 1980, respectively, rather than the January 27, 1981 decontrol date of motor gasoline.

[5] For motor gasoline, retailers and resellers have to submit the information detailed in Parts (2) and (3) only through July 15, 1979 and April 30, 1980, respectively. *See supra* note 12.

[6] We generally obtain average market price information from Platt's Oil Price Handbook and Oilmanac (Platt's). If price data for a particular product is not available in Platt's, the burden of supplying alternative information will be on the claimant.

deleted, together with a statement specifying why the information is confidential.

It Is Therefore Ordered, That:

(1) Applications for Refund from the funds remitted to the Department of Energy by Pedersen Oil, Inc., pursuant to the Consent Order finalized on October 15, 1981 may now be filed.

(2) All applications must be filed no later than 90 days after publication of this Decision in the **Federal Register.**

Dated: July 19, 1989.

George B. Breznay,

Director, Office of Hearings and Appeals.

APPENDIX 1.—ERA-IDENTIFIED POTENTIAL CLAIMANTS, PEDERSEN OIL, INC., CASE NO. HEF-0147

First purchasers	Share of settlement [1]
Gull Oil Company, 4th Avenue S., Seattle, WA 98134	$5,617.16
Fletcher Oil Company, 471 North Curtis Rd., Boise, ID 83706	90.41
Maxwell Oil Company,[2] 701 S. Plum, Olympia, WA 98507	319.44
Robert Buehler, 1104 N. Callow, Bremerton, WA 98312	115.43
Stann Dunn, City Fed, 5002 Kitsap Way, Suite 202, Bremerton, WA 98312	170.65
Earl Fuller, 5868 S.E. Olalla Burley Rd., Olalla, WA 98359	150.57
Time Oil Company, 2737 West Commodore, Seattle, WA 93199	968.67
Hi-way Market, 6250 Bethel Ave., SE., Port Orchard, WA 98366	165.63
Iorndale Grocery, c/o Douglas Brown, 821 Irondale Rd., Hadlock, WA 98339	813.07
Hank's Grocery, 3629 Shico Way NW., Bremerton, WA 98310	195.74
Doug McGee's Arco, 402 Sleater Kinney Road NE., Olympia, WA 98503	421.60
Mel's Mobil, 140 Highway 101 S., Brinnen, WA 98320	195.74
Nebert Bros., 1233 E. First Street, Port Angeles, WA 98362	20.08
Roy's Auto Specialty, 499 Madison Ave. N., Bambridge Island, WA 98110	105.40
Gene Fetty, Rt. #1, Box 11, Port Townsend, WA 98368	858.24
Virgil Robbins, 109 Elma Monte Road, Elma, WA 98541	190.72
Hansville Repair, Rt #2, Box 201, Hansville, WA 98340	135.51
Total	10,534.05

[1] This figure does not include accrued interest.
[2] Last known address: firm is no longer in business.

APPENDIX 2.—ERA-IDENTIFIED POTENTIAL CLAIMANTS, PEDERSEN OIL, INC., CASE NO. HEF-0147

First purchasers addresses unknown	Share of settlement [1]
E. Hansen	$496.89
W. Pitt [2]	10.04

APPENDIX 2.—ERA-IDENTIFIED POTENTIAL CLAIMANTS, PEDERSEN OIL, INC., CASE NO. HEF-0147—Continued

First purchasers addresses unknown	Share of settlement [1]
Barnards [2]	5.02
Total	511.96

[1] This figure does not include accrued interest.
[2] As explained in the Decision, we do not intend to process claims for less than $15.

[FR Doc. 89-18860 Filed 8-10-89; 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Central Valley Project, 1994 Power Marketing Plan

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of the 1994 Power Marketing Plan Alternatives; the draft plan; preparation of an environmental assessment; announcement of the schedule for public meetings; and request for comments.

SUMMARY: The Western Area Power Administration (Western) is developing a power marketing plan for Central Valley Project (CVP) power resources marketed by Western's Sacramento Area Office (SAO). The 1994 Power Marketing Plan will govern the sale of 449,136 kilowatts (kW) of long-term power and presently 89,795 kW of short-term power sold under electric service contracts which expire on or before June 30, 1994. Contracts expiring in 2004 are not covered by this 1994 Power Marketing Plan. Four alternative plans are being considered by Western at this initial stage of the public process. An environmental assessment of these four alternative plans will be conducted in order to provide the information necessary to guide Western in its development of the plan. Dates for the public forums concerning this plan are provided in this notice.

FOR FURTHER INFORMATION CONTACT: A brochure explaining the basis and rationale of the four marketing alternatives, the background and history of Western and the CVP, and the draft applicant profile data will be distributed to all SAO Customers and other interested parties prior to the first public information forum. Public information and public comment forums will be held in accordance with procedures for public participation pursuant to the Administrative Procedure Act (5 U.S.C. 500, *et seq.*). Scoping for the purpose of compliance with the National Environmental Policy Act of 1969 (NEPA) will be conducted in conjunction with these forums. Dates for these forums and other filing deadlines are indicated below.

Data, studies, reports, and other documents used in the development of the 1994 Power Marketing Plan are available for inspection and/or duplication in Western's SAO. Written comments and requests for information may be submitted to the address provided below throughout the public process: Mr. David G. Coleman, Area Manager, Sacramento Area Office, Western Area Power Administration, 1825 Bell Street, Suite 105, Sacramento, CA 95825, (916) 649-4418.

Additional information on the environmental review of the 1994 Power Marketing Plan is available from: Ms. Nancy Weintraub, Area Environmental Manager, Sacramento Area Office, Western Area Power Administration, 1825 Bell Street, Suite 105, Sacramento, CA 95825, (916) 649-4460.

SUPPLEMENTARY INFORMATION: Four alternative plans are being considered by Western at this initial stage of the public process. These four plans are those that Western believes to define the range of alternatives in the context of the contractual and operational constraints within which the CVP operates. These constraints deal with how Western's CVP resources are integrated with the Pacific Gas and Electric Company's (PG&E) resources and how they are operated to comply with the mandatory water release requirements of the Bureau of Reclamation (BuRec).

The four alternative plans are (1) the Status Quo or No Action alternative—Western renews all existing contract rates of delivery (CROD) in the same amounts and with the same Customers, that is, without any changes; (2) the Draft Plan alternative—which calls for a variety of options including renewals, allocations to new Customers, reductions in some programs, and expansion of other programs; (3) the Zero Base alternative—Western allocates the available firm power but no renewals would occur and allocations would be zero based; and (4) the Termination alternative—Western allows the contracts with June 30, 1994, or earlier termination dates to expire under their respective terms and conditions. None of the four alternatives would affect the amount of power served under contracts with an expiration date of 2004. However, each alternative would impact, in varying degrees, the cost of power served under

contracts with an expiration date of 2004.

These four alternative plans are described in further detail in a brochure that will be made available to Customers and interested parties prior to the first public information forum. The public process will be comprised of the marketing evaluation and the environmental assessment review of the four alternatives pursuant to the NEPA. By combining these two reviews, Western believes that the interests of all parties will be best served and that the process can be completed in a timely manner.

The environmental assessment review of the four alternatives will begin with a scoping meeting held in conjunction with the first public information forum. The purpose of this meeting is to describe the four alternatives and the environmental review process, to listen to concerns and questions, and to receive other information from the public. A public comment forum will be held to receive comments on the scope of the environmental analysis and generally on the four marketing plan alternatives or other alternatives. Written comments will be accepted for up to 30 days after the date of the October 20, 1989, public comment forum. The information received from the public will help Western to determine the issues and range of alternatives to be analyzed in the environmental assessment, and to prepare the 1994 Proposed Power Marketing Plan.

To facilitate the public review process, one of the four alternatives, the Draft Plan, is published herein. This Draft Plan is based on the comments received from three informal public meetings held in October 1988, January 1989, and February 1989 to solicit Customers' and interested parties' ideas and opinions of the issues and possible directions that Western should take in the development of the 1994 Power Marketing Plan. This alternative contains the most variations and some of the features of each of the other alternatives, thereby providing reviewers with more information on which to evaluate the other three alternatives.

The Draft Plan consists of classes of electric service, contract conditions, general allocation and contract principles, eligibility and selection criteria, the marketing of Stampede Powerplant generation, and the Transmission Marketing Plan. The publication of the Draft Plan is not an endorsement of the alternative by Western. Western will make its choice of a power marketing plan when it announces the proposed 1994 Power Marketing Plan. The proposed plan will be subject to change by Western, and will be announced after the environmental assessment is complete.

DATES: The public process will begin on the date of publication of this notice. The proposed schedule for this public process is as follows:

Date	Event
September 12, 1989	Public Information Forum Presentation of Power Marketing Plan Alternatives, Environmental Scoping. Location: Holiday Inn-Holidome, 5321 Date Avenue, Sacramento, CA, 10 a.m.
October 20, 1989	Public Comment Forum Receipt of Oral and Written Comments on the Power Marketing Plan Alternatives and Environmental Concerns. Location: Holiday Inn-Holidome, 5321 Date Avenue, Sacramento, CA, 10 a.m.
November 20, 1989	Deadline to Receive Written Comments on the Power Marketing Plan Alternatives and Scope of the Environmental Analysis. Must be Postmarked on or Before November 20, 1989, to be Assured of Consideration.
June 1990	Draft or Final Environmental Assessment.
July 1990	Finding of No Significant Impact or Environmental Impact Statement Determination.
September 1990	FEDERAL REGISTER Notice of Proposed 1994 Power Marketing Plan, Proposed General Allocation and Contract Principles, Proposed Eligibility and Selection Criteria, and Call for Applications.
October 1990	Public Information Forum Presentation of Proposed 1994 Power Marketing Plan, Proposed General Allocation and Contract Principles, and Proposed Eligibility and Selection Criteria.
November 1990	Public Comment Forum Receipt of Oral and Written Comments on the Proposed 1994 Power Marketing Plan, Proposed General Allocation and Contract Principles, and Proposed Eligibility and Selection Criteria.
December 1990	Deadline to Receive Written Comments on the Proposed 1994 Power Marketing Plan, Proposed General Allocation and Contract Principles, and Proposed Eligibility and Selection Criteria. Must be Postmarked by Deadline Date to be Assured of Consideration.
1991—To Be Determined.	FEDERAL REGISTER Notice of Final Power Marketing Plan, Final General Allocation and Contract Principles, Final Eligibility and Selection Criteria, and Proposed Allocations (if any).
1991—To Be Determined.	Public Comment Forum Receipt of Written Comments on the Proposed Allocations (if any).
1991—To Be Determined.	FEDERAL REGISTER Notice of Final Allocations (if any).

Draft Plan

I. Definitions

1. Allocation means an offer by Western to sell to the Allottee a specified type and quantity of power made available by Western, in accordance with the 1994 Power Marketing Plan.

2. Allottee means a qualified Preference Entity receiving an Allocation pursuant to this 1994 Power Marketing Plan.

3. CVP means the Central Valley Project, a multipurpose Federal water development project extending from the Cascade Range in northern California to south of Bakersfield, operated by the BuRec (50 Stat. 844, August 26, 1937). The hydroelectric generation from the 10 powerplants of the CVP, having an installed capacity of 2,039 megawatts (MW), is marketed and transmitted into the northern and central California transmission grid by Western.

4. Contract Rate of Delivery (CROD) means the amount of an Allocation served by Western on an annual basis and which is placed under contract between an Allottee and Western, and as it may be reduced or increased in accordance with applicable law, this 1994 Power Marketing Plan, the Customer's electric service contract, and the Final Withdrawal Procedures.

5. Contract 2948A means Contract No. 14-06-200-2948A between PG&E and Western, which provides for certain

sales, exchanges, and transmission of electric power.

6. Customer means a qualifying entity having an electric service with Western.

7. Diversity Power means firm power made available because of the diversity of Western's Customer's peak demands at the time of Western's simultaneous peak demand. The Customer, at the request of Western, must shed a specified amount of load at the time of Western's simultaneous peak demands. This power is subject to additional terms and conditions specified in an electric service contract.

8. Final Withdrawal Procedures mean those procedures published in the **Federal Register** on March 5, 1986 (51 FR 43), which specify the methods to be used by Western for the adjustment of CROD under varying circumstances.

9. General Power Contract Provisions (GPCP) mean the most recent standard terms and conditions applicable to electric service provided by Western and which are attached to and made a part of Western's electric service contracts.

10. Interruptible Power means power which permits a Customer to schedule a specified amount of power during all times except during Western's partial and on-peak periods, as determined by Western. Such power will be withdrawn to protect the 1,152–MW Load Level before Type III Withdrawable Power is withdrawn and will be subject to additional terms and conditions specified in an electric service contract.

11. Load Factor means the amount of kilowatthours (kWh) used by an entity in a given period divided by the product of that entity's peak demand, in kW, and the number of hours in the same given period; this resulting number is multiplied by 100 to express load factor in a percentage format.

12. Long-Term Firm Power means firm power allocated by Western and subject to the terms and conditions specified in an electric service contract.

13. Pacific Gas and Electric Company (PG&E) means the investor-owned utility having a service area in northern and central California, and load control responsibility for the northern and central California area and with whom Western sells, exchanges, and transmits power under Contract 2948A.

14. Power means electrical capacity and associated energy.

15. Preference Entity means an entity that meets the requirements of Reclamation Law, which provides that preference shall be given to municipalities and other public corporations or agencies; and also to cooperatives and other nonprofit organizations financed in whole or in part by loans made pursuant to the Rural Electrification Act of 1936 (Reclamation Project Act of 1939, section 9(c), 43 U.S.C. 485h(c)).

16. Renewable Resource and Cogeneration Power means firm power allocated by Western for the development or operation of a renewable resource or cogeneration project and which is subject to the terms and conditions specified in an electric service contract.

17. Santa Clara Settlement or MOU means the Memorandum of Understanding among Western, PG&E, the city of Santa Clara, and other CVP Customers, dated February 8, 1980, providing for settlement of issues raised on the case of the city of Santa Clara v. Andrus, 572 F. 2d 660 (9th Cir.), cert. denied, 439 U.S. 859 (1978), and for PG&E's agreement to allow Western the option of increasing the load level from 1,050 MW to 1,152 MW.

18. Scheduling Agreement means a contractual agreement that specifies the terms and conditions for the real-time scheduling or resources to load. Normally, this agreement is a companion agreement to a contract for interconnected operations between two utilities.

19. Type III Withdrawable Power means firm power which is withdrawable to protect the 1,152–MW Load Level before withdrawal of other types of noninterruptible power and which is subject to additional terms and conditions specified in an electric service contract.

20. Western Area Power Administration (Western) means the Federal power marketing administration within the U.S. Department of Energy (DOE) responsible for marketing the surplus generation from BuRec projects pursuant to Reclamation Law and the DOE Organization Act (91 Stat. 565).

21. Westlands Withdrawable Power means Long-Term Firm Power which is additionally withdrawable to meet the load requirements of Westlands Water District under conditions specified in the Customer's electric service contract and as specified in the Final Withdrawal Procedures.

22. The 1,152–NW Load Level means the maximum simultaneous customer load level of 1,152 MW that Western provides, and that PG&E is obligated to support, in accordance with the terms of the Santa Clara Settlement and Contract 2948A.

II. Marketing Area

The SAO of Western has a marketing area which generally encompasses the CVP water basin and the Washoe Project in northern Nevada. The generation of the sole powerplant of the Washoe Project, the Stampede Powerplant, is marketed within northern Nevada. The CVP resources have traditonally been utilized in the northern and central California area, and area planning has develped under the assumption that those resources will be used in the area. Under Contract 2948A, there are constraints involved with marketing CVP power resources outside the northern and central California area. Further, Western has no transmission capability to serve the northern Nevada area.

Given these considerations and constraints, Western will market its CVP power only within the northern and central California portion of the SAO marketing area.

III. Classes of Service

A. Long-Term Firm Power

Proposed option: Western will renew all Long-Term Firm Power CROD (349,195 kW) currently sold under existing contracts, including those having the Westlands Withdrawable Condition, with the same quantity of Long-Term Firm Power which each Customer had just prior to the earlier of the effective date of a new electric service contract entered into pursuant to this 1994 Power Marketing Plan or June 30, 1994. Such Long-Term Firm Power will be sold under new electric service contracts with standard terms and conditions as specified in sections IV. and V. below.

Alternative options: (1) Western will renew an amount equal to 95 percent of the Long-Term Firm Power CROD (331,735 kW) which each Customer had just prior to the earlier of the effective date of a new electric service contract entered into pursuant to this 1994 Power Marketing Plan or on June 30, 1994, provided that the minimum allocation for each such Customer shall be as specified in section V.A.3. below. The remaining amount to be allocated is an amount equal to 5 percent of the 349,195 kW of Long-Term Firm Power or 17,460 kW. These amounts may be modified by Western through the public comment process of this power marketing plan. The 17,460 kW, as it may be modified, will be allocated only to new Allottees which have not had previous contracts for firm power from Western. (2) Same as alternative option (1) except that the 17,460-kW amount, as may be modified by this 1994 Power Marketing Plan, will be allocated to Customer and/or new Allottees in amounts to be determined by Western. Under alternative options (1) or (2), such Long-Term Firm Power

will be allocated in accordance with sections VI.A and VI.B.1. below, and will be sold under new electric service contracts with standard terms and conditions as specified in sections IV. and V. below.

B. Type III Withdrawable Power

Proposed option: Western will renew all Type III Withdrawable Power CROD (36,409 kW) currently sold under existing contracts with the same quantity of Type III Withdrawable Power which each Customer had just prior to the earlier of the effective date of a new electric service contract entered into pursuant to this 1994 Power Marketing Plan or June 30, 1994. Such Type III Withdrawable Power will be allocated in accordance with section VI.B.3., and will be sold under new electric service contracts with standards terms and conditions as specified in sections IV. and V. below.

Alternative Option: Western will not renew the Type III Withdrawable Power CROD, allowing such contracts to terminate by their provisions on June 30, 1994.

C. Diversity Power

Proposed option: Western will not renew the Diversity Power CROD. Instead, Western will convert all 30 MW of the former Diversity Power to Type III Withdrawable Power Allocations. Such Type III Withdrawable Power will be allocated to new Allottees and/or existing Customers. Such Type III Withdrawable Power will be allocated in accordance with sections VI.A., VI.B.1, and VI.B.4. below, and will be sold under new electric service contracts with standard terms and conditions as specified in sections IV. and V. below.

Alternative Options: Western will not convert the Diversity Power to Type III Withdrawable Power and will either (1) renew the Diversity Power CROD in the same amounts with NASA-Ames, Stanford Linear Accelerator Center, and Lawrence Berkeley Laboratory but under new terms and conditions to be negotiated; or (2) allocate the 30 MW of Diversity Power to new Allottees and/or existing Customers in accordance with sections VI.A., VI.B.1, and VI.B.4. below. Such Diversity Power will be sold under new electric service contracts with standard terms and conditions as specified in sections IV. and V. below.

D. Interruptible Power

Proposed option: Existing Type III Interruptible Power (presently 89,795 kW) will be called Interruptible Power in contracts executed pursuant to this 1994 Power Marketing Plan. Western will renew an amount equal to 50 percent of the Type III Interruptible Power which each Customer had just prior to the earlier of the effective date of a new electric service contract entered into pursuant to this 1994 Power Marketing Plan or on June 30, 1994, provided that the minimum allocation shall be as specified in section V.A.3. below. The remaining 50 percent of the existing Type III Interruptible Power will be allocated to other Allottees which have Scheduling Agreements with Western, or which have real-time scheduling capability and which enter into Scheduling Agreements with Western. These amounts are allocated to protect the 1,152-MW Load Level and are, therefore, subject to interruption and withdrawal if the load level is exceeded. The actual amount allocated will be in accordance with sections VI.A. and VI.B.5. below and is subject to any withdrawals occurring prior to the execution of electric service contracts. Such power will be sold under new electric service contracts with standard terms and conditions as specified in sections IV. and V. below.

Alternative Options: (1) Western will not renew the existing Type III Interruptible Power, allowing it to terminate under the terms of the existing contract or June 30, 1994, whichever occurs earlier; or (2) Western will renew 75 percent, 67,346 kW, of the existing Type III Interruptible Power. The remaining 25 percent, 22,449 kW, and an additional 30 MW will be allocated to new Allottees with such Allocations made in accordance with sections VI.A. and VI.B.5. Under either option (1) or (2), such power will be sold under new electric service contracts with standard terms and conditions as specified in sections IV. and V. below.

E. Renewable Resource and Cogeneration Power

Proposed option: Western will renew all Renewable Resource and Cogeneration Power CROD (24,343 kW) currently sold under existing contracts with the same quantity of Renewable Resource and Cogeneration Power which each Customer had just prior to the earlier of the effective date of a replacement electric service contract entered into pursuant to this 1994 Power Marketing Plan or June 30, 1994. Each such Customer must have had an existing, effective, and operational contract for its Renewable Resource and Cogeneration Power in place for a 5-year period ending June 30, 1994. Renewable Resource and Cogeneration Allocations of 5.657 MW that were made in the 1981 Power Marketing Plan but which are not under an effective and operational contract shall be allocated as Long-Term Firm Power to new Allottees. Renewable Resource and Cogeneration Power will be sold under electric service contracts with standard terms and conditions as specified in sections IV. and V. below. Long-Term Firm Power will be allocated pursuant to sections VI.A. and VI.B.1., and will be sold under electric service contracts with standard terms and conditions as specified in sections IV. and V. below.

Alternative option: (1) Western will not renew the Renewable Resource and Cogeneration Power, but instead will reallocate such power as Long-Term Power and only to new Allottees, or only to existing Customers, or to both new Allottees and existing Customers. Long-Term Firm Power will be allocated in accordance with sections VI.A., VI. B.1., and VI.B.2. below, and will be sold under electric service contracts under terms and conditions as specified in sections IV. and V. below. (2) Western will allocate the Renewable Resource and Cogeneration Power to existing Customers and/or new Allottees who have not had a contract for Renewable Resource and Cogeneration Power. Renewable Resource and Cogeneration Power will be allocated in accordance with sections VI.A., VI.B.1., and VI.B.6. below and will be sold under electric service contracts under terms and conditions as specified in sections IV. and V. below.

F. Other Classes of Service

Proposed option: In this 1994 Power Marketing Plan, and depending on the option selected for the final 1994 Power Marketing Plan, Western will offer only Long-Term Firm Power, Diversity Power, Interruptible Power, Type III Withdrawable Power, and Renewable Resource and Cogeneration Power. Other classes of service, such as peaking capacity, emergency and backup power, and spinning reserves, if offered, will be marketed on a short-term basis or pursuant to a separate marketing plan.

Alternative option: None proposed.

IV. Electric Service Contract Conditions

A. Minimum Load Requirement

Proposed option: Western will reserve the right to terminate a contract if an Allottee that receives Federal power from the system of PG&E does not have monthly demands of 500 kW or more for 3 consecutive months in the 12 months immediately preceding the date that PG&E is requested by Western to begin service.

Alternative option: If power is received from the system of PG&E, the minimum load requirement could be raised to 1,000 kW.

B. Westlands Withdrawable Power

Proposed option: All power made available under new contracts effective July 1, 1994, will be made available without the Westlands Withdrawable Power condtition. The elimination of this condition will not affect Westlands Water District's current contract rights to power from Western.

Alternative option: All Long-Term Firm Power made available under new contracts effective July 1, 1994, will be made available with the Westlands Withdrawable Power condition. This option will have no affect on Westlands Water District's current contract rights to firm power from Western.

C. Integration Contract/Firming Service Condition

Proposed option: All power made available under new contracts effective July 1, 1994, will be made available without the condition that a Customer's CROD can be reduced in any amount necessary due to the expiration or termination of a firming contract with PG&E.

Alternative option: Western will require as a standard provision that a Customer's CROD can be reduced by any amount in the event of the expiration or termination of a firming contract with PG&E.

D. Transmission Service Condition

Proposed option: Western will be responsible for obtaining all necessary third-party transmission arrangements for delivery of its power to Customers in the PG&E service area unless otherwise agreed by Western, the transmission agent, and the affected Customers. Customers outside the PG&E service territory have the ultimate responsibility to obtain any necessary transmission contracts required from transmission of power from the PG&E service area to their point of delivery. The Customers will have 1 year from the execution of a contract with Western to acquire the necessary transmission service arrangements. Western will assist and cooperate with those Allottees to obtain any necessary transmission arrangements outside the PG&E service area.

Alternative option: Same as above, plus for those Customers not in the PG&E service area, Western will require as a condition that these Customers acquire the necessary transmission service arrangements within 6 months of the execution of an electric service contract with Western.

E. Contract Term

Proposed option: All electric service contracts which will be executed pursuant to this 1994 Power Marketing Plan shall have expiration dates of December 31, 2004.

Alternative option: None proposed.

F. Other Contract Conditions

Proposed option: All contracts entered into as a result of this 1994 Power Marketing Plan will incorporate, as applicable, Western's standard provisions for power sales contracts, including the latest version of the GPCP; withdrawals for project-use, load-level limit, and first preference; resale of electric energy; and conservation and renewable energy.

Alternative option: None proposed.

V. Draft General Allocation and Contract Principles

A. 1. Allocations of power will be made in amounts solely determined by Western.

2. The Allottee has the right to purchase such power only upon the execution of a new electric service contract between Western and the Allottee, and satisfaction of all conditions precedent in that contract.

3. The minimum Allocation shall be 500 kW provided that Western may waive this requirement for preference entities directly connected to Western's transmission system, which historically have had loads under 500 kW.

B. New or renewed Allocations will be sold with energy either provided (a) on an A-over-B basis where A is the CROD and B is the Customer's monthly peak demand, unless specifically excepted under Contract 2948A and agreed by Western, or (b) pursuant to a Scheduling Agreement where energy entitlements are based on the Customer's monthly average energy use calculated over the most recent 5-year period, and recalculated on a 5-year rolling basis, except as mutually agreed by Western and the Customer. Energy provided with Interruptible Power will be provided in quantities, at rates, and under other terms and conditions mutually agreed upon between Western and the Customer.

C. Contracts for renewal of Long-Term Firm Power, Type III Withdrawable Power, Interruptible Power, Diversity Power, and Renewable Resource and Cogeneration Power:

1. To consummate the renewal of any of the above classes of power pursuant to this 1994 Power Marketing Plan, new electric service contracts for such a service must be executed no later than the expiration date of the existing electric service contract, unless otherwise agreed in writing by Western. Renewed CROD shall be effective on the effective date of the new electrric service contract.

2. All contracts for a renewal of a Renewable Resource and Cogeneration CROD will not include return-energy provisions, However, the new contract shall contain an enabling provision providing for the sale of energy by the Customer to Western from sources available to the Customer, at market-based rates, such amounts and rates to be determined and agreed upon from time to time by the parties' dispatchers. Other terms and conditions for such an energy sale shall be negotiated.

D. To consummate any new Allocation, an electric service contract for such an Allocation shall be executed within 6 months of a contract offer by Western, unless otherwise agreed in writing by Western. New Allocations shall be effective on the later of the effective date of service under a new electric service contract or July 1, 1994.

E. Any renewed CROD or new Allocation or part thereof shall cease to exist as to the original Customer or Allottee if it is not under contract in the time period specified in subsections C.I. and D. above, or if a Customer's contract is terminated prior to December 31, 2004. In either case, Western will choose to:

1. Not allocate the particular class of service prior to 2004; or

2. Allocate the particular class of service at any time in accordance with the applicable criteria of this 1994 Power Marketing Plan to any qualifying applicant.

F. In the event that Type III Withdrawable Power or Interruptible Power is reduced to zero, such power may be reinstated in accordance with the terms of the contract, and the contract shall continue to exist through its term unless terminated by either party.

G. For New Renewable Resource and Cogeneration Power

1. To be effective, an executed contract will be contingent upon the development and commercial operation of a specific project. In the event that the original project does not meet this condition precedent, then Western will consider allowing a Customer to replace the original project with an alternate renewable resource or cogeneration project. The alternate project must comply with the intent and criteria of the renewable resource and

cogeneration program of the 1994 Power Marketing Plan.

2. The scheduled operation date of any planned generation project, as certified by a registered professional engineer, shall be within 3 years of the publication date of the Final Allocations. Failure of a project to begin commercial operation within this time period, as determined by Western, will give Western the option, upon giving 6-months' advance written notice to the Allottee, to rescind the Allocation. Allocations under contract shall not become effective until the first day of the month following commercial operation of the project.

3. Demonstration projects will not be considered.

4. All new contracts for Renewable Resource and Cogeneration Power shall contain an enabling provision providing for the sale of energy by the Customer to Western from sources available to the Customer, at market-based rates, such amounts and rates to be determined and agreed upon from time to time by the parties' dispatchers. Other terms and conditions for such an energy sale shall be negotiated.

H. Scheduling Agreements

Western will encourage and enter into Scheduling Agreements with its Customers when advantageous to Western's customer base as a whole and when consistent with applicable law or when required in accordance with the normal utility practice of interconnected utilities. Western may condition its entering into a Scheduling Agreement upon satisfactory resolution of issues related to interconnected operations, including use of transmission capacity, voltage support, power factor, reactive powerflow, system operations, and modifications of facilities.

I. Consolidation of Contract Rates of Delivery

Western will normally contract with each individual Customer. However, Western will enter into consolidated or combined delivery contracts with a group of Customers or with a representative of a group of Customers when advantageous to Western's customer base as a whole and when consistent with applicable law.

VI. Eligibility and Selection Criteria

A. Draft General Eligibility Criteria

In the event that new Allocations are to be made to existing Customers or new Allottees, the following General Eligibility Criteria shall apply to all applicants seeking an Allocation of power under the 1994 Power Marketing Plan.

1. Only applications from Preference Entities will be accepted.

2. To be eligible to receive an Allocation, the Preference Entity must have been in existence and operation, and be ready, willing, and able to receive and use or receive and distribute Federal power as of the publication date of the final 1994 Power Marketing Plan, except that Western will not require the Allottee to have in effect the necessary transmission contracts pursuant to section IV.D. as of that date.

3. Applicants shall file an application in response to the written notice issued by Western and published in the **Federal Register** in conjunction with this 1994 Power Marketing Plan. The filing instructions, format, and the deadline for the applications will also be published in the **Federal Register**.

B. Draft Specific Selection Criteria

In the event that Western decides to allocate to any new Preference Entities under the 1994 Power Marketing Plan, the following Specific Selection Criteria shall apply.

1. Specific Selection Criteria common to Long-Term Firm Power, Interruptible Power, Type III Withdrawable Power, Diversity Power, and Renewable Resource and Cogeneration Power:

a. An Allottee's minimum load at each delivery point to be served shall be no less than 500 kW at peak.

b. Allocations to new Allottees will be made only to those applicants in the PG&E service area.

c. Allocations to new irrigation or water districts will be made only to those who purchase CVP water or to those who have water rights recognized under California law.

d. Greater consideration will be given to those applicants who can demonstrate a contribution to Western's system diversity at the time of Western's simultaneous peak; i.e., the applicant's peak demands are not coincident with Western's peaks.

e. Greater consideration will be given to those applicants who have instituted and continue to actively pursue demand-side management activities.

f. Greater consideration will be given to those applicants who are constructing, planning, or developing new renewable resource and cogeneration projects.

g. Greater consideration will be given to those applicants who assist Western in its mission of meeting its customer loads at the lowest possible cost consistent with sound business principles. Factors such as, among others, providing transmission access to low-cost sources of power and aiding in providing efficient and reliable electrical service will be considered.

2. Additional Specific Selection Criteria for Long-Term Firm Power: Both new and existing Allottees (depending upon the Allocation option) will be considered.

3. Additional Specific Selection Criteria for Type III Withdrawable Power: Both new and existing Allottees will be considered.

4. Additional Specific Selection Criteria for Diversity Power Allocations:

a. Both new and existing Allottees will be considered.

b. Greater consideration will be given to those Allottees who have a historical or demonstrated potential to either reduce their Federal power or real-time schedule generation capacity to displace Western's deliveries at Western's weak periods.

5. Additional Specific Selection Criteria for Interruptible Power.

a. Both new and existing Allottees will be considered.

b. Greater consideration will be given to those Allottees who have a historical or demonstrated potential to either reduce their Federal power or real-time schedule generation capacity to displace Western's deliveries at Western's peak periods.

c. Only Allottees which have Scheduling Agreements with Western or have scheduling capability and which enter into Scheduling Agreements with Western will be considered.

6. Additional Specific Selection Criteria for Renewable Resource and Cogeneration Power:

a. Both new and existing Allottees will be considered.

b. Greater consideration will be given to those applicants whose generation projects reduce the United States dependence on natural gas or imported oil.

c. Greater consideration will be given to those applicants whose generation projects are environmentally benign.

d. Greater consideration will be given to those applicants whose generation projects result in significant improvements in energy efficiency and at the same time are cost effective over the life cycle of the powerplant.

VII. Stampede Powerplant

Proposed option: Western will not integrate the Stampede Powerplant of the Washoe Project with the CVP, provided that this decision does not preclude reconsideration of such integration at any time during the effective period of this 1994 Power Marketing Plan.

Alternative option: Western will integrate the Stampede Powerplant with the CVP. Stampede energy would then be integrated with CVP generation and other power purchases. The repayment obligation of Stampede, including the cost of transmitting the generation to Western's system, would then be met by the CVP.

VIII. Transmission Marketing Plan

Proposed option: SAO's transmission marketing policy consists of the following six components:

1. Western will deliver Federal power to project and customer loads as required under Reclamation Law and its contractual obligations.

2. Surplus transmission capability, if available after serving 1. above, will be utilized for power purchases associated with CVP sales of power to project and customer loads.

3. Surplus transmission capability, if available after serving 1. and 2. above, will be made available to Customers to serve their own firm load requirements not served by Western and who are directly connected to Western's transmission system.

4. Surplus transmission capability, if available after serving 1., 2., and 3. above, will be made available on a first-come first-served basis to any requesting utility. Generally capability will not be made available to nonutility generators, independent power producers, and qualifying facilities unless there is a utility involved.

5. Western will cooperate in area-wide emergency planning programs and utilize its transmission system to provide appropriate assistance during emergency and curtailment situations to assist all interconnected utilities where feasible.

6. Western will cooperate and assist customers in compatible efforts to integrate their transmission with Western's service and project and customer loads.

Alternative options: None proposed.

Environmental Compliance

In compliance with NEPA, Council on Environmental Quality Regulation (40 CFR Parts 1500 through 1508), and DOE guidelines published in the Federal Register on December 15, 1987 (52 FR 47662), Western is conducting an environmental assessment concurrently with the development of the 1994 Power Marketing Plan.

Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 601, *et seq.* (Act), each agency, when required to publish a proposed rule, is further required to prepare and make available for public comment an initial regulatory flexibility analysis to describe the impact of the proposed rule on small entities. Western has determined that (1) this rulemaking relates to service offered by Western, and therefore is not a rule within the purview of the Act; (2) there will be only a few qualifying applicants, which will be small entities; and (3) the impacts of an allocation from Western would not cause an adverse economic impact to such entities. The requirements of the Act can be waived if the head of the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. By his execution of this **Federal Register** notice, the Administrator certifies that no significant economic impact on a substantial number of small entities will occur.

Determination Under Executive Order 12291

The DOE has determined that the 1994 Power Marketing Plan alternatives and allocation criteria are not major rules because they do not meet the criteria of section 1(b) of Executive Order 12291, 46 FR 13193 (February 19, 1981). Western has an exemption from sections 3, 4, and 7 of Executive Order 12291; accordingly, no clearance of this procedure by Office of Management and Budget is required.

Issued at Golden, Colorado, July 21, 1989.

William H. Clagett,

Administrator.

[FR Doc. 89-18861 Filed 8-10-89; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-3626-7]

Environmental Impact Statements; Availability

Responsible Agency: Office of Federal Activities, General Information (202) 382-5073 or (202) 382-5075.

Availability of Environmental Impact Statements Filed July 31, 1989 Through August 4, 1989 Pursuant to 40 CFR 1506.9

EIS No. 890211, Final, FHW, AK, South Cushman Street Upgrading, Van Horn Road to Gaffney Road, Funding, Fairbanks, North Star Borough, AK, Due: September 11, 1989, Contact: Tom Neunaber (907) 586-7428.

EIS No. 890212, Final, AFS, ID, Lightning Peak Open Pit Mine Development, Plan of Operation Approval, Payette National Forest, Krassel Ranger District, Valley County, ID, Due: September 11, 1989, Contact: Earl Kimball (208) 634-8151.

EIS No. 890213, Final, AFS, SD, WY, Norbeck Wildlife Preserve Land Management Plan, Implementation, Black Hills National Forest Land and Resource Management Plan, Custer and Pennington Counties, SD, Due: September 11, 1989, Contact: Mary Sue Waxler (605) 673-2251.

EIS No. 890214, Final, AFS, AL, GA, KY, NC, SC, TN, VA, WV, Appalachian Mountains National Forests Vegetation Mangement Plan, Implementation, AL, GA, KY, NC, SC, TN, VA and WV, Due: September 11, 1989, Contact: Steve McCorquodale (404) 347-7076.

EIS No. 890215, FSuppl, IBR, CO, Rudi Reservoir Round II Water Sale Marketing Program, Fryingpa-Arkansas Project, CO, Due: September 11, 1989, Contact: Wayne Deason (303) 236-9336.

EIS No. 890216, Draft, AFS, ID, Cuddy Mountain Roadless Area Timber Sale and Road Construction, Payette National Forest Land and Resource Management Plan, Implementation, Washington and Adams Counties, ID, Due: September 25, 1989, Contact: Phil Gilman (208) 634-8151.

EIS No. 890217, Draft, FHW, CA, Bristol Street Improvement, Between Warner Avenue and Memory Lane, Funding, Orange County, CA, Due: September 25, 1989, Contact: Joyce Amerson (714) 467-5606.

EIS No. 890218, Draft, NPS, FL, Big Cypress National Preserve, General Management Plan, Implementation, Collier, Dade, and Monroe Counties, FL, Due: December 1, 1989, Contact: Fred Fagergren (813) 695-2000.

EIS No. 890219, Draft, FHW, FL, Miracle Parkway, Everest Parkway Improvement and Midpoint Bridge Construction, Over the Caloosahatchee River, Funding, Cape Coral to Fort Myers, Lee County, FL, Due: September 25, 1989, Contact: Brodie Rich (305) 536-4103.

EIS No. 890220, Final, FHW, CA, CA-52 Construction, Santo Road to CA-67, Funding and 404 Permit, San Diego and Santee Cities, San Diego County, CA, Due: September 11, 1989, Contact: Susan Klekar (619) 551-1307.

EIS No. 890221, Final, UAF, MT, Malstrom AFB, Deployment of the Second KC-135R Air Refueling Squardron, 301st Air Refueling Wing, City of Great Falls, Cascade County, MT, Due: September 11, 1989, Contact: LTC. Thomas J. Bartol (714) 382-4891.

EIS No. 890222, Final, EPA, LA, Barataria Bay Waterway, Ocean Dredged Material Disposal Site

(ODMDS), Designation, Jefferson Parish, LA, Due: September 11, 1989, Contact: Norm Thomas (214) 655-2260.

EIS No. 890223, Draft, FRC, OR, Salt Caves 80 MW Hydroelectric Project No. 10199, Construction and Operation, License, Klamath River, Klamath County, OR, Due: September 25, 1989, Contact: Frank Karwoski (202) 376-9284.

Dated: August 8, 1989.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 89-18865 Filed 8-10-89; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3626-8]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared July 24, 1989 through July 28, 1989 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) 382-5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 7, 1989 (54 FR 15006).

Draft EISs

ERP No. D-BOP-D81016-MD, Rating EC2, Cumberland Minimum Security Federal Prison Camp and Correctional Institution Facility, Construction and Operation, Mexico Farms Industrial Park, Cumberland, Alleghany County, MD.

Summary: EPA feels additional information is required to assess groundwater and wetland impacts of the alternatives. ERP No. DA-FHW-B40050-MA, Rating EC2, Central Artery/I-93 and Third Harbor Tunnel/I-90, South Boston Haul Road, Construction, Dorchester Avenue to Congress Street, Funding, 404 Permit and NPDES Permit, City of Boston, Suffolk County, MA.

Summary: EPA believes that this document lacks adequate soil and groundwater data from the standpoint of NEPA's disclosure requirements and federal and state hazardous waste and water pollution control regulations. As a result, the environmental consequences associated with the proposed project cannot be adequately assessed. Furthermore, the lack of groundwater and stormwater data limits EPA's ability to evaluate aspects of the project subject to National Pollutant Discharge Elimination System (NPDES) permits under the Clean Water Act.

ERP No. D-FHW-L40170-OR, Rating EC2, US 30/Columbia River Highway Improvements, Bennett Road to Columbia Road, Funding and 404 Permit, Columbia County, OR.

Summary: EPA's environmental concerns are based on potential water quality, wetlands, and noise effects. Additional information and clarification are needed on noise mitigation measures, water quality and fishery effects and mitigation, and the wetland mitigation plan.

Final EISs

ERP No. F-FHW-D40219-VA, Va-265/Danville Expressway Completion, US-58 to US-29, Funding and 404 Permit, City of Danville, Pittsylvania County, VA.

Summary: EPA expressed environmental concerns due to insufficient information pertaining to the alternative analysis, land use, water quality, and secondary development issues. EPA requested the preparation of a supplemental document or that further clarification of the issues be presented in the Record of Decision.

ERP No. F-FHW-G40119-TX, US 67 Bypass Construction, Near FM-1434 to Near Spur 102, Cleburne, Funding, Johnson County, TX.

Summary: EPA has no objection to the proposed action as described in this document.

Dated: August 8, 1989.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 89-18866 Filed 8-10-89; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59273; FRL-3626-6]

Toxic and Hazardous Substances; Test Market Exemption Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5(a) or (b) of the Toxic Substance Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt are discussed in EPA's final rule published in the Federal Register of May 13, 1983 (48 FR 21722). This notice, issued under section 5(h)(6) of TSCA, announces receipt of one application(s) for exemption, provides a summary, and requests comments on the appropriateness of granting this exemption.

DATES: Written comments by: T 89-19, August 17, 1989.

ADDRESS: Written comments, identified by the document control number "[OPTS-59273]" and the specific TME number should be sent to: Document Processing Center (TS-790), Office of Toxic Substances, Environmental Protection Agency, 401 M Street SW., Room L-100, Washington, DC 20460 (202) 382-3532.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Room EB-44, 401 M Street SW., Washington, DC 20460, (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer of the TME received by EPA. The complete nonconfidential document is available in the Public Reading Room NE-G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

T 89-19

Close of Review Period. August 31, 1989.

Manufacturer. Confidential.

Chemical. (G) Aminosilane.

Use/Production. (S) Film coating. Prod. range: 3,240 kg/yr.

Date: July 26, 1989.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 89-18832 Filed 8-10-89; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59872; FRL-3626-4]

Toxic and Hazardous Substances; Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences.

Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the Federal Register of May 13, 1983 (48 FR 21722). In the Federal Register of November 11, 1984 (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. Notices for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of six such PMN(s) and provides a summary of each.

DATES: Close of Review Periods:

Y 89-146, July 23, 1989.

Y 89-149, 89-150, July 25, 1989.

Y 89-151, August 1, 1989.

Y 89-15, 89-153, August 2, 1989.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Room EB-44, 401 M Street SW., Washington, DC 20460, (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the Public Reading Room NE-G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

Y 89-146

Manufacturer. Eastman Kodak Company.

Chemical. (G) Polyvinyl alcohol polymer.

Use/Production. (G) Contained use in an article. Prod. range: 100-500 kg/yr.

Y 89-142

Manufacturer. Confidential.

Chemical. (S) 1-Methyl-2-pyrrolidone.

Use/Production. (G) Decorative and protective coatings for wall, floor and metallic surfaces. Prod. range: Confidential.

Y 89-150

Manufacturer. Confidential.

Chemical. (S) Triethyl amine.

Use/Production. (S) Coatings, Prod. range: Confidential.

Y 89-151

Manufacturer. Confidential.

Chemical. (G) Polyester resin.

Use/Production. (G) An additive used in the plastic industry. Prod. range: Confidential.

Y 89-152

Importer. Nagase America Corporation.

Chemical. (G) Partially crosslinked polymer of styrene-butadiene rubber and a block polymer of polybutadiene and substituted acrylates.

Use/Import. (S) Binder of printing plates for flexography. Import range: 10,000-30,000 kg/yr.

Y 89-153

Manufacturer. Confidential.

Chemical. (G) Polyamide.

Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

Date: July 28, 1989.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 89-18833 Filed 8-10-89; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3626-9]

Underground Injection Control Program; Proposed Formation-Specific Maximum Injection Pressure Values for Class II Enhanced Recovery Wells on the Osage Mineral Reserve, Oklahoma

AGENCY: Environmental Protection Agency.

ACTION: Notice with request for comment.

SUMMARY: Notice is hereby given of proposed formation-specific limitations establishing formation-specific maximum injection pressure values for existing Class II enhanced recovery wells on the Osage Mineral Reserve, Oklahoma. The Regional Administrator is required to establish such maximum pressures after notice, opportunity for comment, and opportunity for a public hearing according to the provisions of 40 CFR part 124, subpart A, and will inform owners and operators in writing of the applicable maximum pressures.

DATES: The EPA will accept public comment, in writing, on the proposed formation-specific pressure limitations until September 26, 1989.

A public hearing to discuss this proposal has been scheduled for 7:00 p.m. on September 11, 1989. The hearing will be held at the Tri-County Technical School Auditorium in Bartlesville, Oklahoma. However if sufficient public interest is not expressed for a public hearing by September 1, 1989, the EPA reserves the right to cancel this hearing.

ADDRESS: Written public comments regarding this proposal need to be addressed to Gus Chavarria, Chief, UIC Permits and Enforcement Section (6W-SE), EPA, 1445 Ross Avenue, Dallas, Texas 75202-2733.

FOR FURTHER INFORMATION CONTACT: Gus Chavarria, UIC Permits and Enforcement Section (6W-SE), EPA, 1445 Ross Avenue, Dallas, Texas 75202-2733, (214) 655-7165.

SUPPLEMENTARY INFORMATION:

Background

These formation-specific limitations are being proposed under the authority of Part C of the Safe Drinking Water Act (SDWA) which specifically mandates regulation of underground injection of fluids through wells. The EPA has promulgated an EPA-administered program for the Osage Mineral Reserve, Oklahoma. This program requires the Regional Administrator to establish a maximum injection pressure for the field or formation in which existing Class II enhanced recovery wells are located (40 CFR 147.2912(b)(2)(i)). The EPA has considered various hydrologic, geologic and historical conditions in determining the proposed injection pressure limitations for existing Class II enhanced recovery wells. The pressure limitation informatiohn was derived from data submitted by operators pursuant to 40 CFR 147.2912(b)(2)(ii)(B).

Basis for Proposal

The EPA Region 6 required owners or operators of enhanced recovery wells to submit formation-specific, maximum pressure values on a field or project basis. Owners and operators of enhanced recovery wells submitted formation-specific, fracture related data on over 1,400 enhanced recovery wells. Some data, in addition to being formation and field specific are also well specific. In situations where data were not available for a specific enhanced recovery well, data from an offset well were accepted by the EPA.

The majority of the formation-specific, fracture related data received from the owners and operators of enhanced recovery wells were derived from the instantaneous shut-in pressure method for determining fracture pressure gradients. In formations with multiple wells, an average gradient was calculated.

These values will provide an adequate safety margin for the lowermost confining layer between the injection zone and the USDW. All gradient values were rounded to two significant figures. In fields or projects where no reliable data were available, the EPA is not proposing a fracture gradient value. Therefore, for those geologic formations being utilized for the enhanced recovery

of oil and gas not listed in Table 1, the formula to be utilized for determining the maximum injection pressure (Pm) is: Pm=(0.75 −0.433 (Specific Gravity))×Depth to injection in feet.

The EPA proposes to use the list of gradients in Table 1 as the limiting factor on wellhead injection pressures for each of the corresponding fields/projects and formations. Those owners and/or operators who feel that a particular value would adversely affect their injection operations may propose an alternative field or formation gradient during the comment period. These owners/operators may be granted a different value if they can demonstrate to the satisfaction of the Regional Administrator that the performance standards of 40 CFR 147.2912 (b) and (c) would be satisfied.

In some fields or projects where data were not submitted, were inconclusive or were inadequate, the EPA is unable to propose a gradient at this time. Operators with enhanced recovery wells in fields or projects not identified in this notice should submit their data during the comment period. Failure to submit the required data (40 CFR 147.2912(b)(2)(ii)(B)) will result in the EPA requiring individual or area permits in accordance with 40 CFR 147.2915(b)(1) of the Osage UIC program regulations.

Table 1 reflects the fracture gradients that were derived from the data submitted by the operators. It lists the field or project name, the formation, the legal location and the fracture gradient.

TABLE 1

Field/Project	Formation	Location	Gradient/ (psi/ft)
Atlantic	Bartlesville	T25N R8E	0.61
Avant			
North	Bartlesville	T24N R11E	0.61
West	Bartlesville	T23N R11E	0.89
	Cleveland	T23N R11E	0.73
	Bartlesville	T23N R10E	0.74
	Mississippi Chat	T23N R11E	0.71
Barker	Skinner	T24N R7E	0.57
	Mississippi Chat	T24N R7E	0.57
Barnsdall			
South	Bartlesville	T23N R11E	0.50
West	Bartlesville	T24N R10E	0.63
Bartlesville District	Bartlesville	T26N R12E	0.53
	Wayside	T27N R12E	1.10
Belford	Mississippi Chat	T24N R4E	0.71
Big Bend	Layton	T25N R3E	0.60
West	Layton	T25N R2E	0.60
East	Layton	T25N R3E	0.51
Bighorse District	Bartlesville	T27N R11E	0.66
Bird Creek	Bartlesville	T21N R12E	0.68
Blackland	Mississippi Chat	T27N R7E	0.53
Boston	Bartlesville	T21N R7E	0.50
Bowring	Wayside	T28N R11E	0.55
Buell	Skinner	T23N R9E	0.75
Bulldog District (South)	Bartlesville	T24N R9E	0.50
Burbank			
North	Burbank	T26N R5E & 6E, T27N R5E & 6E	0.57
Mid	Burbank	T26N R6E	0.56
South	Burbank	T25N R6E, T26N R6E	0.59
	Mississippi Chat	T25N R6E	0.55
Candy Creek	Mississippi Chat	T24N R12E	0.56
Dalton			
West	Tyner	T24N R7E	0.52
Doga (Southwest)	Mississippi Chat	T24N R4E	0.52
Dome District			
South	Bartlesville	T27N R10E, T26N R10E	0.78
Southwest	Bartlesville	T26N R10E	0.83
North	Wayside	T27N R10E	0.92
Drum Creek			
North	Mississippi Chat	T25N R4E	0.48
Northwest	Mississippi Chat	T25N R4E	0.49
Fairfax Unit	Burbank	T25N R6E	0.66
Flood A Unit	Burbank	T26N R6E	0.57
Gilliland	Bartlesville	T23N R7E, T23N R8E	0.76
Hardy			
East	Mississippi Chat	T25N R3E	0.46
Southeast	Mississippi Chat	T23N R3E	0.46
Happy Hollow	Mississippi Chat	T24N R8E	0.73
Herb District (South)	Mississippi Chat	T27N R10E	0.50
Hickory Creek	Wayside	T29N R11E	0.89
Hominy			
East	Bartlesville	T22N R9E	0.68
Kaw	Skinner	T26N R4E	0.52
Kennedy (St. John)	Skinner	T24N R7E, T25N R7E	0.71
Landon (Northwest)	Wayside	T28NN R9E	0.73
Madalene (East)	Prue	T21N R10E	0.87
Manion (North)	Bartlesville	T23N R9E	0.56
McCord	Layton	T25N R2E	0.57

TABLE 1—Continued

Field/Project	Formation	Location	Gradient/ (psi/ft)
Meyers (South)	Skinner	T26N R8E	0.65
NE Little Chief Unit	Burbank	T25N R6E, T26N R6E	0.56
Naval Reserve			
Northwest	Burbank	T25N R7E, T24N R7E	0.65
Mid	Burbank	T24N R7E	0.53
North Lone Spring	Cleveland	T23N R9E	0.73
Okesa (Southwest)	Bartlesville	T26N R11E	0.70
Osage City	Burgress	T21N R9E	0.67
	Bartlesville	T21N R8E & 9E, T22N R8E	0.77
Osage Hominy	Mississippi Chat	T23N R8E	0.77
Osage Hominy District (North)	Mississippi Chat	T24N R8E	0.75
Pearsonia	Mississippi Chat	T27N R8E	0.50
Pengelly	Bartlesville	T23N R7E, T23N R8E	0.76
Penn Creek	Skinner	T23N R8E	0.65
Pershing	Bartlesville	T24N R9E	0.46
Quapaw	Bartlesville	T25N R11E	0.55
Ramona	Bartlesville	T24N R12E	0.60
Remington	Mississippi Chat	T25N R5E, T25N R6E	0.67
Stanley Unit			
North	Burbank	T27N R6E	0.57
South	Burbank	T26N R6E	0.57
Shirley Unit	Mississippi Chat	T24N R9E	0.70
Slamans Unit	Mississippi Chat	T24N R8E	0.57
SSKW Unit	Burbank	T25N R6E	0.56
	Mississippi Chat	T25N R6E, T25N R7E	0.53
Tidal Osage	Bartlesville	T24N R8E	0.50
Wildhorse	Bartlesville	T22N R10E	0.58
	Cleveland	T22N R10E	0.74
Northeast	Bartlesville	T22N R10E	0.60
	Teneha	T22N R11E	0.58
Wynona	Bartlesville	T24N R9E, T24N R10E	0.49
West Littlechief Unit	Burbank	T26N R6E	0.59

Myron O. Knudson,

Director, Water Management Division (6W).

[FR Doc. 89-18831 Filed 8-10-89; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL HOME LOAN BANK BOARD

[No. 89-2214]

Federal Savings and Loan Insurance Corporation Insurance Premium

Date: August 3, 1989.

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice.

SUMMARY: The Federal Home Loan Bank Board ("Bank Board"), as operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC" or "Corporation"), has adopted a resolution pursuant to which the Corporation orders the assessment against each insured institution of an additional premium for FSLIC insurance in an amount equal to one eighth of one percentum of the total amount of the accounts of the insured members of such insured institution determined as of June 30, 1989, and prorated by the number of days from July 1, 1989 and the date of enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 ("FIRREA") during which such accounts were insured by the FSLIC.

EFFECTIVE DATE: August 11, 1989.

FOR FURTHER INFORMATION CONTACT: Carole Edwards, Financial Operations Division, FSLIC, (202) 416-2073, 1700 G Street NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: Whereas, the Federal Home Loan Bank Board ("Bank Board"), as operating head of the Federal Savings and Loan Insurance Corporation ("Corporation" or "FSLIC"), may authorize the Corporation, pursuant to section 404(c) of the National Housing Act, as amended ("NHA"), 12 U.S.C. 1727(c) (1982), to assess against each institution the accounts of which are insured by the Corporation pursuant to section 403 of the NHA, 12 U.S.C. 1726 (1982) ("insured institution"), additional premiums for such insurance until the amount of such premiums equals the amount of all losses and expenses of the Corporation, *provided* that the total amount so assessed in any one year against any insured institution shall not exceed one eighth of one per centum of the total amount of the accounts of the insured members of such institution and *provided further* that the amount of the additional premium for the calendar year 1989 may not exceed one-sixteenth of one percentum of the total amount of the accounts of the insured members of such institution unless the Bank Board determines that severe pressures on the Corporation exist which necessitate an infusion of additional funds; and

Whereas, The Bank Board, as operating head of the Corporation, by Resolution No. 85-142, dated February 22, 1985, by Resolution No. 85-437, dated June 5, 1985, by Resolution No. 85-770, dated August 28, 1985, by Resolution No. 85-1142, dated December 9, 1985, by Resolution No. 86-213, dated March 6, 1986, by Resolution No. 86-582, dated June 10, 1986, by Resolution No. 86-941, dated September 2, 1986, by Resolution No. 86-1253, dated December 15, 1986, by Resolution No. 87-281 dated March 16, 1987, by Resolution No. 87-610 dated May 27, 1987, by Resolution No. 87-950 dated September 9, 1987, by Resolution No. 87-1254 dated December 14, 1987, by Resolution No. 88-256 dated April 7, 1988, by Resolution No. 88-537 dated June 29, 1988, by Resolution No 88-981

dated September 15, 1988, by Resolution No. 88-1267 dated December 7, 1988, by Resolution No. 89-1028 dated March 15, 1989, and by Resolution No. 89-1539 dated June 8, 1989, ordered assessments against each insured institution of an additional premium for insurance in an amount equal to one thirty-second of one per centum of the total amount of the accounts of the insured members of each insured institution determined as of December 31, 1984, for the first assessment, as of March 31, 1985, for the second, as of June 30, 1985, for the third, as of September 30, 1985, for the fourth, as of December 31, 1985, for the fifth, as of March 31, 1986, for the sixth, as of June 30, 1986, for the seventh, as of September 30, 1986, for the eighth, as of December 31, 1986, for the ninth, as of March 31, 1987, for the tenth, as of June 30, 1987, for the eleventh, as of September 30, 1987, for the twelfth, as of December 31, 1987, for the thirteenth, as of March 31, 1988, for the fourteenth, as of June 30, 1988, for the fifteenth, as of September 30, 1988 for the sixteenth, as of December 31, 1988 for the seventeenth, and as of March 31, 1989 of the eighteenth; and

Whereas, the Bank Board has considered memoranda of the Corporate Accounting Branch and the Chief Financial and Administrative Office, Office of the FSLIC (a copy of which memoranda are in the Minute Exhibit file), describing the impact of the collection of the additional premiums for insurance assessed pursuant to Resolution No. 85-142, dated February 22, 1985, Resolution No. 85-437, dated June 5, 1985, Resolution No. 85-770, dated August 28, 1985, Resolution No. 85-1142, dated December 9, 1985, Resolution No. 86-213, dated March 6, 1986, Resolution No. 86-582, dated June 10, 1986, Resolution No. 86-941, dated September 2, 1986, Resolution No. 86-1253, dated December 15, 1986, Resolution No. 87-281, dated March 16, 1987, Resolution No. 87-610 dated May 27, 1987, Resolution No. 87-950 dated September 9, 1987, Resolution No. 87-1254 dated December 14, 1987, Resolution No. 88-256 dated April 7, 1988, Resolution No. 88-537, dated June 29, 1988, Resolution No. 88-981, dated September 15, 1988, Resolution No. 88-1267 dated December 7, 1988, Resolution No. 89-1228 dated March 15, 1989, and Resolution No. 89-1539 dated June 8, 1989, upon the Corporation's insurance reserves:

Now, therefore, it is resolved, That on the basis of the administrative record, the Bank Board finds and determines that the Corporation has incurred substantial losses during calendar years 1981 through the second quarter of 1989; and

Resolved further, That the Bank Board finds and determines that:

1. Losses and expenses incurred by the Corporation, as defined in Resolution No. 85-142, require the assessment of additional insurance premiums pursuant to section 404(c) of the NHA in addition to the additional insurance premiums assessed pursuant to Resolutions No. 85-142, No. 85-437, No. 85-770, No. 85-1142, No. 86-213, No. 86-582, No. 86-941, No. 86-1253, No. 87-281, No. 87-601, No. 87-950, No. 87-1254, No. 88-256, No. 88-537, No. 88-981, No. 88-1267, No. 89-1028, and 89-1539, in order to maintain the insurance reserves of the Corporation at a level adequate to meet in part the Corporation's losses and expenses and to protect the insured members of insured institutions;

2. Severe pressures on the Corporation exist which necessitate an infusion of additional funds;

3. Postponement of a reduction in the assessment of an additional premium, as provided in section 404(c)(2) of the NHA, will improve the financing environment for selling obligations of the Financing Corporation organized pursuant of the Federal Savings and Loan Insurance Corporation Recapitalization Act of 1987;

4. It is appropriate, therefore, to provide for assessment of an additional insurance premium at this time, pursuant to section 404(a)(2) and 404(c)(1) of the NHA, by order of this Corporation; and

Resolved further, That the Corporation hereby orders the assessment against each insured institution of an additional premium for insurance for the period from July 1, 1989 until the date of enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 ("FIRREA") in an amount equal to one eighth of one percentum of the total amount of the accounts of the insured members of such insured institution determined as of June 30, 1989, and prorated by the number of days from July 1, 1989 and the date of enactment of the FIRREA during which such accounts were insured by the FSLIC; and

Resolved further, That the additional insurance premium assessed pursuant to this Resolution shall be payable to the FSLIC, or to its successor, on or about September 30, 1989; and

Resolved further, That the Executive Director or the Principal Deputy Director of the FSLIC, or a designee of either of them ("Director"), shall determine the amount of the additional premium due, including an offset of one half of twenty percent (ten percent) of each insured institution's pro rata share of the statutorily prescribed amount as provided in section 404(e)(2) of the NHA, prorated by the number of days from July 1, 1989 and the date of enactment of the FIRREA, to be paid on or about September 30, 1989, by each insured institution, and shall notify each insured institution of such amount at least fifteen (15) days prior to the date such amount is due; and

Resolved further, That the Director, on behalf of the Corporation, is hereby authorized to take all other actions necessary or appropriate to determine and collect the additional insurance premium authorized and ordered by this Resolution; and

Resolved further, That the Secretary shall forward this Resolution for publication in the Federal Register.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 89-18786 Filed 8-10-89; 8:45 am]

BILLING CODE 6720-01-M

[No. 89-2178]

Power of Receiver and Conduct of Receiverships; Repurchase Agreements; Lincoln Savings and Loan Association

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice.

SUMMARY: The Federal Home Loan Bank Board is supplementing an earlier resolution concerning Lincoln Savings and Loan Association, Los Angeles, California ("Lincoln") to provide that the protections afforded to certain persons and entities engaged in repurchase agreements ("repos") with Lincoln will be afforded to such persons or entities engaged in similar transactions with Lincoln Savings and Loan Association, F.A., Irvine, California to which such repos were transferred by the Federal Savings and Loan Insurance Corporation as receiver for Lincoln.

EFFECTIVE DATE: August 2, 1989.

FOR FURTHER INFORMATION CONTACT: Lawrence W. Hayes, Deputy General Counsel for FSLIC, (202) 906-6248; or Deborah E. Siegel, Attorney, Office of General Counsel, (202) 906-6848; Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: The Board has adopted the following resolution:

Whereas, The Federal Home Loan Bank Board ("Board"), by its Resolution No. 89-2163, dated August 2, 1989, replaced the conservator for Lincoln Savings and Loan Association, Los Angeles, California ("Lincoln") with, and appointed, the Federal Savings and Loan Insurance Corporation ("Corporation") as receiver ("Receiver") for Lincoln; and

Whereas, The Board has previously adopted Resolution No. 89-1338, dated April 18, 1989, regarding repos ("Repo Resolution"); and

Whereas, The Board desires to supplement the Repo Resolution (which supplementation the Board does not consider to be an amendment or rescission of such Resolution) to take into account the transfer of certain of Lincoln's assets and liabilities to Lincoln Savings and Loan Association, F.A., Irvine, California ("New Federal") and to provide the same protections and commitments to counterparties to Repos with New Federal.

Now, therefore, the Board resolves as follows:

1. All references in the Repo Resolution to "Lincoln" shall also be references to New Federal.

2. This resolution shall be effective immediately upon its adoption by the Board.

3. The Secretary of the Board shall forward this resolution for publication in the Federal Register.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 89-18787 Filed 8-10-89; 8:45 am]

BILLING CODE 6720-01-M

[No. 89-2220]

Approval of Applications for Unlisted Trading Privileges; Midwest Stock Exchange, Inc.

Date: August 4, 1989.

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice of approval of applications.

SUMMARY: The Midwest Stock Exchange, Inc. filed with the Federal Home Loan Bank ("Board") applications ("Applications"), pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 ("Act") and Rule 12f-1 (17 CFR 240.12f-1) thereunder, for unlisted trading privileges in the following securities which are listed on one or more national securities exchanges:

The Dime Savings Bank of New York, Brooklyn, New York (FHLBB No. 7837), Common Stock, $1.00 Par Value

Home Owners Federal Savings and Loan Association, Boston, Massachusetts (FHLBB No. 3969), Common Stock, $.01 Par Value.

Notice of the Applications and opportunity for hearing was published in the **Federal Register** on January 24, 1989, and interested persons were invited to submit written data, views and arguments within 15 days. *See* Board Resolution No. 89-5, dated January 9, 1989. 54 FR 3531, January 24, 1989. The Board received no comments with respect to the Applications. Notice is hereby given that the Office of General Counsel for the Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the Applications for unlisted trading privileges in these securities on August 4, 1989.

SUPPLEMENTARY INFORMATION: The Board finds that the approval of the Applications for unlisted trading privileges in these securities is consistent with the maintenance of fair and orderly markets and the protection of investors. As a national securities exchange registered with the Securities and Exchange Commission ("Commission") pursuant to section 6 of the Act, the Midwest Stock Exchange, Inc. is subject to the provisions of paragraph (b) of that section, and to the Commission's inspection authority and oversight responsibility under sections 17 and 19 of the Act and the rules and regulations thereunder. Transactions in the subject securities, regardless of the market in which they occur, are reported in the consolidated transaction reporting system contemplated by Rule 11Aa3-1 under the Act. 17 CFR 240Aa3-1. The availability of last sale information for the subject securities should contribute to pricing efficiency and to ensuring that transactions on the Midwest Stock Exchange, Inc. are executed at prices which are reasonably related to those occurring in other markets. Further, the approval of the Applications will provide increased opportunities for competition among brokers and dealers and among exchange markets consistent with the purposes of the Act and the objectives of the national market system. Finally, the Board received no comments indicating that the granting of the Applications would not be consistent with the maintenance of fair and orderly markets and the protection of investors.

Accordingly, pursuant to section 12(f)(1)(B) of the Act, the Office of General Counsel for the Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the Applications for unlisted trading privileges in the above named securities on August 4, 1989.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 89-18788 Filed 8-10-89; 8:45 am]

BILLING CODE 6720-01-M

[No. 89-2219]

Applications for Unlisted Trading Privileges and Opportunity for Hearing; Midwest Stock Exchange, Inc.

Date: August 4, 1989.

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice of applications.

SUMMARY: The Midwest Stock Exchange, Inc. has filed, pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, applications ("Applications") with the Federal Home Loan Bank Board ("Board") for unlisted trading privileges in the following securities.

American Savings Bank, FSB, New York, New York (FHLBB No. 7776), Common Stock, No Par Value

Crossland Savings Bank, FSB, Brooklyn, New York (FHLBB No. 7812), Common Stock, No Par Value

Northeast Savings, F.A., Hartford, Connecticut (FHLBB No. 3231), Preferred Stock, $.01 Par Value.

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

COMMENTS: Any interested person may inspect the Applications at the Board, and, within 15 days of publication of this notice in the **Federal Register**, submit to the Corporate and Securities Division, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552, written data, views and arguments bearing upon whether the extensions of unlisted trading privileges pursuant to the Applications are consistent with the maintenance of fair and orderly markets and the protection of investors. Following this opportunity for hearing, the Board will approve the Application after the date mentioned above if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to the Application is consistent with the maintenance of fair and orderly markets and the protection of investors.

FOR FURTHER INFORMATION CONTACT: John P. Harootunian, Assistant General Counsel for Securities Policy, Corporate and Securities Division, Office of General Counsel, at (202) 906-6415 or at the above address.

By the Federal Home Loan Bank Board.
John F. Ghizzoni,
Assistant Secretary.

[FR Doc. 89-18769 Filed 8-10-89; 8:45 am]
BILLING CODE 6720-01-M

[No. 89-2218]

Application for Unlisted Trading Privileges and Opportunity for Hearing, Philadelphia Stock Exchange

Date: August 4, 1989.

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice of application.

SUMMARY: The Philadelphia Stock Exchange has filed, pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, an application ("Application") with the Federal Home Loan Bank Board ("Board") for unlisted trading privileges in the following securities.

Crossland Savings Bank, FSB, Brooklyn, New York (FHLBB No. 7812), Common Stock, $1.00 Par Value.

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

COMMENTS: Any interested person may inspect the Application at the Board, and, within 15 days of publication of this notice in the **Federal Register**, submit to the Corporate and Securities Division, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street NW., Washington, DC 20552, written data, views and arguments bearing upon whether the extension of unlisted trading privileges pursuant to the Application is consistent with the maintenance of fair and orderly markets and the protection of investors. Following this opportunity for hearing, the Board will approve the Application after the date mentioned above if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to the Application is consistent with the maintenance of fair and orderly markets and the protection of investors.

FOR FURTHER INFORMATION CONTACT: John P. Harootunian, Assistant General Counsel for Securities Policy, Corporate and Securities Division, Office of General Counsel, at (202) 906-6415 or at the above address.

By the Federal Home Loan Bank Board.
John F. Ghizzoni,
Assistant Secretary.

[FR Doc. 89-18790 Filed 8-10-89; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-776]

Charter Federal Savings and Loan Association; Final Action Denial of Conversion Application

Date: August 3, 1989.

Notice is hereby given that on August 3, 1989, the Federal Home Loan Bank Board denied the application of Charter Federal Savings and Loan Association, West Point, Georgia ("Association"), for permission to convert to the stock form of organization pursuant to a voluntary supervisory conversion and change in control.

By the Federal Home Loan Bank Board.
John F. Ghizzoni,
Assistant Secretary.

[FR Doc. 89-18791 Filed 8-10-89; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-778; FHLBB No. 5522]

Fayetteville First Federal Savings and Loan Association, Fayetteville, TN; Final Action Approval of Conversion Application

Date: August 4, 1989.

Notice is hereby given that on August 3, 1989, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Fayetteville First Federal Savings and Loan Association, Fayetteville, Tennessee, for permission to convert to the stock form of ogranization. Copies of the application are available for inspection at the Office of the Secretariat at the Federal Home Loan Bank Board, 1700 G Street NW., Washington, DC 20552, and at the Office of the Supervisory Agent at the Federal Home Loan Bank of Cincinnati, 2000 Atrium Two, 221 E. 4th Street, Cincinnati, Ohio 45201.

By the Federal Home Loan Bank Board.
John F. Ghizzoni,
Assistant Secretary.

[FR Doc. 89-18792 Filed 8-10-89; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-777]

Fedstar Savings Bank, F.S.B.; Alexandria, VA; Final Action Approval of Conversion Application

Date: August 4, 1989.

Notice is hereby given that on August 3, 1989, the Office of General Counsel ("OGC") and the Office of Regulatory Activities ("ORA"), or their respective designees, acting pursuant to delegated authority, approved the application of Fedstar Savings Bank, F.S.B., Alexandria, Virginia ("Fedstar"), for permission to convert to the stock form of organization pursuant to a voluntary supervisory conversion and the acquisition of the assets and liabilities of Fedstar by Household International, Inc., Prospect Heights, Illinois through the merger of Fedstar with and into Household Bank, f.s.b., Newport Beach, California the wholly-owned subsidiary of Household International, Inc.

By the Federal Home Loan Bank Board.
John F. Ghizzoni,
Assistant Secretary.

[FR Doc. 89-18793 Filed 8-10-89; 8:45 am]
BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10220. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-010877-001
Title: Tampa Port Authority Terminal, Lease Agreement
Parties: Gulf-Tampa of Florida, Inc. d/b/a, Southport Stevedores, Tampa Port Authority
Synopsis: The Agreement extends the terms of the basic Lease (Agreement No. 224-010877) until February 28, 1992.

Agreement No.: 224–200273
Title: City of Los Angeles Terminal Agreement
Parties: City of Los Angeles (CIA), Metropolitan Stevedore Company (MSA)
Synopsis: The Agreement provides for MSC to use certain lands, waters and/or facilities (premises) at 301 Terminal Way, Terminal Island, California for the purpose of operating a container freight station. It also provides that MSC will pay CLA 2,200 per month as rent for the use of the premises.

Agreement No.: 224–010877–002
Title: Tampa Port Authority Terminal, Lease Agreement
Parties: Gulf-Tampa of Florida, Inc. d/b/a, Southport Stevedores, Tampa Port Authority
Synopsis: The Agreement is an assignment of Southport Stevedores' Lease Agreement No. 224–010877 to Tampa Bay International Terminals, Inc.

By Order of the Federal Maritime Commission.

Dated: August 8, 1989.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 89–18826 Filed 8–10–89; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Main Line Bancshares, 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 September 1, 1989.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Main Line Bancshares, Inc.*, Wayne, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of National Bank of the Main Line, Wayne, Pennsylvania.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Graymont Bancorp, Inc.*, Graymont, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of State Bank of Graymont, Graymont, Illinois.

2. *Sheldon Security Bancorporation, Inc.*, Sheldon, Iowa; to acquire 54.3 percent of the voting shares of Sheldon Security Financial Corporation, Sheldon, Iowa, and thereby indirectly acquire Security State Bank, Sheldon, Iowa. In connection with this application, Sheldon Security Financial Corporation, has applied to become a bank holding company by acquiring 100 percent of the voting shares of Security State Bank.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Bainum Bancorp II*, Murfreesboro, Arkansas; to become a bank holding company by acquiring at least 80 percent of the voting shares of Pike County Bank, Murfreesboro, Arkansas, which engages in the sale, as agent, of credit related insurance sold in connection with extensions of credit made by the bank.

2. *Terre Du Lac Bancshares, Inc.*, St. Louis, Missouri; to acquire at least 52.71 percent of the voting shares of First National Bank of Callaway County, Fulton, Missouri.

3. *West-Ark Bancshares, Inc.*, Clarksville, Arkansas; to become a bank holding company by acquiring at least 80 percent of the voting shares of Arkansas State Bank, Clarksville, Arkansas.

D. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *P.N.B. Financial Corporation*, Kingfisher, Oklahoma; to retain 100 percent of the voting shares of First National Bank of Hennessey, Hennessey, Oklahoma.

E. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Surety Capital Corporation*, Fort Worth, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Texas National Bank of Lufkin, Lufkin, Texas.

Board of Governors of the Federal Reserve System, August 7, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89–18807 Filed 8–10–89; 8:45 am]

BILLING CODE 6210-01-M

Merchant House; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company; Correction

This notice corrects a previous **Federal Register** notice (FR Doc. 89–15942) published at page 28720 of the issue for Friday, July 7, 1989.

Under the Federal Reserve Bank of San Francisco, the entry for Merchant House is amended to read as follows:

1. *Merchant House*, Santa Ana, California; to become a bank holding company by acquiring 52.60 percent of the voting shares of PNB Financial Group, Inc., Newport Beach, California, and thereby indirectly acquire Pacific National Bank, Newport Beach, California.

In connection with this application, Applicant also proposes to acquire Pacific National Realty Finance, Newport Beach, California, and thereby engage in mortgage banking pursuant to § 225.25(b)(1), real estate appraisal pursuant to § 225.25(b)(13); and arranging commercial real estate equity financing pursuant to § 225.25(b)(14) of the Board's Regulation Y.

Comments on this application must be received by August 25, 1989.

Board of Governors of the Federal Reserve System, August 7, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89–18805 Filed 8–10–89; 8:45 am]

BILLING CODE 6210-01-M

Mid State Banks, Inc.; Application to Engage De Novo in Permissible Nonbanking Activities

The company listed in this notice has 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.

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 September 1, 1989.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Mid State Banks, Inc.*, Cordele, Georgia; to engage *de novo* in marketing and furnishing computer software and services to its three wholly-owned subsidiary banks and to third party banks pursuant to § 225.25(b)(7) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, August 7, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-18808 Filed 8-10-89; 8:45 am]

BILLING CODE 6210-01-M

Union Planters Corp.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) 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. Unless otherwise noted, such 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 September 1, 1989.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Union Planters Corporation*, Memphis, Tennessee; to acquire GulfNet, Inc., Mandeville, Louisiana, and thereby engage in providing to others data processing and data transmission services pursuant to § 225.25(b)(7) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, August 7, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-18809 Filed 8-10-89; 8:45 am]

BILLING CODE 6210-01-M

United Nebraska Financial Co.; 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 September 1, 1989.

A. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *United Nebraska Financial Co.*, Ord, Nebraska; to merge with Labanco, Inc., Ord, Nebraska, and thereby indirectly acquire Bank of Burwell, Burwell, Nebraska.

In connection with this application, Applicant proposes to retain Burwell Insurance Agency, Burwell, Nebraska, a subsidiary of Labanco, and thereby engage in general insurance activities in

a town with a population of less than 5,000 pursuant to § 225.25(b)(8)(ii) of the Board's Regulation Y. These activities will be conducted in the town of Burwell and in surrounding Garfield County, Nebraska.

Board of Governors of the Federal Reserve System, August 7, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-18810 Filed 8-10-89; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

[Announcement 950]

Development of a Disease Prevention and Health Promotion Program for the Laborers' National Health and Safety Fund of the Laborers' International Union of North America; Availability of Funds for Fiscal Year 1989

Introduction

The National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control (CDC), announces the availability of funds for a cooperative agreement for the development of a disease prevention and health promotion program the the Laborers' International Union of North America (LIUNA).

Authority

The program is authorized under section 20(a) of the Occupational Safety and Health act of 1970. Program regulations applicable to the cooperative agreement are set forth in Title 42, part 87, of the U.S. Code of Federal Regulations entitled "National Institute for Occupational Safety and Health Research and Demonstration Grants."

Eligible Applicant

Assistance will be provided only to the Laborers' National Health and Safety Fund (LNHSF) of the Laborers' International Union of North America (LIUNA). No other applicants will be solicited or will be accepted.

LNHSF is a joint labor management trustee organization established under the provisions of the Taft-Hartley Act for the membership of LIUNA. It has unique characteristics and capacities to meet the objectives stated by NIOSH. It is proposed that a cooperative agreement be negotiated with the LNHSF for the following reasons:

1. The LIUNA is the principal and largest organization of construction laborers in the U.S. It consists of 500,000 members, of which 320,000 are directly involved in construction. No other organization represents more construction laborers.

2. The LNHSF has access to personnel, job history, and medical and disability claims' records of all members of LIUNA. These are not available anywhere else.

3. The LNHSF of LIUNA is the only national institute involving employers and employee representatives with a commitment to the development of a program of research and development in occupational disease prevention and health promotion for construction laborers.

4. The LIUNA has instituted a program using funds from employers and employees to implement an ongoing disease prevention and health promotion program for construction laborers.

5. Construction laborers are not concentrated in any particular geographic area or with a few large companies. To reach these workers, a nationwide institution that represents them is required. LNHSF is the only institution or program that can provide access, organization, and commitment to controlling health problems in construction laborers. This group of workers is in the highest risk category for health problems of all workers. LIUNA has specifically identified the construction industry as a very high risk occupational area where innovative programs to eliminate or reduce these risks should be considered. There is overwhelming evidene that LIUNA possesses unique and superior qualifications and no other sources can fulfill the requirements of the program.

Availability of Funds

Approximately $77,000 is available in Fiscal Year 1989 to fund this award. The award is expected to beging September 30, 1989, for a twelve month budget perid in a one year project period.

Purpose

By the Year 2000, the LIUNA health program aims to eradicate differences in mortality rates for its members compared to the national average. This is consitent with the PHS Health Objectives for the Nation, The Cancer Control Objectives for the Year 2000, and the Report of the Secretary's Task Fore on Black and Minority Health. To accomplish this aim, (1) a program of state-of-the-science disease prevention and health promotion must be developed in accordance with the needs and characteristics of the LIUNA membership, (2) the LIUNA organization must be mobilized to implement it, and (3) program implementation must be monitored to determine progress towards the aim.

Program Requirements

NIOSH will assist LIUNA in identifying the occupational health risks to its members and in the development of protocols for disease prevention and health promotion activities.

(a) Recipient Activities

The LIUNA will conduct research and develop protocols to evaluate mortality and morbidity risks from occupational cardiovascular diseases, injuries, and respiratory cancers. The LNHSF will utilize health and personnel and personnel records of LIUNA members. The LNHSF will review LIUNA death records to assess feasibility for use in research.

Research conducted through this cooperative agreement that involves collection of information from 10 or more individuals will be subject to review under the Paperwork Reduction Act.

(b) NIOSH Activities

This project will be tracked within the Industrywide Studies Branch (IWSB) of the Division of Surveillance, Hazard Evaluations and Field Studies. The IWSB will collaborate with LIUNA on issues pertaining to research design, data handling, and medical screening; serve in an advisory capacity for the project; and coordinate the involvement of other specialists within CDC, such as from the Center for Environmental Health and Injury Control, CDC.

Evaluation Criteria

The application will be reviewed and evaluated according to the following crieria:

1. The applicant's understanding of the need or problem to be addressed and the purpose of this cooperative agreement.

2. The ability to provide the staff, knowledge, financial and other resources required to perform the applicant's responsibilities in this project, and describe the approach to be used in carrying out those responsibilities.

3. The extent to which the applicant understands the objectives of the project; the steps to be taken in planning and implementing this project, and the respective responsibilities of the applicant, NIOSH and any other entities for carrying out those steps.

4. The proposed schedule for accomplishing each of the activities to be carried out in this project and a

method for evaluating the accomplishment are clearly defined.

5. The qualifications and appropriateness of proposed program staff and time allocated for them to accomplish program activities; the support staff available for the performance of this project; and the facilities, space and equipment available for performance of this project.

6. The proposed plan for administering this project and the name, qualifications, and time allocations of the individual whom the applicant proposes to make responsible for its administration.

7. The estimated cost to the Government of the project, a detailed budget which indicates (1) anticipated costs for personnel, travel, communications and postage, equipment, and supplies and (2) the sources of funds to meet those needs.

Executive Order 12372 Review

Applications are not subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number is 13.262.

Application Submission and Deadline

LNHSF must submit an original and two copies of application form PHS 516-1 (Rev. 3/89) to Henry S. Cassell, III, Grants Managment Officer, Grants Managment Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., Room 300, Atlanta, Georgia 30305, on or before August 25 1989.

Where To Obtain Additional Information

If you are interested in obtaining additional information regarding this project, please refer to Announcement Number 950 and contract the following:

Business: Lisa G. Tamaroff, Grants Managment Specialist, Grants Managment Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., Room 300, Atlanta, Georgia 30305, (404) 842-6796 or FTS 236-6796.

Technical: Dr. Paul A. Schulte, Division of Surveillance, Hazard Evaluations, and Field Studies, National Institute for Occupational Safety and Health, Centers for Disease Control, Cinicinnati, Ohio 45213, (513) 841-4207 or FTS 684-4207.

J. Donald Millar,

Director, National Institute for Occupational Safety and Health.

[FR Doc. 89-18801 Filed 8-10-89; 9:45 am]

BILLING CODE 4160-19-M

[Program Announcement 003]

Assistance Request for Project Grants To Support Education To Prevent the Spread of the Human Immunodeficiency Virus (HIV) in Adults with Special Learning Needs

Introduction

The Centers for Disease Control (CDC) announces the availability of funds for Fiscal Year 1990 to support project grants for Human Immunodeficiency Virus (HIV) Prevention Projects targeted to adults, persons usually 21 years and older who are beyond the secondary school setting, with special learning needs. These include adult individuals with mental retardation, hearing or visual impairments, and other types of disabilities, which may be impediments to learning or to learning through conventional means, who are at risk of exposure to HIV.

Authority

These programs are authorized under the Public Health Service Act: section 301(a) (42 U.S.C. 241(a), as amended; and, section 317(k)(3) 42 U.S.C. 247(c)), as amended.

Eligible Applicants

Eligible applicants are public, private, nonprofit, and profit making organizations and institutions. Because of the urgency in getting appropriate HIV prevention knowledge and skills to adults with special learning needs, eligibility is limited to those applicants with an existing national organizational structure of local affiliates or collaborating organizations with a record of service to adults with mental retardation, sight or hearing impairments, or other types of disabilities, which may be impediments to learning or to learning through conventional means, who are at risk of exposure to HIV.

Availability of Funds

Approximately $500,000 will be available in Fiscal Year 1990 to fund approximately 3-5 awards. Awards are expected to range from $50,000 to $250,000 with an average award of $100,000. It is expected that awards will begin on or about January 1, 1990, for a 12 month budget period within a 1 to 3 year project period. Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

Purpose

The purpose of this program is to develop, implement, and evaluate initiatives to prevent HIV infection among adults with special learning needs, sight or hearing impairments, mental retardation, or other types of disabilities, which may be impediments to learning or to learning through conventional means, by:

A. Developing and disseminating curricula for adult instructional settings and/or nonschool-based educational materials on preventing HIV infection for use by local agencies serving persons with special learning needs; and/or

B. Developing and implementing training, including pilot testing as indicated, for teachers/client support persons in local organizations serving adults with special learning needs.

C. Developing and disseminating materials appropriate for use by adults with special learning needs community members, and their families.

Applications involving HIV education in a structured instructional setting should plan to also address related health concerns, such as other sexually transmitted diseases and drug abuse. Such applications should also consider the need to teach general skills, e.g., assertiveness, interpersonal communication, etc., that are relevant to HIV prevention.

Applicants will not be required to develop new instructional programs when successful programs have already been developed which can be disseminated to or replicated by other users. In fact, dissemination or replication of existing instructional materials is encouraged.

Program Requirements

A. Background and Need

Design a program of education and/or training for preventing HIV infection that enhances the program of local agencies and affiliates serving adults with special learning needs. Specifically:

1. Explain the special learning needs of adults being served;

2. Assess the adequacy of conventional modes, methods, or materials for educating constituents about preventing HIV infection;

3. Establish realistic, time-phased, and numerically measurable impact objectives for the project. Impact objectives for preventing HIV infection are precise statements of what the program expects to accomplish; specifically, how much the program expects to improve on baseline levels of HIV-related knowledge, attitudes, beliefs, (KAB) and behaviors over the next year. Initially, impact objectives may not be possible to establish

because KAB and behavior data for client populations may not be available. If so, process objectives would be used to begin the project. Process objectives state in measurable terms those next year activities most important to program success and whose progress management needs to monitor, e.g., to survey a random sample of clients and develop impact objectives using these baseline KAB and behavior data;

4. Create an operational plan to carry out the program promptly and effectively, considering the use of any existing networks that assist adults with special learning needs and the feasibility of educating them by conducting HIV prevention training for persons in those networks who presently provide them other forms of education and support; and

5. Outline an evaluation plan describing methods to monitor progress and to determine if impact objectives are achieved.

B. Develop a Plan and Implement the Program, Specifically

1. Obtain appropriate consultation and assistance from affiliates/clients to refine program plans and materials;

2. Obtain assistance, as needed, from consultants and affiliates/clients in gathering the KAB and behavior data necessary for setting impact objectives and evaluating both progress and ultimate results;

3. Develop or select and review educational/training materials to be used by the program;

4. Provide logistical and technical support (e.g., arrange to have HIV experts available for program workshop, meetings, conferences, etc.) to facilitate implementation; and

5. Collaborate and coordinate program activities with other Federally funded activities in order to avoid duplicative, competitive, inconsistent, or wasteful efforts, e.g., State and local HIV Prevention and Surveillance programs funded by CDC.

C. Assess program progress in carrying out activities and achieving process and impact objectives.

D. Participate in sharing program descriptions, progress reports, and educational materials through the CDC National AIDS Information clearinghouse database and utilize the Clearinghouse database to avoid duplication of efforts.

E. Participate in CDC sponsored conferences dealing with program activities.

Other Requirements

Applications must comply with the document titled: Content of AIDS-Related Written Materials, Pictorials, Audiovisuals, Questionnaires, Survey Instruments, and Educational Sessions (October 1988) (54 FR 10049, March 9, 1989).

Review and Evaluation Criteria

A. Competing Applications

Each application will be reviewed and evaluated on an individual basis according to the following criteria:

1. The need for support as documented in the application about the special learning needs of adults who are at risk of HIV infection being served and assessment of the adequacy of conventional modes, methods, or materials for educating constituents about preventing HIV infection. (15 points)

2. The appropriateness of the applicant's record of service to adults with special learning needs for whom the program is directed and the extent to which the applicant has the organization and affiliations to mount a nationwide education dissemination or training initiative; familiarity with effective programs that are already available locally and the capability to readily adapt such a program for broad dissemination; and a current access to, or relationship with, persons directly training adults with special learning needs. (25 points)

3. The appropriateness and feasibility of proposed program in achieving this program's purpose of helping adults with special learning needs in preventing HIV infection. (20 points)

4. The appropriateness of the applicant's impact and process objectives. Where KAB and behavior data are not available for setting impact objectives, this criterion will focus on the process objectives; however, attention will be given to plans to obtain data which will permit the establishment of impact objectives during the course of the project. (15 points)

5. The quality and feasibility of the operational plan to carry out the proposed program and achieve the applicant's impact and process objectives. (15 points)

6. The appropriateness and quality of the proposed plan for evaluation in monitoring ongoing progress and in assessing the achievement of objectives. (10 points)

In addition, consideration will be given to the appropriateness and reasonable of the budget request, proposed use of project funds, and the extent to which the applicant is contributing its own resources to HIV/AIDS prevention activities.

B. Noncompeting Continuation Application

Continuation awards within an approved project period will be made on the basis of availability of funds and documented progress toward the achievement of established objectives; the extent to which objectives for the new budget period are consistent with the purposes for which the project grant was originally approved, and are realistic, specific, measurable, and time-phased, and the extent to which any proposed changes in the need for support, objectives, methods of operation, evaluation plans, or personnel are likely to enhance the success of the project. In addition, consideration will be given to the extent to which the budget request and proposed use of project funds are appropriate and reasonable.

Funding Priorities

Priority consideration will be given to those organizations who demonstrate (1) familiarity with effective programs that are already available locally and the capability to readily adapt such a program promptly for broad dissemination; and (2) a current access to, or relationship with, persons directly training adults with special learning needs who might assist in actually delivering, reinforcing, or evaluating HIV prevention training.

Priority will be given to supporting at least one project addressing each of the populations listed above with special learning needs.

E.O. 13372 Review

Applications are not subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number is *13.118*, Acquired Immunodeficiency Syndrome (AIDS) Activity.

Application and Submission Deadline

The original and two (2) copies of the application (PHS 5161-1) must be submitted to Candice Nowicki, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., Room 300, Atlanta, GA 30305, on or before October 20, 1989.

A. *Deadline.* Applications shall be considered as meeting the deadline if they are either:

1. Received at the above address on or before the deadline date, or

2. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

B. *Late Applications.* Applications which do not meet the criteria in A. 1. or 2. are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Where To Obtain Additional Information

Information on application procedures, copies of application forms, and other materials may be obtained from Marsha D. Driggans, Grants Management Specialist, Grants Management Branch, Procurement and Grants office, Centers for Disease Control, 255 East Paces Ferry Road, NE., Room 300, Atlanta, GA 30305, (404) 842-6575.

Announcement Number 003 "Project Grants to Support Education to Prevent the Spread of Human Immunodeficiency Virus in Persons With Special Educational Needs" must be referenced in all requests for information pertaining to these projects.

Technical information may be obtained from Willard Cates, M.D., Division of Sexually Transmitted Diseases, Center for Prevention Services, Centers for Disease Control, Atlanta, Georgia, 30333, Telephone (404) 639-2552.

Dated: August 7, 1989.

Glenda S. Cowart,

Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 89-18800 Filed 8-10-89; 8:45 am]

BILLING CODE 4160-18-M

Family Support Administration

Forms Submitted to the Office of Management and Budget for Clearance

The Family Support Administration (FSA) will publish on Fridays information collection packages submitted to the Office of Management and Budget (OMB) for clearance, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). Following is the Federal Register submission for FSA:

Participation Rate Statistical Report—FSA—103—New—The information is needed to determine the JOBS program participation rate and appropriate Federal Financial Participation (FFP) rate in each State. Respondents: States or local Governments; Number of Respondents: 51; Frequency of Response: Quarterly; Average Burden per Response: 12 hours; Estimated Annual Burden: 2,448 hours.

OMB Desk Clearance Officer: Justin Kopca.

Consideration will be given to comments and suggestions received within 60 days of publication. Written comments and recommendations for the proposed information should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3201, 1725 17th Street, NW., Washington, DC 20503.

Dated: July 28, 1989.

Naomi B. Marr,

Associate Administrator, Office of Management and Information Systems.

[FR Doc. 89-18366 Filed 8-10-89; 8:45 am]

BILLING CODE 4150-04-M

Forms Submitted to the Office of Management and Budget for Clearance

The Family Support Administration (FSA) will publish on Fridays information collection packages submitted to the Office of Management and Budget (OMB) for clearance, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Since the last scheduled publication on August 4, 1989, the following packages were submitted to OMB:

For a copy of packages, call the FSA, Reports Clearance Officer on 202-252-5598.

1. Annual Report on Households Assisted by the Low Income Home Energy Assistance Program (LIHEAP)—0960-0446—Requires LIHEAP grantees to provide counts each year on the number and income levels of households assisted by LIHEAP funds and the number of households assisted with elderly or handicapped members. Respondents: State or local governments; Number of Respondents: 185; Frequency of Response: 1; Average Burden per Response: 45 hours; Estimated Burden: 8,325 hours.

2. 45 CFR 95.600 State Requests For HHS Approval of Federal Financial Participation in the Cost of ADP Systems, Equipment and Services—0990-0058—To receive Federal financial participation in the costs of their ADP acquisitions, States must obtain HHS prior approval of advance planning documents and related procurement documents. This process implements HHS policies governing Federal assistance to States in information systems development. The information collections are:

A. *Title: 45 CFR 95.605 Advance Planning Documents*—Respondents: State or local governments; Number of respondents 50; Frequency of response: 115; Average Burden per response: 60 hours; Estimated Burden: 6,900 hours.

B. *Title: 45 CFR 95.611 Prior Approval Condition*—Respondents: State or local governments; Number of respondents 50; Frequency of response: 96; Average Burden per response: 1.5 hours; Estimated Burden: 144 hours.

C. *Title: 45 CFR 95.617 Ownership Rights Disclosure Clause*—Respondents: State or local governments; Number of respondents N/A; Frequency of response: N/A; Average Burden per response: No Federal Burden—already part of state contracts; Estimated Burden: 0.

D. *Title: 45 CFR 95.621 Service Agreement (Recordkeeping Requirement)*—Respondents: State or local governments; Number of respondents 14; Frequency of response: 14; Average Burden per response: 1 hours; Estimated Burden: 14.

E. *Title: 45 CFR 95.624 Emergency Situation Request*—Respondents: State or local governments; Number of respondents 27; Frequency of response: 27; Average Burden per response: 1; Estimated Burden: 27.

Total Estimated Burden for all Collections: 7,085 hours.

3. Applications and Discontinuances for Aid to Families with Dependent Children (AFDC)—FSA-3800—0970-0003—The information collected on the FSA-3800 is needed to monitor the AFDC program. This form provides basic quarterly information on applications, disposition of applications and reasons for discontinuances. Respondents: States or local governments; Number of Respondents: 54; Frequency of Response: Quarterly; Average Burden per Response: 4 hours; Estimated Annual Burden: 864 hours.

OMB Desk Officer: Justin Kopca.

Written comments and recommendations for the proposed information collections should be sent directly to the OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3201, 725 17th Street NW., Washington, DC 20503.

Dated: August 4, 1989.

Naomi B. Marr,

Associate Administrator, Office of Management and Information Systems, FSA.

[FR Doc. 89-18761 Filed 8-10-89; 8:45 am]

BILLING CODE 4150-04-M

Food and Drug Administration

[Docket No. 89N-0334]

Drug Export; Quinapril Hydrochloride

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Parke-Davis has filed an application requesting approval for the export of the human drug Quinapril Hydrochloride to France.

ADDRESS: Relevant information on this application may be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, 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: Mary F. Cooper, Division of Drug Labeling Compliance (HFD-313), Center for Drug Evaluation and Research, Food and Drug Administration 5600 Fishers Lane, Rockville, MD 20857, 301-295-8073.

SUPPLEMENTARY INFORMATION: The Drug Export Amendment Act of 1986 (Pub. L. 99-660) (section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382)) provides that FDA may approve applications for the export of drugs that are not currently approved in the United States. The approval process is governed by section 802(b) of the act. 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 facilitiate public participation in its review of the application. To meet this requirement, the agency is providing notice that Parke-Davis Pharmaceutical Research Division, Warner-Lambert Co., 2800 Plymouth Rd., Ann Arbor, MI 48105-2430, has filed an application requesting approval for the export of the drug Quinapril Hydrochloride, to France. This drug is indicated for use in the treatment of arterial hypertension and congestive heart failure. The application was received and filed in the Center for Drug Evaluation and Research on July 21, 1989, 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 August 21, 1989, 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, Pub. L. 99-660 (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: August 2, 1989.

Daniel L. Michels,

Director, Office of Compliance, Center for Drug Evaluation and Research.

[FR Doc. 89-18819 Filed 8-10-89; 8:45 am]

BILLING CODE 4160-01-M

Advisory Committee; Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

MEETING: The following advisory committee meeting is announced:

Anti-Infective Drugs, Advisory Committee

Date, time, and place. August 17, 1989, 8 a.m., Hyatt Regency, One Bethesda Metro Center, Bethesda, MD.

Type of meeting and contact person. Open committee discussion, 8 a.m. to 11:15 a.m., open public hearing, 11:15 a.m. to 12:15 p.m., unless public participation does not last that long; open committee discussion, 1:15 p.m. to 5 p.m.; Thomas E. Nightingale, Center for Drug Evaluation and Research (HFD-9), Rm. 8B-45, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5455.

General function of the committee. The committee reviews and evaluate available data on the safety and effectiveness of marketed and investigational human drugs for use in infectious diseases.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person as soon as possible, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee and consultants from the academic community, industry, and acquired immunodeficiency syndrome (AIDS) advocacy groups will discuss issues raised by recent proposals for the expanded availability of experimental drugs and in the treatment of human immunodeficiency virus (HIV) infection (parallel tracking).

FDA is giving less than 15 days public notice of this meeting because of the urgent need to discuss the concept and implementation of expanded availability. It is the Public Health Service goal to make promising investigational drugs available to patients with life-threatening conditions as early as possible in drug development. The proposals under consideration would place an increased emphasis on early availability of promosing investigational agents for people with no therapeutic alternatives, while still maintaining the integrity of controlled clinical trials intended to demonstrate the safety and efficacy of these agents. The next regularly scheduled meeting of the committee is November 20, and 21, 1989. FDA does not believe it appropriate to wait that long. Attempts were made to schedule a committee meeting later in August or early September to permit sufficient time for at least a 15-day public notice of the meeting. The agency decided that it was in the public interest to hold this scientific discussion on August 17, 1989, even if there was not sufficient time for

the customary 15-day public notice.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are not closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentation by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

Details on the agenda, questions to be addressed by the committee, and a current list of committee members are available from the contact person before and after the meeting. Transcripts of the open portion of the meeting will be available from the Freedom of Information Office (HFI-35), Food and Drug Administration, Rm. 12A-16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting will be available from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: August 9, 1989

Adam J. Trujillo,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 89-18934 Filed 8-9-89; 11:29 am]

BILLING CODE 4160-01-M

Public Health Service

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Public Health Service (PHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on Friday, August 4, 1989.

Call Reports Clearance Officer on 202-245-2100 for copies of package.

1. Reporting and Recordkeeping Requirements for Electronic Products under Public Law 90-602 General Requirements—0910-0025—In order to protect the public from unnecessary exposure to radiation from electronic products, FDA must collect certain information from manufacturers and dealers/distributors about electronic products they sell and install. Respondents: Businesses or other for-profit, small businesses or organizations.

	No. of respondents	No. of hours per response	No. of responses per respondent
21 CFR 1002.10-1010.5(d)			
Reporting	1,601	9.88	6
Recordkeeping	41,601	31.00	

Estimated annual burden—1,387,410 hours.

2. National Household Seroprevalence Survey (NHSS)—Pretest—0920-0235—The Centers for Disease Control is proposing a pretest to address the feasibility of a national survey of HIV seroprevalence and to determine the best methods for a national survey. The pretest builds upon a pilot study conducted in Allegheny County, Pennsylvania, earlier this year. The pretest will involve a sample of about 2,300 households in Dallas County, Texas. In each household, one adult in the age range of 18-54 years will be randomly selected and invited to participate. The results of the pretest will be used to decide whether to proceed with a full scale national survey. Respondents: Individuals or households. Number of Respondents: 2,300; Number of Responses per Respondent: 1; Average Burden per Response: 0.616 hours; Estimated Annual Burden: 1,417 hours.

OMB Desk Officer: Shannah Koss-McCallum

Written comments and recommendations for the proposed information collections should be sent directly to the OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC, 20503.

Dated: August 9, 1989.

James M. Friedman,

Acting Deputy Assistant Secretary for Health (Planning and Evaluation).

[FR Doc. 89-18958 Filed 8-10-89; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N-89-2031]

Submission of Proposed Information Collection to the Office of Management and Budget

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: John Allison, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 755-6050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: August 3, 1989.

David S. Cristy,

Deputy Director, Information Policy and Management Division.

Proposal: Comprehensive Improvement Assistance Program (CIAP): Application Requirements (F.R.-2488).

Office: Public and Indian Housing.

Description of the Need for the Information and Its Proposed Use: This information collection will be used by Public Housing Agencies/Indian Housing Authorities (PHAs/IHAs) in assessing their physical and management improvement needs and in applying for CIAP funds. It is necessary to carry out the statutory requirements for CIAP.

Form Number: HUD-52823, 52824, 52825, 50070, 52820.

Respondents: State of Local Governments and Non-Profit Institutions.

Frequency of Submission: On Occasion.

Reporting burden:

	Number of respondents	Frequency of response	Hours per response	Burden hours
Management Needs Assessment	1,100	1.5	4	6,600
HUD-52824, Five-Year Funding Request Plan	1,600	1.0	3	4,800
HUD-52825, Comprehensive Assessment/Program Budget	1,600	1.0	10	16,000
Narrative Statement Addressing Technical Review Factor	1,600	1.0	2	3,200
Replacement Reserves Estimate (Survey)	1,100	1.5	1	1,650
HUD-52823, Project Financial Forecast	1,000	1.5	2	2,300
Participating Homeownership Unit/Cost (Sruvey)	60	4.0	1	240
Modernization on Organization and Staffing Plan	1,400	1.0	2	2,800
PHA Report on Local Compliance with Cooperative Agreement	1,600	1.0	.50	800
HUD-50070, Certification for a Drug-Free Workplace	1,600	1.0	.25	400
HUD-52820, PAA/FHA Board Resolution Approving CIAP Application	1,600	1.0	.25	400

Total Estimated Burden Hours: 40,190.

Status: Revision.

Contact: Pris Buckler, HUD, (202) 755-6640, John Allison, OMB, (202) 395-6880.

Dated: August 3, 1989.

[FR Doc. 89-18767 Filed 8-10-89; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N-89-2032]

Submission of Proposed Information Collection to the Office of Management and Budget

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: John Allison, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 755-6050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the

proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Date: August 4, 1989.

John T. Murphy,

Director, Information Policy and Management Division.

Proposal: Collection of Multifamily Assisted Housing Addresses and Site Identification Codes.

Office: Policy Development and Research.

Description of the Need For The Information and Its Proposed Use: The data collected will be used to generate information descriptive of HUD's multifamily assisted housing programs. It will be used to more effectively monitor HUD's programs as well as target compliance reviews.

Form Number: HUD-951.

Respondents: State or Local Governments, Businesses of Other For-Profit, and Non-Profit Institutions.

Frequency of Submission: One Time Only.

Reporting Burden:

	Number of respondents	Frequency of response	Hours per response	Burden hours
HUD 951	21,000	3	.33	20,790

Total Estimated Burden Hours: 20,790.

Status: Extension.

Contact: John B. Carson, Jr., HUD, (202) 755-5574, John Allison, OMB, (202) 395-6880.

Dated: August 4, 1989.

[FR Doc. 89-18768 Filed 8-10-89; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N-89-2033]

Submission of Proposed Information Collection to the Office of Management and Budget

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: John Allison, OMB Desk Officer, Office of Management Building, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 755-6050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal: (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of repondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42. U.S.C. 3535(d).

Dated: August 2, 1989.

John T. Murphy,

Director, Information Policy and Management Division.

Proposal: Housing Survey, OHRC/RFA HA-15094 (Under Cooperative Agreement) Type II.

Office: FHEO.

Description of the Need for the Information and Its Proposed Use: Under the Housing Discrimination, Civil Rights Law, we will survey 5,000 respondents by mail to gather data concerning their attitude toward, knowledge of, and experience with the Fair Housing Laws and issues. The Department will use the data to enhance an outreach/education program for detection of housing discrimination.

Form Number: None.

Respondents: Individuals or Households.

Frequency of Submission: Other.

Reporting Burden:

	Number of repondents	Frequency of response	Hours per response	Burden hours
Survey	5,000	1	.33	1,667

Total Estimated Burden Hours: 1,667.
Status: New.
Contact: George Wilson, HUD, (202) 755-0455; John Allison, OMB, (202) 395-6880.

Dated: August 2, 1989.

[FR Doc. 89-18769 Filed 8-10-89; 8:45 am]

BILLING CODE 4210-01-M

Office of the Assistant Secretary of Housing—Federal Housing Commissioner

[Docket No. N-89-1917; FR-2606]

Underutilized and Unutilized Federal Buildings and Real Property Determined to be Suitable for Use for Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized and underutilized Federal property determined by HUD to be suitable for possible use for facilities to assist the homeless.

EFFECTIVE DATE: August 11, 1989.

ADDRESS: For further information, contact Morris Bourne, Director, Transitional Housing Development Staff, Room 9140, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 755-9075; TDD number for the hearing- and speech-impaired (202) 426-0015. (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88-2503-OG (D.D.C.), HUD is publishing this Notice to identify Federal buildings and real property that HUD has determined are suitable for use for facilities to assist the homeless. The properties were identified from 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.

The Order requires HUD to take certain steps to implement section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), which sets out a process by which unutilized or underutilized Federal properties may be made available to the homeless. Under section 501(a), HUD is to collect information from Federal landholding agencies about such properties and then to determine, under criteria developed in consultation with the Department of Health and Human Services (HHS) and the Administrator of General Services (GSA), which of those properties are suitable for facilities to assist the homeless. The Order requires HUD to publish, on a weekly basis, a Notice in the **Federal Register** identifying the properties determined as suitable.

The properties identified in this Notice may ultimately be available for use by the homeless, but they are first subject to review by the landholding agencies pursuant to the court's Memorandum of December 14, 1988 and section 501(b) of the McKinney Act. Section 501(b) requires HUD to notify each Federal agency with respect to any property of such agency that has been identified as suitable. Within 30 days from receipt of such notice form HUD, the agency must transmit to HUD: (1) Its intention to declare the property excess to the agency's need or to make the property available on an interim basis for use as facilities to assist the homeless; or (2) a statement of the reasons that the property cannot be declared excess or made available on an interim basis for use as facilities to assist the homeless.

First, if the landholding agency decides that the property cannot be declared excess or made available to the homeless for use on an interim basis the property will no longer be available.

Second, if the landholding agency declares the property excess to the agency's need, that property may, if subsequently accepted as excess by GSA, be made available use by the homeless in accordance with applicable law and the December 12, 1988 Order and December 14, 1988 Memorandum, subject to screening for other Federal use.

Finally, in lieu of declaring any particular property as excess, the landholding agency may decide to make the property available to the homeless for use on an interim basis.

Homeless assistance providers interested in any property identified as suitable in this Notice 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 such written expressions of interest within 30 days from the date of this Notice. For complete details concerning the timing and processing of applications, the reader is encouraged to refer to HUD's **Federal Register** notice on June 23, 1989 (54 FR 26421), as corrected on July 3, 1989 (54 FR 27975).

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilites, exact street address), providers should contact the appropriate landholding agencies at the following addresses: U.S. Army: (Military Facilities) HQ-DA, Attn: DAEN-ZCI-P-Robert Conte; Room 1E671 Pentagon, Washington, DC 20360-2600 (202) 693-4583; (Corps of Engineers civil works projects) Bob Swieconek, HQ-US Army Corps of Engineers, Attn: CERE-MN, 20 Massachusetts Avenue NW., Washington, DC 20415-1000 (202) 272-1750; GSA: James Folliard, Federal Property Resources Services, GSA, 18th and F Streets NW., Washington, DC 20405 (202) 535-7067; HHS: Wayne Mullinex, U.S. Public Health Service, HHS, Room 17A-10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443-2265. (These are not toll-free numbers.)

Dated: August 7, 1989.

C. Austin Fitts,
Assistant Secretary for Housing-Federal Housing Commissioner.

Suitable Land—By State

Number of properties ( )

Arkansas

Big Creek (1)
Norfolk Lake
Mountain Home, AR
Agency: Corps of Engineers
Comment: 175 acres
Curly Point (1)
Norfolk Lake
Mountain Home, AR
Agency: Corps of Engineers
Comment: 215 acres with boat ramp, toilet, lake access
Bectum Hall (1)
Ozark Land
Ozark, AR
Agency: Corps of Engineers
Comment: 155 acres
Lick Creek (1)
Norfolk Dam & Lake
Mountain Home, AR
Agency: Corps of Engineers
Comment: 140 acres
Ford Cove (1)
Norfolk Lake
Mountain Home, AR
Agency: Corps of Engineers
Comment: 540 acres
Seward Point (1)
Norfolk Lake
Mountain Home, AR
Agency: Corps of Engineers

Comment: 1000 acres
Talbert (1)
Norfolk Lake
Mountain Home, AR
Agency: Corps of Engineers
Comment: 4 acres, paved, boat ramp
Newton Landing (1)
Norfolk Lake
Mountain Home, AR
Agency: Corps of Engineers
Comment: 160 acres

Missouri

James River (1)
Table Rock Lake
Branson, MO
Agency: Corps of Engineers
Comment: 39 acres
Kings River (1)
Table Rock Lake
Branson, MO
Agency: Corps of Engineers
Comment: Located in MO and AR; 38 acres
Big Indian (1)
Table Rock Lake
Branson, MO
Agency: Corps of Engineers
Comment: Located in MO and AR; 50 acres, paved, boat ramp, sealed toilt

New Jersey

Fort Monmouth (1)
Evans Area
Monmouth, NJ
Agency: Army
Fort Monmouth (1)
Evans Area
Monmouth, NJ
Agency: Army
Comment: 91 acres, access dependent on retrocede of jurisdiction from exclusive to concurrent

Suitable Buildings

Arizona

US Army Yuma Proving Ground (1)
Yuma, AZ
Agency: Army
Comment: Property S-1003; 2227 sf

Georgia

Fort Benning Military Reservation (1)
Muscogee, GA
Agency: Army
Comment: Property 276; 438 sf currently used for storage
Fort Benning Military Reservation (1)
Muscogee, GA
Agency: Army
Comment: Property 275; 4055 sf currently used for storage

Idaho

May House Site, Bldg 3(1)
May Lemhi County, ID
Agency: GSA
Comment: Property 9-I-ID-532

Maryland

Aberdeen Proving Ground Support Activity (1)
Harford, MD
Agency: Army
Comment: Property E5975; 650 sf, poor condition
Aberdeen Proving Ground Support Activity (1)
Harford, MD
Agency: Army
Comment: Property E5978; 256 sf
Aberdeen Proving Ground Support Activity (1)
Harford, MD
Agency: Army
Comment: Properties E5878, E5879; possible asbestos contaminator
Aberdeen Proving Ground Support Activity (1)
Harford, MD
Agency: Army
Comment: Property E5974; possible asbestos contaminator
Aberdeen Proving Ground Support Activity (1)
Harford, MD
Agency: Army
Comment: Property E4736; Storage bldg, 2227 sf; possible presence of asbestos
Aberdeen Proving Ground Support Activity (11)
Harford, MD
Agency: Army
Comment: Properties 3632, 3630, 3643, 3646, 3633, 3645, 3644, 3638, 4723, 5104, E1426; asbestos may be present
Aberdeen Proving Ground Support Activity (18)
Harford, MD
Agency: Army
Comment: Properties 3621, 3622, 3623, 3624, 3626, 3627, 3629, 3634, 3635, 3637, 3639, 3640, 3641, 3642, 2173, 2174, 2001; barracks w/possible asbestos, very poor condition.
Aberdeen Proving Ground Support Activity (2)
Harford, MD
Agency: Army
Comment: Properties 3631, E1480; asbestos survey being conducted

New Jersey

Fort Monmouth (3)
Monmouth, NJ
Agency: Army
Comment: Properties 401, 2337, 2543; access dependent on retrocede of jurisdiction from exclusive to concurrent.
Evans Area, Fort Monmouth (2)
Monmouth, NJ
Agency: Army
Comment: Properties 9004, 9005

Oklahoma

Water Well System (1)
Kegelman Auxiliary Air Field
Alfalfa County, OK
Agency: GSA
Comment: Property 7-D-OK-458-C; 308 sf; 148 sf; 127 sf; currently used as pump stations for water wells; contains non-friable asbestos.

Texas

Portion, Former Ft. Walters (10)
Walters Ind. Park
Mineral Wells, TX
Agency: GSA
Comment: Properties 734, 735, 739, 740, 540, 541, 551, 552, 575, 576 on 56 acres; 7-GR-(4) TX 548Y

West Virginia

Single Family Residence (1)
211 Highland Avenue
Petersburg, WV
Agency: GSA
Comment: Single family residence; friable asbestos wrapping on heatduct.

Unsuitable Land

Maryland

DOE Germantown Complex (1)
Montgomery County, MD
Agency: GSA
Comment: Formerly portion of DOE Germantown Complex, Middle Brook Road Parcel P-12; 2.07 acres NW Corner, Intersection of I-270 & Middle Brook Road; not accessible by road floodway; right/entry agreement with MD DOT; half of property to be part of I-270 interchange.
Middle Brook Road Parcel P12 (1)
Montgomery County, MD
Agency: GSA
Comment: Floodway; NW corner, Intersection of I-270 and Middle Brook Rd; half of land has no legal access, other half under highway construction.
Aberdeen Proving Ground Support Activity (1)
Harford, MD
Agency: Army
Comment: Within 2000 ft. from flammable or explosive material; partially secure area 2530 acres; 1330 acres with unexploded materials.
Aberdeen Proving Ground Support Activity (1)
Harford, MD
Agency: Army
Comment: Within 2000 ft from flammable or explosive material; secured area.
Aberdeen Proving Ground Support Activity (1)
Harford, MD
Agency: Army
Comment: secure area

Virginia

JW Powell Federal Bldg Site (1)
2051 Mercator Drive
Reston, VA
Agency: GSA
Comment: 50 ft wide access road through private property to Powell Federal Bldg.

Unsuitable Buildings

Alaska

PHS Hospital, Mt. Edgecumbe (1)
222 Tongass Drive
Sitka, AK
Agency: HHS PHS
Comment: Friable asbestos (pipings) and no heating. Bldgs to be renovated; abestos abated.

Arizona

US Army Yuma Proving Ground (1)
Yuma, AZ
Agency: Army
Comment: Property 3553; secured area

Maryland

Aberdeen Proving Ground Support Activity (2)
Harford, MD
Agency: Army
Comment: Properties E5190, E5239; within 2000 ft of flammable or explosive material
Aberdeen Proving Ground Support Activity (13)
Harford, MD
Agency: Army
Comment: Properties E5325, E5375, E5380, E5440, E5444, E5476, E5485, E5487, E5439, E5852, E5877; within 2000 ft of flammable or explosive material.
Aberdeen Proving Ground Support activity (6)
Harford, MD
Agency: Army
Comment: Properties E6891, E7012, E7123, E7124, E7825, E7246; secured area.
Aberdeen Proving Ground Support activity (1)
Harford, MD
Agency: Army
Comment: Property 5740, within 2000 feet from flammable or explosive material; secured area.
Aberdeen Proving Ground Support Activity (1)
Harford, MD
Agency: Army
Comment: Property E5761; contamination.
Aberdeen Proving Ground Support Activity (1)
Harford, MD
Agency: Army
Comment: Property E5032; within 2000 feet from flammable or explosive material.
Aberdeen Proving Ground Support Activity (4)
Harford, MD
Agency: Army
Comment: Properties 892, 918A, 906, 956; within 2000 feet from flammable or explosive material.
Aberdeen Proving Ground Support Activity (6)
Harford, MD
Agency: Army
Comment: Properties 461, 705A 689, 394A, 396, 813; within 2000 ft from flammable or explosive material; secured area.
Aberdeen Proving Ground Support Activity (4)
Harford, MD
Agency: Army
Properties 815A, 816, 815, 814A; not accessible by road; secured area.
Aberdeen Proving Ground Support Activity (1)
Harford, MD
Agency: Army
Comment: Property 10302; too small—42sf, asbestos may be present.
Aberdeen Proving Ground Support Activity (9)
Harford, MD
Agency: Army
Comment: Properties E3170, E3374, E3376, E3380, E3378, E3460, E3482, E3484, E3574; secured area.
Aberdeen Proving Ground Support Activity (6)
Harford, MD
Agency: Army
Comment: Properties E3462, E3464, E3470, E3472, E3474, E3426; within 2000 ft of flammable or explosive material; secured area.

New Jersey

Evans, Area, Fort Monmouth (17)
Monmouth, NJ
Agency: Army
Comment: Properties 9047, 9007, 9061, 9087 9094, 9095, 9117, 9119, 9124, 9126, 9154, 9315, 9334, 9342, 9347, 9359, 9379; secured area.

Washington

Fort Lewis (16)
Pierce, WA
Agency: Army
Comment: Property TO1213, TO1312, TO7927, TO9440 TO9441, TO9450, TO0460, TA0218, DOODSA, TO4523, TO8973, TO8974, TO8975, 8982, 8983, 8985; secured area

[FR Doc. 89-18816 Filed 8-10-89; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-680-09-4142-02]

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the proposal should be made directly to the Bureau clearance officer and to the Office of Management and Budget, Paperwork Reduction Project (1004-0103), Washington, DC 20503, telephone 202-395-7340.

Title: Mineral Materials Disposal, 43 CFR Part 3600
OMB Approval Number: 1004-0103
Abstract: Respondents supply information and data necessary to process applications for the removal of mineral materials from the public lands. This information is needed to prevent unnecessary destruction of natural resources, to ensure that the Government is not liable for costly reclamation of abandoned sites, and to ensure that the Government receives fair market value for the disposal of mineral materials.
Bureau Form Number: 3600-4, 3600-5
Frequency: Upon application
Description of Respondents: Individuals and entities applying for a permit or contract to remove mineral materials from the public lands.
Estimated Completion Time: 0.2 hours average
Annual Responses: 6,250
Annual Burden Hours: 1,250
Bureau Clearance Officer: Richard Lovaine, 202-653-8853.

Dated: July 18, 1989.

Adam A. Sokoloski,

Acting Assistant Director, Energy and Mineral Resources.

[FR Doc. 89-18856 Filed 8-10-89; 8:45 am]

BILLING CODE 4310-84-M

[ID-943-09-4214-12; I-1542]

Termination of Classification for Multiple Use Management; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction.

The land description in FR Doc. 89-9188 published on page 15564 in the issue of Tuesday, April 18, 1989, is corrected as follows:

1. The description under T. 7 S., R. 25 E., which reads, "Sec. 5, lots 1, 2, S½NE¼, SE¼NW¼, E½SW¼, NE¼" is corrected to read: "Sec. 5, lots 1, 2, S½NE¼, SE¼NW¼, E½SW¼, SE¼."

2. The description under T. 9 S., R. 28 E. which reads "Secs. 13 to 19, inclusive, in Power County north of Snake River" is corrected to read: "Secs. 13 to 24, inclusive, in Power County North of Snake River."

Dated: August 1, 1989.

Martin J. Zimmer,

Acting State Director.

[FR Doc. 89-18812 Filed 8-10-89; 8:45 am]

BILLING CODE 4310-GG-M

[ID-943-09-4214-12; I-2345]

Partial Termination of Classification for Multiple Use Management; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction.

The land description in FR Doc. 89-8268, published on page 14168 in the issue of Friday, April 7, 1989, is corrected as follows:

The description under T. 7 S., R. 12 E., which reads "Sec. 7, S½ SE¼, SE¼" is corrected to read "Sec. 7, S½NE¼, SE¼."

Dated: August 1, 1989.

Martin J. Zimmer,

Acting State Director.

[FR Doc. 89-18813 Filed 8-10-89; 8:45 am]

BILLING CODE 4310-GG-M

[NV-930-09-4333-11: NV5-89-33]

Nevada; Temporary Closure of Certain Public Lands in the Las Vegas and Battle Mountain Districts for Management of the Nevada 500 Off-Highway Vehicle (OHV) Race.

Temporary closure of certain Public Lands in the Clark, Nye, and Esmeralda Counties, Nevada, on and adjacent to the Nevada 500 race course, on August 12, 1989. Access will be limited to race officials, entrants, law enforcement and emergency personnel, licensed permittees and right-of-way grantees.

Certain public lands in the Las Vegas and Battle Mountain District, Clark, Nye, and Esmeralda Counties, Nevada will be temporarily closed to public access from 0001 hours, August 12, 1989, to 0600 hours, August 13, 1989, to protect persons, property, and public land resources on and adjacent to the 1989 Nevada 500 OHV race course. The Las Vegas District Manager is the authorized officer for the Nevada 500 OHV race and permit (NV5-89-33). These temporary closures and restrictions are made pursuant to 43 CFR Part 8364. The public lands to be closed or restricted are those lands adjacent to and including roads, trails and washes identified as the 1989 Nevada 500 OHV race course. The following public lands restricted or closed are described as: the Pahrump area; T. 19 S., R. 54 E., all of sections 19, 20, 21, 26, 27, and 28; T. 19 S., R. 53 E., all of sections 1, 2, 3, 4, 5, 11, 12, 12, 14, and 24; T. 18 S., R. 53 E., all of sections 31, 32, 33, 34, 35, and 36; the Amargosa valley area, T. 14 S., R. 47 E., all of sections 16, 21, 22, and 28; The Beatty hills area, T. 11 S., R. 47 E., all of sections 7, and 18; T. 11 S., R. 46 E., all of sections 26, and 35; the Sarcobatus Flats area, T. 11 S., R. 45 E., all of sections 1, 2, 3, 4, and 5; T. 10 S., R. 44 E., all of sections 19, 30, 31, 32, 33, 34, 35, and 36; T. 10 S., R. 44 E., all of sections 6, 7, 8, 16, 17, 20, 21, 27, 28, 33, and 34; T. 8 S., R. 43 E., all of sections 25, 26, and 36; the Gold Point area, T. 7 S., R. 41 ½ E., all of sections 28, 33, and 34; T. 7 S., R. 41 E., all of sections 1, 2, 11, 12, 13, 14, 23, 24, 35, and 36; T. 6 S., R. 41 E., all of sections 7, 8, 9, 16, 17, 18, 20, 21, 22, 26, 27, 28, 34, and 35.

The above legal land descriptions are for public lands within Clark, Nye, and Esmeralda Counties, Nevada. A map showing specific areas closed to public access is available from the following BLM offices: the Las Vegas District Office, 4765 Vegas Drive, P.O. Box 26569, Las Vegas, Nevada 89126, (702) 646-8800, and the Battle Mountain District, Tonopah Resource Area Office, Bldg., 102 Old Radar Base, P.O. Box 911, Tonopah, Nevada 89049, (702) 482-6214. Any person who fails to comply with this closure order issued under 43 CFR part 8364 may be subject to the penalties provided in 43 CFR 8360.7.

Dated: August 2, 1989.

Ben F. Collins,

District Manager, Las Vegas, NV.

[FR Doc. 89-18770 Filed 8-10-89; 8:45 am]

BILLING CODE 4310-HC-M

[UT-040-09-4351-12]

Environmental Assessment Proposed Action Within Wilderness Study Area

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of a draft environmental assessment for a proposed action within the Fifty Mile Mountain Wilderness Study Area.

SUMMARY: The Bureau of Land Management, Cedar City District, is proposing to authorize the installation of two water guzzlers for desert bighorn within the Fifty Mile Mountain Wilderness Study Area.

ADDRESS: To obtain a copy of the environmental assessment for the proposed water guzzlers contact Martha Hahn, Area Manager, Kanab Resource Area, 318 North First East, Kanab, UT, 84741 or telephone 801/644-2672.

DATES: Comments will be accepted for 30 days from the first date of publication of this notice.

Dated: August 2, 1989.

Gordon R. Staker,

District Manager.

[FR Doc. 89-18771 Filed 8-10-89; 8:45 am]

BILLING CODE 4310-DQ-M

[ID-030-09-4410-08]

Idaho Falls District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Meeting of the Idaho Falls District Advisory Council.

SUMMARY: The Idaho Falls District Advisory Council will meet Thursday, September 21, 1989. Notice of this meeting is in accordance with Public Law 92-463. The meeting will begin at 9:00 a.m. at the Idaho Falls District Office on 940 Lincoln Road, Idaho Falls, Idaho. The meeting is open to the public; public comments will be accepted from 11:00 a.m. to 11:30 a.m.

The agenda for this meeting includes a briefing on the Snake River Activity/Operations Plan being developed jointly by the Bureau of Land Management and Forest Service. The draft plan addresses detailed multiple use management actions for lands administered by the agencies from Palisades Reservoir along the South Fork of the Snake River corridor to the confluence with the Henry's Fork of the Snake River. The Council will be given an opportunity to make comments and recommendations as a group and individually.

Detailed minutes of the meeting will be maintained in the District Office and will be available for public review during business hours (7:45 a.m. to 4:30 p.m., Monday through Friday) within 30 days following the meeting.

FOR FURTHER INFORMATION CONTACT: Lloyd H. Ferguson, District Manager, telephone (208) 529-1020.

Dated: August 4, 1989.

Sandra K. Courtney,

Acting District Manager.

[FR Doc. 89-18772 Filed 8-10-89; 8:45 am]

BILLING CODE 4310-GG-M

[ID-942-09-4730-12]

Filing of Plats of Survey; Idaho

The plat of survey of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 10:00 a.m., August 2, 1989.

The plat representing the dependent resurvey of a portion of the north boundary, T. 6 S., R. 5 E.; portions of the west boundary and subdivisional lines and the subdivision of sections 31 and 32, T. 5 S., R. 5 E., Boise Meridian, Idaho, Group No. 679, was accepted July 31, 1989.

This survey was executed to meet certain administrative needs of this Bureau.

All inquiries about this land should be sent to the Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho, 83706.

Dated: August 2, 1989.

Gary T. Oviatt,

Acting Chief Cadastral Surveyor for Idaho.

[FR Doc. 89-18814 Filed 8-10-89; 8:45 am]

BILLING CODE 4310-GG-M

[NV-930-09-4212-22]

Filing of Plats of Survey; Nevada

August 4, 1989.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested State and local government officials of the latest filing of Plats of Survey in Nevada.

EFFECTIVE DATE: Filings were effective at 10:00 a.m. on August 2, 1989.

FOR FURTHER INFORMATION CONTACT: Lacel Bland, Chief, Branch of Cadastral Survey, Bureau of Land Management, (BLM), Nevada State Office, 850 Harvard Way, P.O. Box 12000, Reno, Nevada 89529, 702-328-6341.

SUPPLEMENTARY INFORMATION: The Plats of Survey of lands described below were officially filed at the Nevada State Office, Reno, Nevada on August 2, 1989.

Mount Diablo Meridian Nevada

T. 20., R. 20 E.—Supplemental Plat
T. 41., R. 44 E. Dependent Resurvey
T. 40., R. 45 E. Dependent Resurvey
T. 41., R. 45 E. Dependent Resurvey
T. 33., R. 30 E. Dependent Resurvey

The supplemental plat for T. 20 N., R. 20 E., was accepted on July 31, 1989; the other listed surveys were accepted on July 26, 1989. All the surveys were executed to meet certain administrative needs of the Bureau of Land Management.

All of the above-listed surveys are now the basic record for describing the lands for all authorized purposes. The surveys will be placed in the open files in the BLM Nevada State Office and will be available to the public as a matter of information. Copies of the surveys and related field notes may be furnished to the public upon payment of the appropriate fee.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 89-18776 Filed 8-10-89; 8:45 am]

BILLING CODE 4310-HC-M

INTERSTATE COMMERCE COMMISSION

Forms Under Review by Office of Management and Budget

The following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) is being submitted to the Office of Management and Budget for review and approval. Copies of the forms and supporting documents may be obtained from the Agency Clearance Officer, Ray Houser (202) 275-6723. Comments regarding this information collection should be addressed to Ray Houser, Interstate Commerce Commission, Room 1319, 12th and Constitution Ave., NW., Washington, DC 20423 and to Gary Waxman, Office of Management and Budget, Room 3228 NEOB, Washington, DC 20503, (202) 395-7340.

Type of Clearance: New and Extension
Bureau/Office: Office of Compliance and Consumer Assistance
Title of Form: Financial Responsibility—Trucking (and Freight Forwarding)
OMB Form No.: 3120-0081
Agency Form No.: BMC Forms 32, 34, 35, 36, 82, 83, 84 90, 91, 91X Extension BMC 40 and 85 New
Frequency: On occasion
Respondents: ICC regulated Transportation Entities
No. of Respondents: 45,000
Total Burden Hrs.: 22,350 (average amount of time to file BMC 40 is 120 hours, all other forms average 15 minutes)
Brief Description of the need and proposed use: The filing of these forms is required to satisfy statutory requirements that transportation entities have liability insurance coverage. This is to ensure that the public is protected for any claims involving bodily injury and property damage or cargo loss or damage.

Noreta R. McGee,

Secretary.

[FR Doc. 89-18842 Filed 8-10-89; 8:45 am]

BILLING CODE 7035-01-M

Intention To Engage In Compensated Intercorporate Hauling Operations

This is to provde 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. The parent corporation is Premier Industrial Corporation, with its principle office located at 4500 Euclid Avenue, Cleveland, Ohio. The wholly-owned subsidiaries which will participate in the operations are:

1. Premier Industrial Corporation, incorporated in the State of Ohio.
2. Premierco Service Corporation, incorporated in the State of Ohio.
3. Premier Energy Corporation, incorporated in the State of Ohio.
4. U.S. Oil, incorporated in the State of Ohio.
5. PIC Corporation, incorporated in the State of Ohio.
6. D-A Lubricant, Inc., incorporated in the State of Ohio.
7. Premier Fastener Limited (Canada), incorporated in the Province of Ontario
8. Premier Industrial (U.K.) Limited, incorporated in United Kingdom.
9. Premier Industrial France S.A.R.L., incorporated in France.
10. Premier Industrial Belgium S.A., incorporated in Belgium.
11. N.V. Certanium Services, S.A., incorporated in Belgium.
12. Premier Industrial Holland B.V., incorporated in Holland.
13. Certanium B.V., incorporated in Holland.
14. Certanium (Deutschland) Gmbh, incorporated in Germany.

15. Premier Foreign Sales Corporation, Inc., incorporated in Virgin Islands.

B. 1. Parent corporation and address of principal office: V-B Williams Furniture Company, Inc., 602 Fulton Street, P.O. Box 1489, Sumter, South Carolina 29151.

2. Wholly-owned subsidiary which will participate in the operations, and State of incorporation: VBW Trucking, Inc., State of incorporation: Virginia.

Noreta R. McGee,

Secretary.

[FR Doc. 89-18843 Filed 8-10-89; 8:45 am]

BILLING CODE 7035-01-M

[No. 40220]

Bessemer & Lake Erie Railroad Co. Petition for Declaratory Order Concerning Interchange Facilities and Trackage Rights

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Institution of Proceeding.

SUMMARY: Bessemer and Lake Erie Railroad Company (Bessemer) filed a petition on April 11, 1989, requesting the Commission to issue a declaratory order finding that neither the threat of a secondary boycott nor an actual secondary boycott by a striking union excuses rail common carriers from providing reasonable interchange facilities as required by section 10742 of the Interstate Commerce Act or from honoring the terms of valid, existing trackage rights agreements. We find that this petition discloses a sufficient controversy to warrant a proceeding under 5 U.S.C. 554(e) and therefore institute such a proceeding.

DATES: Any person interested in participating in this proceeding as a party of record by filing and receiving written comments on the issues must file a notice of intent to do so by August 21, 1989. We will issue a service list of the parties of record shortly after the due date for notices of intent to participate. Initial written comments must be filed by 30 days from the date of service of the service list. Reply comments must be filed by 60 days from the date of service of the service list. Comments must be served upon all parties of record.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245 [TDD for hearing impaired: (202) 275-1721].

ADDRESSES: An original and 10 copies of all notices of intent and comments must be sent to: Office of the Secretary, Case Control Branch, Attn: Docket No. 40220, Interstate Commerce Commission, Washington, DC 20423.

In addition, one copy of all comments must be sent to all parties of record.

SUPPLEMENTAL 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) 275-1721.]

Decided: August 4, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamboley, and Phillips.

Noreta R. McGee,

Secretary.

[FR Doc. 89-18840 Filed 8-10-89; 8:45 am]

BILLING CODE 7035-01-M

[No. 29886 (Sub 1)]

Official-Southwestern Divisions; Joint Rate Divisions

AGENCY: Interstate Commerce Commission.

ACTION: Final decison.

SUMMARY: The orders prescribing joint rate divisions in Official-Southwestern Divisions, 287 I.C.C. 553 (1953) and subsequent decisions are vacated.

DATES: This action is effective on September 11, 1989.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245.

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 hearing impaired is available through TDD service (202) 275-1721.

Decided: August 4, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamboley, and Phillips.

Noreta R. McGee

Secretary

[FR Doc. 89-18841 Filed 8-10-89; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31518]

Chattooga & Chickamauga Railway Co. Grant of Overhead Trackage Rights by the Alabama Great Southern Railroad Co., et al.

The Alabama Great Southern Railroad Company (AGS) has agreed to grant overhead trackage right to Chattooga & Chickamauga Railway Co. (Chattooga) between milepost G-2.66, at a connection with the Tennessee, Alabama & Georgia Railway Company (TAG) line and milepost G-1.02 at the north end of Shipp Yard in Chattanooga, TN, a distance of approximately 1.6 miles. Central of Georgia Railroad Company (COG) also agreed to grant overhead trackage rights to Chattooga between milepost C-445.4, at the north end of the Chattanooga to Lyerly, GA line of COG to be leased to Chattooga[1], and milepost C-447.2. COG has also agreed to grant overhead trackage rights to Chattooga over its Alton Park Spur between milepost C-445.4 and its connection with TAG at milepost TA 3.94, a distance of approximately 3.3 miles, all in Chattanooga, TN. TAG has agreed to grant overhead trackage rights to Chattooga between milepost TA 3.94, at the north end of TAG's the line to be leased to Chattooga, and milepost TA 3.39, at TAG's connection with AGS, a distance of approximately .55 miles in Chattanooga, TN. The overhead trackage rights referenced in this notice will become effective on August 11, 1989, or when the Commission grants a petition for exemption in Finance Docket No. 31517, *Chattooga & Chickamauga Railway Co.—Lease and Operation—Central of Georgia Railroad Company, et al.*, and the lease is consummated, whichever date is later.

This notice is filed under 49 CFR 1180.2(d)(7). 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. Comments must be filed with the Commission and served on: Lester A. Sittler, Chattooga & Chickamauga Railway Co., P.O. Box 128, 137 Main Street, Cooperstown, NY

[1] The trackage rights in this proceeding connect with two lines that are the subject of a related proceeding docketed as Finance Docket No. 31517, Chattooga & Chickamauga Railway Co.—Lease and Operation—Central of Georgia Railroad Company, et al., filed July 24, 1989. In that proceeding, Chattooga seeks exemption authority under 49 U.S.C. 10505 from the provisions of 49 U.S.C. 11343, *et seq.*, to lease and operate: (1) COG's 48.9-mile line between milepost C-445.4 at Chattanooga, TN, and milepost C-396.5 at Lyerly, GA; and (2) TAG's 19.2-mile line between milepost TA 3.94 at Chattanooga, TN and milepost TA 23.1 at Hedges, GA.

13326, and Mark D. Perreault, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510–2191.

As a condition to the use of this exemption, any employees affected by the trackage rights will be protected pursuant to Norfolk and Western Ry. Co.—Trackage Rights—BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc.—Lease and Operate, 360 I.C.C. 653 (1980).

Dated: August 1, 1989.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89–18675 Filed 8–10–89; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget

Background: The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35, considers comments on the reporting and recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review: As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Office will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements and the average hours per respondent.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions: Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, telephone (202) 523–6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor 200 Constitution Avenue NW., Room N–1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, Room 3208, Washington, DC 20503 (Telephone (202) 395–6880).

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Extension

Employment Standards Administration
Regulations, 29 CFR part 4—Labor Standards for Federal Service Contracts
1215–0150; SCA–4
On occasion.

Businesses or other for profit; small businesses or organizations 18,900 respondents; 16,158 total hours; 5 to 90 min. per response.

Reporting requirements in Service Contract Act regulations applicable to employers performing on service contracts with the Federal government.

Employment Standards Administration
Operator Controversion; Operator Response
1215–0058; CM–970 and CM–970a
On occasion

Businesses or other for profit; small businesses or organizations 5,000 respondents; 2,500 total hours; 15 min. per response; 2 forms.

These forms are used by coal mine operators to controvert an Initial Finding or to agree or disagree with potential liability for payment of Black Lung benefits under the Act.

Reinstatement

Mine Safety and Health Administration
Annual Status Report and Certification and Weekly Inspections of Refuse Piles and Impoundments
1219–0015
Businesses and other for profit; small businesses or organizations.

Reporting/recordkeeping requirement	Respondents	Frequency	Average time per response (hours)
Annual status report and certification.	846	Annually	2
Weekly inspections with monitoring instruments.	320	Weekly	3
Weekly inspections without monitoring instruments.	476	.....do	2

101,116 total burden hours.

Requires coal mine operators to submit to MSHA an annual status report and certification on impoundments and hazardous refuse piles; and to keep records of the results of weekly examinations and instrumentation monitoring of impoundments.

Signed at Washington, DC this 7th day August, 1989.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 89–18849 Filed 8–10–89; 8:45 am]

BILLING CODE 4510–27–M

Employment and Training Administration

[TA–W–20,583]

Arvin Supreme, Inc.; Negative Determination on Remand

Pursuant to a remand by the U.S. Court of International Trade, dated July 14, 1989, in *Former Employees of Arvin Supreme, Inc.*, v. *Secretary of Labor* (USCIT 88–06–00463) the Department makes the following negative determination on remand for workers of Arvin Supreme, Inc., Princeton, Kentucky.

The workers at Arvin's Princeton, Kentucky plant produced auto exhaust systems (mufflers and pipes) for the aftermarket.

The Department's initial denial was based on the fact that the "contributed importantly" test of the Group Eligibility Requirements of the Trade Act of 1974 was not met. The "contributed importantly" test is generally demonstrated by a test of the workers' firm's customers. The Department's survey of customers, which accounted for a substantial portion of Arvin Supreme's 1987 sales decline, shows that none of the respondents increased their imports of mufflers and pipes.

The Department requested the remand to include additional findings on the

transfer of production and on the imports of mufflers from Mexico.

The new findings show increased production of mufflers and pipes together with increased average employment at the domestic transfer plant in the first three months of 1988 compared to the first three months of 1987 while the Princeton plant experienced decreased production and decreased average employment during the same periods. A domestic transfer of production from Princeton, Kentucky to another domestic plant would not provide a basis for a certification. Also, the type of muffler imported from Mexico was never produced domestically. The Mexican imports complemented Arvin's muffler line and amounted to less than one percent of Arvin's total production.

The equipment used in manufacturing auto mufflers and pipes at Princeton was transferred to other domestic corporate plants, scrapped, or sold to other domestic plants or to foreign subsidiaries and affiliates. However, the products in question are mufflers and pipes for auto exhaust systems not the machinery used in their manufacture.

Conclusion

After reconsideration, I affirm the original notice of negative determination of eligibility to apply for adjustment assistance to workers of Arvin Supreme Inc., Princeton, Kentucky.

Signed at Washington, DC, this 3rd day of August 1989.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 89-18846 Filed 8-10-89; 8:45 am]

BILLING CODE 4510-30-M

Economy Color Card, Inc., et al.; Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period of July 1989.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-22,963; Economy Color Card, Inc., Roselle, NJ

TA-W-23,027; Challenger Circle F, Trenton, NJ

TA-W-22,971; Lumbered Corp., Woodbridge, NJ

TA-W-23,017; Stryher Machine Products Co., Trenton, NJ

TA-W-22,974; Pancratz Co., Casper, WY

TA-W-22,942; Miami Carey Corp., Swainsboro, GA

TA-W-22,941; Mark Producing, Inc., Houston, TX

TA-W-22,895; Kearfott Guidance & Navigation Corp., Little Falls, NJ

TA-W-22,901; Peerless Tube Co., Bloomfield, NJ

TA-W-22,917; Delta Products-Means Industries, Bay City Div., Bay City, MI

TA-W-22,930; Rototec, Inc., Odessa, TX

TA-W-22,924; McMarz Marble, Inc., Granbury, TX

TA-W-22,933; Chase Packaging Corp., Hudson Falls, NY

TA-W-22,998; DuPont Co., Pompton Lakes, NJ

TA-W-22,760; Bright Star Industries, Inc., Clifton, NJ

TA-W-22,939; Kennedy Mills, Janesville, WI

In the following cases, the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-23,037; GNB Batteries, Leavenworth, KS

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-22,969; Institute for Scientific Information, Cherry Hill, NJ

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,979; Textron, Inc., Randall Div., Cambridge, OH

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-22,892; Hyster Co., Sulligent, AL

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-22,919; Digitran, Inc., Lafayette, LA

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,064; Petroleum Information, Log Div., Midland, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,925; Mid-Continent Supply Co., Fort Worth, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,931; Scown Enterprises, Inc., Denver, CO

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,005; Hoake Buchler Instruments, Inc., Fort Lee, NJ

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-22,981; Trico Industries, Inc., Sidney, MT

U.S. imports of oilfield machinery are negligible.

TA-W-22,912; ADT Security Systems, Clifton, NJ

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,048; Unisys Corp., Secaucus, NJ

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-23,025; CDI Corp., Secaucus, NJ

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,962; E.W. Bowman, Inc., Uniontown, PA

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-22,949; Transmission Technology Co., Inc., Fairfield, NJ

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,968; Idea Courier (Formerly Atcalel Servcom), Birmingham, MI

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,918; Deucalion Research, Inc., Williston, ND

U.S. imports of drilling fluid are negligible.

TA-W-22,922; Marathon Oil Co., Welder Field, Sinton, TX

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-22,923; Marathon Oil Co., Welder Gas Plant, Sinton, TX

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-22,993; Continental Laboratories, Billings, MT

The investigation revealed that criterion (1) has not been met. Employment did not decline during the relevant period as required for certification.

TA-W-22,944; Mundy Contract Maintenance, Inc., Houston, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,915; Colling Production Service, Inc., Casper, WY

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-22,940; Les Wilson, Inc., Carmi, IL

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,082; Leo Dress, Inc., New York, NY

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-22,937; Gower Pumping Service, Inc., Eldorado, TX

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-22,914; Calder Services, Co., Farmington, NM

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,959; Bausch & Lomb, Inc., Optical Systems Div., Rochester, NY

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,020; Victrex, Wharton, NJ

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-23,067; Roggen Gas Processing Co., Roggen, CO

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,999; Everseal Manufacturing Co., Inc., Ridgefield, NJ

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,018; Tiara Manufacturing Potosi, MO

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-22,997; D.L. Mud, Inc., New Orleans, LA

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,992; Bendix Safety Restraints Systems, Knoxville, TN

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,006; High Mountain Inspection Service, Inc., Mills, WY

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,972; M & G Convoy, Inc., New Stanton, PA

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,990; Bancroft & Martin, South Portland, MI

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,019; Bolts Unlimited, Farmington, NM

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,880; Baroid Corp., Shaffer Div., Houston, TX and Operating at Various Locations in The Following States: TA-W-22,880A; CA, TA-W-22,880B; LA, TA-W-22,880C; OK, TA-W-22,880D; TX TA-W-22,880E; WY

U.S. imports of oilfield machinery are negligible.

TA-W-22,877; Baroid Corp., Atlas Bradford Div., Houston, TX and Operating at Various Locations in The Following States: TA-W-22,877A; AK TA-W-22,877B; Co, TA-W-22,877C; LA, TA-W-22,877D; OK TA-W-22,877E; TX TA-W-22,877F; WY

U.S. imports of oilfield machinery are negligible.

Affirmative Determination

TA-W-22,965; Gerber Babywear, Three Oaks, MI

A certification was issued covering all workers separated on or after October 1, 1988.

TA-W-22,910; U.S.A. Knitwear Corp., Brooklyn, NY

A certification was issued covering all workers separated on or after April 24, 1988 and before July 23, 1989.

TA-W-22,043; Mueller Power Tongs, Inc., Stamford, TX

A certification was issued covering all workers separated on or after May 21, 1988.

TA-W-22,947; Senior Drilling & Exploration Co., Inc., Lafayette, LA

A certification was issued covering all workers separated on or after April 27, 1988 and before December 31, 1988.

TA-W-22,960; C & A Wallcoverings, Inc., Cheektowaga, NY

A certification was issued covering all workers separated on or after May 11, 1988.

TA-W-22,978; Tech-Service/TXX Operation, Breckenridge, TX

A certification was issued covering all workers separated on or after May 10, 1988.

TA-W-22,943; Mosler, Inc., Hamilton, OH

A certification was issued covering all workers engaged in employment related to the production of insulated vault door for fire resistive safes separated on or after May 5, 1988.

TA-W-22,964; GTE Products Corp., U.S. Lighting/Consumer Div., Montoursville, PA

A certification was issued covering all workers separated on or after May 11, 1988.

TA-W-22,973; Oxford Superconducting Technology, Carteret, NJ

A certification was issued covering all workers engaged in employment related to the production of superconducting magnets at the Carteret, NJ plant separated on or after May 4, 1988.

TA-W-22,952; Wedge Wireline, Inc., Odessa, TX and Operating Out of Locations in The Following States:

TA-W-22,952A; TX, TA-W-22,952C; OK, TA-W-22,952B; LA

A certification was issued covering all workers separated on or after May 1, 1988.

TA-W-22,885; Cardone & Baker, Inc., Brooklyn, NY

A certification was issued covering all workers separated on or after April 17, 1988 and Before June 30, 1989.

TA-W-22,951; USECB Joint Venture, Riverton, WY

A certification was issued covering all workers separated on or after May 5, 1988.

TA-W-22,903; Philips Circuit Assemblies, West Lafayette, IN

A certification was issued covering all workers separated on or after April 20, 1988.

TA-W-22,921; Maidenform Bras, Perth Amboy, NJ

A certification was issued covering all workers separated on or after April 25, 1988 and before March 31, 1989.

TA-W-22,928; Production Plated Plastics, Richland, MI

A certification was issued covering all workers separated on or after November 15, 1988.

TA-W-22,911; AT & T Information System, Los Angeles, CA

A certification was issued covering all workers separated on or after October 1, 1988.

TA-W-22,975; Pearson-Sibert Oil Co of TX

A certification was issued covering all workers separated on or after May 3, 1988.

TA-W-22,975 Pearson-Sibert Oil Co., Midland, TX

A certification was issued covering all workers separated on or after May 3, 1988.

TA-W-22,934; Coppedge Oil and Gas, Inc., Plano, TX

A certification was issued covering all workers separated on or after May 1, 1988 and before January 1, 1989.

TA-W-22,945; Northronics Co., Inc., Minneapolis, MN, and Dassel, MN

A certification was issued covering all workers separated on or after September 1, 1988.

TA-W-22,059; Lone Star Logging Co., Inc., Talpa, TX

A certification was issued covering all workers separated on or after May 28, 1988.

TA-W-22,954; Accurate Parts Co., Kokomo, IN

A certification was issued covering all workers separated on or after May 9, 1988.

TA-W-22,920; Keystone Camera, Clifton, NJ

A certification was issued covering all workers separated on or after April 19, 1988.

TA-W-22,932; Wells Mfg. Corp., Manning, IA

A certification was issued covering all workers separated on or after May 1, 1989.

TA-W-21,785; Magic Marker Industries/Dynamics, Inc., Trenton, NJ

A certification was issued covering all workers separated on or after November 7, 1988

TA-W-22,913; Brookfield Petroleum, Inc., Tulsa, OK

A certification was issued covering all workers separated on or after April 26, 1988 and before July 1, 1989.

TA-W-22,929; Revlon Implement Corp., Irvington, NJ

A certification was issued covering all workers separated on or after May 1, 1988.

TA-W-22,890; Gator Industries, Inc., Hialeah, FL

A certification was issued covering all workers separated on or after April 20, 1988.

TA-W-22,879; Baroid Corp., Sperry-Sun Drilling Service, MWD Div., Headquartered in Houston, TX and Operating at Various Locations in The Following States: TA-W-22,879A; AK, TA-W-22,879C; TX, TA-W-22,879B; LA

A certification was issued covering all workers separated on or after January 31, 1988.

TA-W-22,881; Baroid Corp., Sperry-Sun Drilling Service, Sperry/Sun/Baroid Logging Systems Div., Headquartered in Houston, TX and Operating at Various Locations in The Following States: TA-W-22,881A; AL, TA-W-22,881B; AK, TA-W-22,881C; CA, TA-W-22,881D; CO, TA-W-22,881E; LA, TA-W-22,881F; MS, TA-W-22,881G; OK, TA-W-22,881H; TX, TA-W-22,881I; WY

A certification was issued covering all workers separated on or after January 31, 1988.

TA-W-22,878; Baroid Drilling Fluids, Inc., Headquartered in Houston, TX, Operated at Various Locations in The Following States: TA-W-22,878A; AK, TA-W-22,878B; AZ, TA-W-22,878C; AR, TA-W-22,878D; CA, TA-W-22,878E; CO, TA-W-22,878F; IL, TA-W-22,878G; KS, TA-W-22,878H; KY, TA-W-22,878I; LA, TA-W-22,878J; MS, TA-W-22,878K; MO, TA-W-22,878L; MT, TA-W-22,878M; NV, TA-W-22,878N; NM, TA-W-22,878O; OH, TA-W-22,878P; OK, TA-W-22,878Q; PA, TA-W-22,878R; SD, TA-W-22,878S; TX, TA-W-22,878T; UT, TA-W-22,878U; WV, TA-W-22,878V; WY,

A certification was issued covering all workers separated on or after January 1, 1989.

TA-W-22,996; Hanna Instruments, Woonsocket, RI

A certification was issued covering all workers engaged in the manufacturing of hydrometers thermohydrometers, RH transmitters and chemical test kits separated on or after May 9, 1988 and before May 31, 1989.

TA-W-23,012; Mamary Brothers, Inc., New York, NY

A certification was issued covering all workers separated on or after May 9, 1988.

TA-W-22,935; Encino Shirt, Inc., Moulton, AL

A certification was issued covering all workers separated on or after May 2, 1988 and before July 25, 1989.

TA-W-23,021; Wells Lamont Div., Marmon Holdings, Inc., Oak Grove, LA

A certification was issued covering all workers separated on or after May 17, 1988.

TA-W-22,950; Tristar Sports, Inc., Middletown, CT

A certification was issued covering all workers separated on or after May 1, 1988.

TA-W-23,967; Howard Martin Knitting Mills, Inc., Ridgefield, NJ

A certification was issued covering all workers separated on or after May 15, 1988 and before July 30, 1989.

TA-W-23,970; Kolo Cutting Room, Ridgefield, NJ

A certification was issued covering all workers separated on or after May 15, 1988 and before July 30, 1989.

TA-W-23,977; Sally Gee, Inc., Ridgefield, NJ

A certification was issued covering all workers separated on or after May 15, 1988 and before July 30, 1989.

I hereby certify that the aforementioned determinations were issued during the month of July 1989. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Street NW., Washington, DC 20213 during normal business hours or will be mailed to persons to write the above address.

Dated: August 1, 1989.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 89-18851 Filed 8-10-89; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-22,479]

Forest Oil Corp., Negative Determination of Reconsideration

On July 7, 1989, the Department issued an Affirmative Determination Regarding Application for Reconsideration for workers and former workers at Forest Oil Corporation, Corpus Christi, Texas. This notice was published in the **Federal Register** on July 19, 1989 (54 FR 30289).

The petitioner supported by the company submitted new data on sales of natural gas and crude oil and provided a list of major customers.

The Corpus Christi operation produced primarily natural gas. The Department's initial investigation showed that the decreased sales and/or production criterion of the Group Eligibility Requirements of the Trade Act of 1974 was not met.

In order for a worker group to become certified eligible to apply for trade adjustment assistance it must meet all three of the Group Eligibility Requirements of the Trade Act—a significant decrease in employment, an absolute decrease in sales or production and an increase in imports "contributed importantly" to worker separations. The "contributed importantly" test is generally demonstrated by a survey of the customers of the workers' firm.

Although the Corpus Christi operation meets the first two criteria of the Group Eligibility Requirements, it was found on reconsideration, that it did not meet the "contributed importantly" test.

The Department surveyed the major customers of the Corpus Christi operation which accounted for nearly all of Corpus Christi's natural gas sales in 1988 and found that none of the customers imported natural gas. Also, customers purchasing crude oil from Corpus Christi reported decreased purchases of imported crude oil in the first half of 1988 compared to the same period in 1987.

Investigative findings reveal that worker separations at Corpus Christi were the result of a management reorganization in early 1989 when the Corpus Christi office was combined with the Lafayette, Louisiana office.

Conclusion

After reconsideration, I affirm the original notice of negative determination of eligibility to apply for adjustment assistance to workers and former workers of Forest Oil Corporation, Corpus Christi, Texas.

Signed at Washington, DC, this 4th day of August 1989.

Barbara Ann Farmer,

Director, Office of Program Management, UIS.

[FR Doc. 89-18845 Filed 8-10-89; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-22,556]

Valex Petroleum, Inc.; Negative Determination Regarding Application for Reconsideration

After being granted a filing extension, one of the petitioners requested administrative reconsideration of the Department's negative determination on the subject petition for trade adjustment assistance. The initial petition was filed on behalf of workers at Valex Petroleum, Incorporated, Denver, Colorado. The denial notice was signed on April 18, 1989 and published in the **Federal Register** on May 23, 1989 (54 FR 22379).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The workers produced crude oil and natural gas with crude oil accounting for the predominant portion of production.

In order for a worker group to be certified eligible to apply for adjustment assistance it must meet all three of the Group Eligibility Requirements of the Trade Act including the "contributed importantly" test. Workers at Valex Petroleum met the decreased employment and decreased production and/or sales criteria but did not meet the "contributed importantly" test of the increased import criterion.

The "contributed importantly" test is generally demonstrated by a survey of the workers' firm's customers. The Department's survey showed that the customers who accounted for the predominant portion of the crude oil sales of Valex reduced their purchases of imported crude oil in the first half of 1988 compared to the same period in 1987.

The claim that the Department should have considered the decline in domestic crude oil prices in the first half of 1988 since they were the result of increased U.S. imports of crude oil would not provide a basis for certification. Price is not one of the Group Eligibility Requirements for certification.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 3rd day of August 1989.

[FR Doc. 89-18844 Filed 8-10-89; 8:45 am]

BILLING CODE 4510-30-M

Labor Certification Process for the Temporary Employment of Aliens in Agriculture in the United States; Enforcement of Job Offers with H-2A Applications

AGENCY: Employment and training Administration, Labor.

ACTION: Notice:.

SUMMARY: On February 27, 1989, the Employment and Training Administration (ETA) issued a policy memorandum clarifying an employer's responsibilities to U.S. and alien workers in the event that the employer's application for temporary alien agricultural labor (H-2A) certification is granted in whole or in part, or is denied. The memorandum explains the employer's obligations with respect to wages, benefits, and working conditions; and how apparent violations will be handled by ETA and the Employment Standards Administration (ESA).

The policy memorandum is published, in pertinent part, below for public information.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas M. Bruening, Chief, Division of Foreign Labor Certifications, Employment and Training Administration, Room N4456, Constitution Avenue, NW., Washington, DC 20210. Telephone: 202-535-0165 (this is not a toll-free number).

Signed at Washington, DC this 3rd day of August, 1989.

Robert T. Jones,

Assistant Secretary of Labor.

February 27, 1989.

Memorandum For: Harry B. Brown, Regional Administrator, Seattle.

From: Donald J. Kulick, Administrator, Office of Regional Management.

Subject: Enforcement of Job Offers with H-2A Applications.

Enforcement of apparent violations of H-2A related job offers would be handled as follows:

1. *When certification is not granted (for any of the jobs in the employer's application).* In this situation, the employer would not be subject to a finding of a violation of labor certification from either ETA or ESA. If certification is not granted because of U.S. worker availability, but the workers have been hired as the result of SESA referrals, SESA action under the discontinuation of services procedures at 20 CFR part 658, Subpart F might be appropriate for employers who do not abide by the terms of the job order. Further, an employer could be subject to ESA penalties under MSPA.

2. *When certification is granted (for any or all of the jobs in the employer's application).* Under these conditions, the employer is obligated to comply with the provisions of the job offer and the labor certification, irrespective of whether the certification is actually used for the purpose of bringing foreign workers into the U.S. This obligation applies to all U.S. workers hired under the conditions approved in the job offer for the specific job openings and period of time involved and to workers in corresponding employment for the same period of time. Whether the U.S. workers were hired as the result of SESA referrals or through the employer's positive recruitment efforts is not material; both ETA and ESA penalties could be applied.

A variation on this type of situation could occur when a certified employer who decides not to use the certification to import aliens chooses to turn back and cancel the certification which has been granted. In this scenario, an employer would be obligated to comply with the terms of the job offer for his/her U.S. workers (SESA referrals and positive recruitment hires) up to the point in time when the certification has been turned back to the Regional Office, or be subject to H-2A penalties. Once the certification is cancelled, and the employer also cancels the job order with SESA, the employer would no longer be subject to H-2A penalties or SESA part 658 penalties for failure to comply with the conditions of the job offer *except* for those U.S. workers recruited through SESA referrals up to that point to whom hiring commitment has been made and who work for the employer into the originally stated duration of the job opportunity. (However, failure to continue to provide the wages and other benefits in the job offer to workers hired through positive recruitment or other means could subject the employer to possible MSPA penalties.) Further, under these circumstances, the employer would not be eligible for expedited redetermination or emergency certification processing in the event hired workers leave the job, and the employer decides to seek foreign workers again in the same season.

In order for a "cancellation" of a granted certification to be effective, an employer would have to actually return the original copy of the written certification determination to the Regional Office. The employer also would have to submit a signed document, such as a letter, stating that he/she has decided not to use the certification to bring aliens into the country.

[FR Doc. 89-18847 Filed 8-10-89; 8:45 am]

BILLING CODE 4510-30-M

Apprenticeship 2000, Focus Papers on Expansion, Quality, Support Activities, and Linkages

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Department of Labor's Employment and Training Administration has completed the second stage of its review of apprenticeship. This review included the publication of two Focus Papers which invited response concerning various issues relating to apprenticeship and expansion of the apprenticeship concept of skill formation while learning on the job. 53 FR 40326 (October 14, 1988); and 54 FR 3756 (January 25, 1989).

A Summary Report of the responses received to both Focus Papers has been prepared and is currently available. A copy of this report will be mailed to all organizations/individuals who have received prior Apprenticeship 2000 publications. Others who wish to receive a copy of this report, free of charge, may do so by sending a written request to the address below.

ADDRESS: Requests for a copy of the Summary Report, Responses to Focus Papers shall be mailed to James D. Van Erden, Director, Bureau of Apprenticeship and Training, Room N-4649, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: James D. Van Erden, Director, Bureau of Apprenticeship and Training, Office of Job Training Programs, Employment and Training Administration. Telephone: (202) 535-0540 (this is not a toll free number).

Signed at Washington, DC., this 31st day of July, 1989.

Roberts T. Jones,

Assistant Secretary of Labor.

Apprenticeship 2000—Focus Papers on Apprenticeship

Background

In December 1987, the Department of Labor (DOL) launched its Apprenticeship 2000 initiative with the publication of an issue paper in the **Federal Register**, 52 FR 45904 (December 2, 1987). The purpose of this initiative is to review the apprenticeship concept of training and to determine its future role in meeting America's needs for a skilled work force. Publication of that issue paper was followed by three public meetings held during February 1988, in San Francisco, Chicago, and Washington, DC The meetings were announced in the **Federal Register**, 53 FR 961 (January 14, 1988), and the public was invited to attend and testify on the issues presented in the issue paper.

The results of the written responses and oral testimony were summarized and published by the DOL in August 1988, in a report entitled, Apprenticeship 2000 The Public Speaks; **Federal Register**, 53 FR 34250 (September 2, 1988). These responses were analyzed in order to provide direction for the next stages of the apprenticeship review. Based in part on the information garnered from this endeavor, two focus papers were published for public comment in the **Federal Register**. These papers presented a wide range of options for expansion and change to the apprenticeship system and solicited public input on an array of issues which impact upon expansion of the apprenticeship concept.

Focus Papers

The first focus paper published in the **Federal Register**, 53 FR 40326 (October 14, 1988), posed two key questions regarding the future of apprenticeship in America. The first question asked how alternative approaches to apprenticeship might actually be applied so that employers' needs for differing levels of skilled workers are met while, at the same time, ensuring that the traditional journey-level status is preserved and not diluted. The second question addressed quality measurement, and solicited responses on process and outcome measures to ensure quality training in future apprenticeship programs.

There were 101 responses to this Paper. Strong support was indicated for recognizing varying levels of skill achievement for training received, as well as support for diversifying the structure of apprenticeship programs to accommodate industry's needs. In addition, there were some general comments concerning alternative approaches to apprenticeship. One such comment was that the three methods (Separate Program Structure, Program Levels, and Worker Certification) mentioned in the focus paper are not necessarily mutually exclusive approaches; many replies suggested combinations of two or more options.

There were also many ideas expressed other than direct responses to

the issues raised in the focus paper. For instance, one of the recurring themes was promotion. Many respondents suggested an aggressive informational marketing and public relations plan should be implemented by the Government. Some responded that all parties should be made aware of the benefits of apprenticeship. Another commented that schools and counsellors are ill-informed about apprenticeship from middle schools right up through college level. Many thought that employers also should be made aware of how apprenticeship can help overcome the skilled worker shortages they have presently, and will face increasingly, in the future.

Another recurring reply to this paper was that industry should have a key role in identifying and selecting alternative approaches to apprenticeship. Some respondents suggested a concentrated effort to interface business, industry, government, and education to improve our skilled work force. Those who made this proposition also generally felt that this effort should be primarily industry driven.

The second focus paper was published in the Federal Register, 54 FR 3756 (January 25, 1989). Public comment was sought on the appropriate support and linkage activities necessary for the effective modification of apprenticeship. Comment was also sought on how these activities should be organized and carried out with respect to the Federal/State roles.

There were 87 responses to this paper and, in general, most respondents who expressed opinions supported some form of support activities and linkages.

Promotion of apprenticeship was the issue addressed by most respondents, and the responses were uniformly in agreement that much more promotion of apprenticeship is needed.

Respondents generally advocated greater effort in all other areas of support activities, such as technical assistance, with the exception of loans. The majority (54 percent) responding to a question on whether loans should be made to offset initial training costs indicated, for a variety of reasons, that this would be inappropriate. Also, a number of suggestions were received as how to forge better apprenticeship program linkages together with many ideas as to specific organizations who might have a greater role in the delivery of apprenticeship.

With respect to Federal/State roles, almost all of the respondents who addressed this issue thought that there should be minimum requirements for the level of State effort as a condition of recognition by the Secretary of Labor. Also, many respondents indicated that it was desirable to have all States participate in the apprenticeship system. Only a few indicated that it was not. However, "uniformity" among States in apprenticeship program operations was deemed to be important by the vast majority of respondents addressing this issue.

Current Federal regulations do not provide for potential programs sponsors to be advised of the reasons for denial of program registration. See 29 CFR 29.3. the right to appeal an adverse finding is basic to most government programs and respondents commenting on this "Procedural Safeguards" question were unanimous in their opinion that such safeguards are in fact, needed. In this way, potential program sponsors would have a course of action available if their request for registration is denied.

In the past, suggestions have been made that additional efforts are needed to clarify respective responsibilities in States where apprenticeship is jointly administered by the Department of Labor's Bureau of Apprenticeship and Training and a State Apprenticeship Counsel (SAC). At present, in 25 of the 27 SAC States, responsibilities are established in written agreements. Thirteen of the respondents to this focus paper offered suggestions as to how to go about clarifying the Fedearl-State roles.

The Department of Labor would like to thank those who responded to the Focus Papers. The responses were helpful in assisting the Bureau of Apprenticeship and Training to develop its new policy paper on apprenticeship. The Department of Labor is grateful to those organizations and individuals who took their time and effort to respond.

[FR Doc. 89-18848 Filed 8-10-89; 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 persons, 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-3504, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publications in the **FEDERAL REGISTER** are in parentheses following the decisions being modified.

Volume I

New York:

NY89-2 (January 6, 1989).. p 683, pp. 684-700.
NY89-4 (January 6, 1989).. p 709, pp. 710-716.
NY89-7 (January 6, 1989).. p 737, pp. 738-754.
NY89-8 (January 6, 1989).. p 755, pp. 756-766.
NY89-9 (January 6, 1989).. p 767, p. 768.
NY89-10 (January 6, 1989). p 769, pp. 770-780.
NY89-11 (January 6, 1989). p 781, pp. 782-788.
NY89-12 (January 6, 1989). p 789, pp. 790-798.
NY89-13 (January 6, 1989). p 799, pp. 800-806.
NY89-14 (January 6, 1989). p 807, pp. 808-810.
NY89-15 (January 6, 1989). p 811, pp. 812-816.
NY89-17 (January 6, 1989). p 817, pp. 818-826.
NY89-18 (January 6, 1989). p 827, pp. 828-836b.
NY89-19 (January 6, 1989). p 836c, pp. 836d-836h.

Volume II

Missouri, MO89-5 (January 6, 1989). p. 669, p. 670.
New Mexico, NM89-1 (January 6, 1989). p. 743, pp. 744-746, pp. 749.
Ohio, OH89-2 (January 6, 1989). p. 787, pp. 788-790, pp. 797-798.

Oklahoma:

OK89-13 (January 6, 1989). p 941, pp. 942-943.
OK89-14 (January 6, 1989). p 951, pp. 952-954.
OK89-16 (January 6, 1989). p 963, p. 964.
OK89-17 (January 6, 1989). p 967, p. 968.
OK89-18 (January 6, 1989). p 969, p. 970.
OK89-19 (January 6, 1989). p 973, p. 974.
OK89-20 (January 6, 1989). p 975, p. 976.
OR89-1 (January 6, 1989)..... p 307, p. 309.

Washington:

WA89-1 (January 6, 1989). p 363, pp. 365, 367.
WA89-3 (January 6, 1989). p 401, pp. 402-408.
WA89-7 (January 6, 1989). p 417, p. 418.
WA89-8 (January 6, 1989). p 423, pp. 424, 426a, p. 426b.

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 4th day of August 1989.

Robert V. Setera,

Acting Director, Division of Wage Determinations.

[FR Doc. 89-18639 Filed 8-10-89; 8:45 am]

BILLING CODE 4510-27-M

NUCLEAR REGULATORY COMMISSION

Uranium Mill Facilities; Availability and Request for Public Comment on Draft Technical Position on Design of Erosion Protection Covers

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability and request for public comment.

SUMMARY: The Nuclear Regulatory Commission (NRC) is announcing the availability of and is requesting public comment on a draft Staff Technical Position entitled "Design of Erosion Protection Covers for Stabilization of Uranium Mill Tailings Sites." The Position provides guidance on acceptable methods for meeting the long-term stability requirements established in 10 CFR part 40, Appendix A and in 40 CFR part 192, with regard to the design of erosion protection covers. The NRC is requesting public comment on the draft Technical Position before it is finalized.

DATES: Comments on the draft Position should be submitted by October 10, 1989 to ensure that the comments are considered in developing the final Technical Position.

ADDRESSES: Copies of the draft Technical Position may be obtained by writing to T.L. Johnson at Mail Stop 5E4, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Comments on the Position should be sent to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, or may be hand-delivered to Room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, between the hours of 7:30 a.m. and 4:15 p.m. weekdays, except Federal holidays. Copies of comments received may be examined at the NRC Public Document Room, 2120 L NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: T.L. Johnson, Division of Low-Level Waste Management and Decommissioning, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone (301) 492-3440.

Dated at Rockville, Maryland, this 2nd day of August 1989.

For the Nuclear Regulatory Commission.

Paul Lohaus,

Chief, Operations Branch, Division of Low-Level Waste Management and Decommissioning, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 89-18728 Filed 8-10-89; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Proposed Extension of Standard Form 113-G

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S.C. Chapter 35), this notice announces a request submitted to OMB for clearance to continue to collect information for the Monthly Report of Full-time Equivalent/Work-Year Civilian Employment (Standard Form 113-G). The data collected are used by OMB and OPM to: (1) Monitor agencies' progress in increasing part-time employment; (2) aid OMB and the President in making decisions on agencies' budget appropriations for the next fiscal year; and (3) monitor agency work year usage under assigned ceilings during the current fiscal year. For copies of this proposal, call Grace W. Butler, Agency Clearance Officer, on (202) 632-0259.

DATE: Comments on this information collection should be received on or before August 25, 1989.

ADDRESSES: Send or deliver comments to:

C. Ronald Trueworthy, Agency Clearance Officer, Office of Personnel Management, Room 6410, 1900 E Street, NW., Washington, DC 20415,

and,

Joseph Lackey, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: May Eng, (202) 632-4920.

U.S. Office of Personnel Management,

Constance B. Newman,

Director.

[FR Doc. 89-18852 Filed 8-10-89; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-27097; File No. SR-CBOE-89-10]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Delta Position and Exercise Limits

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on July 10, 1989, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") an amendment to the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization.[1] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

The Exchange proposes to amend CBOE Rules 24.4 and 24.5 as set forth below for the purpose of implementing a one-year pilot program that would allow qualified market makers in market indexes to calculate their maximum allowable position and exercise limits based on two formulas that function according to the deltas of particular options positions.[2]

Rule 24.4 Position Limits

(a)(i) In determining compliance with Rule 4.11, option contracts on a market index shall be subject to a contract limitation fixed by the board, which shall not be larger than 25,000 contracts on the same side of the market, with no more than 15,000 of such contacts in the series of such market index with the nearest expiration date, except as described in subparagraph (ii) below.

(ii) In determining compliance with Rule 4.11, marketmakers in options contracts on a market index may elect, subject to prior Exchange approval, position limits not to exceed the following standard:

15,000 DEC (total delta equivalent contracts); and 35,000 adjusted DEC (adjusted for potential liquidation risk), where DEC is defined as the absolute value of the sum of the number of series contracts (i.e., the number of contracts held of a given series) multiplied by the series delta for all series of a market index class. The adjusted DEC is the number of delta equivalent contracts calculated separately for the long call-short put series and for the short call/long put series, where the option series deltas are constrained to be at least .25. The maximum DEC and maximum adjusted DEC positions are the greatest positions, respectively, determined by calculating the DEC and the adjusted DEC at 2% intervals over a range of market movement of from −20% through +20%.

Where the positions of related accounts are currently aggregated to determine compliance with subparagraph (a)(i), such positions shall similarly be aggregated to determine compliance with this subparagraph (a)(ii). Where the use of this alternate standard for any of such aggregated accounts is disapproved, none of the aggegated accounts may elect the position limits of this subparagraph (a)(ii). Positions in the same series in aggregated accounts shall not be netted when calculating either the DEC of the adjusted DEC.

Rule 24.5 Exercise Limits

In determining compliance with Rule 4.12, exercise limits for index option contracts shall be equivalent to the position limits prescribed for option contracts with the nearest expiration date in Rule 24.4 subparagraph (a)(i), except that on the last trading day before expiration market makers electing the provisions of subparagraph (a)(ii) may exercise an amount of contracts which when added to the amount exercised over the four previous business days does not exceed 15,000 DEC and 35,000 adjusted DEC.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Exchange herein proposes a one-year pilot program for determining market maker position limits based upon delta equivalent contracts in market index option classes. The purpose of the proposal is to provide market makers with the ability to respond more effectively to retail and institutional orders without increasing unduly the risk in maintaining the resulting positions.

This position limit proposal is divided into two components: the total delta

[1] The original proposed rule change was published for comment in Securities Exchange Act Release No. 26974 (June 26, 1989), 54 FR 28850.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

[2] The delta of an option contract is the amount by which its price will change for a corresponding change in the price of the underlying instrument.

equivalent contracts in a market index class (DEC) and the DEC adjusted for potential liquidation risk (adjusted DEC). Both the DEC and the adjusted DEC are to be calculated at 2% intervals over a range of market movement of from −20% to +20%, with a minimum delta set at .25 when determining the adjusted DEC. The maximum number of contracts calculated under these two tests may not exceed 15,000 and 35,000, respectively.[3] The calculation of a maximum DEC over a broad range of market movements has been proposed to account for the tendency of delta to change rapidly in volatile markets. The establishment of a minimum delta of .25 for the liquidation test ensures that the potential impact of deep out-of-the-money contracts is not minimized. The pilot shall be limited to those market makers in market index contracts who have received Exchange approval to elect this delta standard, based upon their submission to the Exchange of acceptable written applications, which shall include, but not be limited to, a copy of the member's computer program for calculating the DEC and adjusted DEC positions.

The changes to the exercise rule are such that a market maker choosing the delta position limit option will be allowed to exercise the same amount as market makers who do not elect to use the delta position limit option except on an expiration date. On that date, the delta position limit market maker may exercise an additional number of contracts such that, when this amount is added to the amount exercised over the four previous business days, the total amount does not exceed an equivalent to 15,000 DEC and 35,000 adjusted DEC. This is the same concept as is granted other market participants given hedge exemptions.

The CBOE believes this proposal is consistent with the provisions of the Act, and, in particular, section 6(b)(5), in that the proposal is designed to perfect the mechanism of a free and open market, to enhance the ability of investors to use options for investment purposes, and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CBOE believes that the proposed rule change will not impose a burden on competition.

[3] For a more complete description of how position limits are to be calculated under this proposal, see Exhibit 1 to this notice.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before September 1, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Dated: August 3, 1989.

Jonathan G. Katz,

Secretary.

[4] 17 CFR 200.30-3(a)(12) (1986).

Exhibit 1

The DEC is defined as the absolute value of: Sum [series contracts * series delta] for all series.

The maximum DEC is defined in the relation:

Max DEC=Max [DEC(−20%), DEC(−18%), . . ., DEC(−2%), DEC, DEC(2%) . . ., DEC(18%), DEC(20%)] which must be less than 15,000.

Similarly, the maximum adjusted DEC is defined in the relation:

Max adjusted DEC=Max [Sum−LongMarket, Sum−ShortMarket] which must be less than 35,000,

where, at a given index level:

Sum−LongMarket=Sum (abs (series contracts * option delta) for all series that are long and market i.e., long calls and short puts, and

Sum−ShortMarket=Sum (abs (series contracts * option delta) for all series that are short the market i.e., long calls and short puts, and

subject to the condition that the option delta is set at 0.25 if it is less than 0.25 initially, and the Max is over the index moves −20% to +20% by 2% increments. The term "abs" means the absolute value.

As an example, consider the following calendar spread:

Date: 9-1-88. Index at 250. Interest rate: 7%. Volatility: 20%

long 20,000 255 NOV calls—79 days to exp.

short 20,000 255 OCT calls—51 days to exp.

Index at	NOV delta	OCT delta	DEC *	adj DEC **
−20% 200	.0082	.0010	143	5,000
−18% 205	.0163	.0030	267	5,000
−16% 210	.0302	.0076	453	5,000
−14% 215	.0521	.0173	698	5,000
−12% 220	.0842	.0354	976	5,000
−12% 225	.1280	.0660	1,240	5,000
−8% 230	.1842	.1128	1,426	5,000
−6% 235	.2519	.1777	1,485	5,038
−4% 240	.3292	.2602	1,379	6,583
−2% 245	.4127	.3568	1,117	8,254
250	.4986	.4615	742	9,972
+2% 255	.5829	.5668	322	11,658
+4% 260	.6620	.6657	(72)	13,313
+6% 265	.7333	.7526	(387)	15,052
+8% 270	.7949	.8245	(592)	16,491
+10% 275	.8463	.8806	(686)	17,613
+12% 280	.8877	.9221	(687)	18,442
+14% 285	.9200	.9511	(624)	19,023
+16% 290	.9443	.9705	(525)	19,411
+18% 295	.9621	.9829	(416)	19,658
+20% 300	.9748	.9904	(313)	19,808
			Max [DEC]=	1,485
			Max [adj DEC]=	19,808

* DEC=20,000 * NOV Delta−20,000 * OCT delta

** adj DEC=Max [20,000 * NOV Delta, 20,000 * OCT delta] where the option delta is taken to be at least 0.25

[FR Doc. 89-18777 Filed 8-10-89; 8:45 am]

BILLING CODE 8010-01-M

[34-27095; 89-06]

Self-Regulatory Organizations; Midwest Clearing Corp.; Filing and Immediate Effectiveness of Proposed Rule Change Relating to Fees

August 3, 1989.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on July 19, 1989, the Midwest Clearing Corporation ("MCC") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Attached as Exhibit A is the MCC's proposed fee revisions imposed to cover the costs of additional reports available through its File Transmission Service ("FTS").

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the placed specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to establish fees for the addition of new files to FTS. FTS is a CPU to CPU interface between MCC and the computers of Participants or their service bureaus. FTS makes processing smoother and more efficient by replacing tape handling and decreasing processing times.

The proposed rule change establishes fees for the following files which are being added to FTS:

Accommodation Transfer
Bond Comparison
Dividend Announcements

The revised fee schedule is consistent with Section 17A of the Securities Exchange Act of 1934 (the "Act") in that it provides for the equitable allocation of reasonable dues, fees and other charges among MCC's Participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

Midwest Clearing Corporation does not believe that any burdens will be placed on competition as a result of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, participants or

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-referenced self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by September 1, 1989.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

EXHIBIT A

(Additional Italicized; [Deletions Bracketed])

	Daily	Weekly	Monthly*	Upon Request (testing)
R-Activity	$165.00	N/A	N/A	$75.00
R-Net Position	165.00	125.00	75.00	75.00
R-Net Position/Activity	275.00	N/A	N/A	75.00
B-Net Position/Activity	275.00	200.00	75.00	75.00
Purchase & Sales	165.00	N/A	N/A	75.00
ACATS Activity	165.00	N/A	N/A	75.00
R-Masterfile Updates	165.00	N/A	N/A	75.00
R&B Masterfile (FTP)	N/A	200.00	75.00	75.00
NIDS	165.00	N/A	N/A	75.00
Accommodation Transfer	*165.00*	*125.00*	*75.00*	*75.00*
Bond Comparison	*165.00*	*N/A*	*N/A*	*75.00*
Dividend Announcements	*165.00*	*N/A*	*N/A*	*75.00*

*Includes settlement month end, calendar month end.

[Release No. 35-24932]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

August 3, 1989.

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 applications(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 August 28, 1989 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.

AEP Generating Company (70-7621), Indiana Michigan Power Company

AEP Generating Company ("AEGCO") and Indiana Michigan Power Company ("I&M") (collectively, "Applicants"), both located at 1 Riverside Plaza, Columbus, Ohio 43215, subsidiary companies of American Electric Power Company, Inc. ("AEP"), a registered holding company, have filed a post-effective amendment to their application-declaration pursuant to section 9(a), 10, 12(b), 12(c) and 12(d) of the Act and Rules 44, 45 and 46 thereunder.

By prior Commission orders dated April 25, 1989 and June 22, 1989 (HCAR Nos. 24872 and 24910), Applicants were authorized to enter into one or more transactions involving the sale and leaseback pursuant to a net lease or leases (collectively, "Lease") of their respective 50% undivided ownership interests ("Undivided Interests") in Rockport Generating Station Unit No. 2 ("Rockport 2") located in Spencer County, Indiana, now under construction and expected to be completed in late 1989. Applicants expect that the maximum aggregate fair market value of their Undivided Interests in Rockport 2 will not exceed $1.7 billion. To effectuate this transaction, Applicants will enter into participation agreements providing for the sale of their Undivided Interests to Wilmington Trust Company ("Owner Trustee" or "Lessor"), trustee under one or more trust agreements (collectively, "Owner Trust") between the Owner Trustee and five or more institutional equity investors ("Owner Participants"), and simultaneously Applicants will lease their Undivided Interests back from the Owner Trustee pursuant to the lease which will not exceed a term of 33 years. It is proposed that approximately 15–25% of the Lessor's cost will be provided by the Owner Participants through their equity investment in the Owner Trust and 75–85% will be borrowed by the Owner Trustee.

With respect to that portion of the Lessor's cost to be borrowed, it is expected that interim financing up to an aggregate of $1.4 billion would be provided by one or more domestic or foreign financial institutions ("Original Loan Participants") in return for nonrecourse notes ("Initial Series Notes") of the Lessor. The application stated that the Original Loan Participants would be repaid from the proceeds of long-term debt financing that would take place within two years after the inception of the Lease. Jurisdiction was reserved over the terms of such long-term financing insofar as the Lease payments by the Applicants would be affected.

Applicants now propose, in lieu of the issuance of up to $750 million principal amount of Initial Series Notes, that authorization be given allowing the private placement of up to $750 million principal amount of long-term bonds ("Bonds") by RGS (I&M) Funding Corporation and RGS (AEGCo) Funding Corporation non-affiliates of Applicants. The Bonds will be issued by each funding corporation in at least two series. The Series A Bonds will be in an aggregate principal amount not to exceed $350 million, mature no later than 15 years from the issuance thereof and bear interest at a rate of 9.59%. The Series B Bonds will be in an aggregate principal amount not to exceed $150 million, mature no later than 20 years from the issuance thereof and bear interest at a rate of 9.75%. If market conditions permit, up to $250 million of additional series of Bonds may be issued. The maturity of any such additional series of Bonds, however, will not exceed 33 years nor will any such series of Bonds bear interest at a rate in excess of 11%.

In addition to the use of proceeds previously authorized by order dated April 25, 1989 (HCAR No. 24872), I&M requests authority to use up to $65 million of the proceeds from the sale of its Undivided Interest to reduce the equity investments of AEP, such that the resulting long-term debt and common equity ratios will be approximately 52% and 40%, respectively, To this end, I&M proposes to liquidate its Other Paid-in Capital to the extent necessary to achieve these objectives.

Consolidated Natural Gas Company (70-7667)

Consolidated Natural Gas Company ("Consolidated"), CNG Tower, Pittsburgh, Pennsylvania 15222-3199, a registered holding company, has filed an application-declaration pursuant to sections 6(a), 7, 9(a), 10, 12(b), and 12(c) of the Act and Rules 42, 43, 45, 86, 87, and 90 thereunder.

Consolidated proposes to acquire, as a wholly owned subsidiary, Virginia Natural Gas, Inc. ("VNG"), a gas utility company doing business in southeastern Virginia, by purchasing the 2,344 outstanding shares of VNG common stock, no par value, for $102,500,000 and the 55,062 outstanding shares of VNG preferred stock, $100 par value, for $5,506,000 ("Preferred Stock") (collectively, "Stock") from Dominion Resources, Inc. ("DRI"), an exempt holding company.

As an inducement for DRI to sell the Stock, Consolidated at closing ("Closing") will also make long-term loand and/or a capital contribution in an amount up to $50,500,000 in order for VNG to prepay outstanding VNG debt held by DRI ($37,569,000 at March 31, 1989). This debt consists of (1) $35,169,000 remaining under a 8.45% promissory note maturing July 1, 2006 and (2) $2,400,000 outstanding under an Inter-Company Credit Agreement between DRI and VNG. Any long-term loan made by Consolidated to VNG in order for VNG to prepay inter-company debt will be made under the same terms

and conditions as set forth for Consolidated's intra-system financing of its subsidiaries as authorized by order of the Commission dated June 15, 1989 (HCAR No. 24904) ("June 15, 1989 Order").

VNG has a service agreement ("Virginia Service Agreement") with Virginia Electric & Power Company ("Virginia Power"), a subsidiary of DRI, whereby Virginia Power provides services to VNG. VNG will continue to receive certain services from Virginia Power for a transitional period following the acquisition, but no later than January 1, 1991. Services not provided under the Virginia Service Agreement will be provided to VNG by a service agreement to be entered into with Consolidated Natural Gas Service Company, Inc., a subsidiary of Consolidated.

Consolidated, through its interstate pipeline company, CNG Transmission Corporation, intends to extend to Fauquier County, Virginia its PL-1 pipeline, which presently runs from Juniata County, Pennsylvania to Loudoun County, Virginia. In Fauquier County, Virginia, the TL-465 Pipeline will be connected with an intrastate pipeline which VNG intends to construct ("Intrastate Pipeline"). Both the TL-465 Pipeline and the Intrastate Pipeline are expected to be in commercial operation in the latter half of 1991.

Consolidated also seeks authority to make subsequent to the Closing, through June 30, 1990, (i) open account advances to VNG not to exceed $25,000,000, (ii) long-term loans to VNG of up to $25,000,000, and (iii) purchases of up to $25,000,000 of additional common stock of VNG. The open account advances, long-term loans and purchase of VNG common stock subsequent to the Closing will not exceed an aggregate amount of $75 million and will have the same terms and conditions as set forth in the June 15, 1989 Order.

Consolidated proposes that VNG use the proceeds of the open account advances, long-term loans and purchase of its common stock to (1) acquire, for $100 per share, and the retire, the Preferred Stock and (2) for general corporate purposes, including gas storage inventories, other working capital requirements and temporarily for construction until long-term financing is obtained. Following the retirement of the Preferred Stock, VNG would then amend its Articles of Incorporation to delete all provisions concerning Preferred Stock and to increase its authorized common stock, no par value, from 2,500 to 10,000 shares.

Consolidated further proposes to have VNG participate, as both a borrower and lender, in the CNG System Money Pool, as authorized by order of the Commission dated June 12, 1986 (HCAR No. 24128), through June 30, 1991, up to a maximum amount of $25 million.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-18780 Filed 8-10-89; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of reporting requirements submitted for review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATE: Comments should be submitted on or before September 11, 1989. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (S.F. 83), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: William Cline, Small Business Administration, 1441 L Street NW., Room 200, Washington, DC 20416, Telephone: (202) 653-8538

OMB Reviewer: Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, Telephone: (202) 395-7340

Title: Score Application for Membership

Form Nos.: SBA Forms 610

Frequency: On occasion

Description of respondents: Individuals volunteering for the Service Corps of Retired Executives

Annual Responses: 2,800

Annual Burden Hours: 1,400

William Cline,

Chief, Administrative Information Branch.

[FR Doc. 89-18794 Filed 8-10-89; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Order 89-8-7; Docket 45944]

Application of Mid Pacific Air Corp. for Certificate Transfer

AGENCY: Department of Transportation.

ACTION: Notice of order to show cause.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding Mid Pacific Air Corporation fit and transferring to it the section 401 certificate of Mid Pacific Airlines, Inc., authorizing it to engage in interstate and overseas scheduled air transportation of persons, property, and mail, subject to certain limitations.

DATES: Persons wishing to file objections should do so no later than August 22, 1989.

ADDRESSES: Objections and answers to objections should be filed in Docket 45944 and addressed to the Documentary Services Division (C-55, Room 4107), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590 and should be served upon the parties listed in Attachment C to the order.

FOR FURTHER INFORMATION CONTACT: Mrs. Janet A. Davis, Air Carrier Fitness Division (P-56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-9721.

Dated: August 7, 1989.

Jeffrey N. Shane,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 89-18839 Filed 8-10-89; 8:45 am]

BILLING CODE 4910-62-M

Coast Guard

[CGD-89-060]

Public Hearing Bridges; Proposed Improvement to the Miracle/Everest Parkway and Construction of a Bridge Across the Calloosahatchee River Between Cape Coral and Fort Myers, FL

AGENCY: Coast Guard, DOT.

ACTION: Notice of public hearing.

SUMMARY: Notice is hereby given that the Commandant has authorized a public hearing to be held by the Commander, Seventh Coast Guard District, at North Fort Myers, Florida. The purpose of the hearing is to consider an application by Lee County and the

City of Cape Coral for Coast Guard approval of the location and plans to improve the Miracle-Everest Parkway and to construct a bridge across the Calloosahatchee River between Cape Coral and East Myers, Florida.

All interested persons may present data, views and comments, orally or in writing, concerning the impact of the proposed project on navigation and the human environment.

DATE: September 14, 1989, at 2:00 p.m., until all speakers in attendance wishing to comment have provided comments.

ADDRESS: The hearing will be held at the Lee County Civic Center, 11831 Bayshore Road, North Fort Myers, Florida.

FOR FURTHER INFORMATION CONTACT: Mr. Brodie Rich, Seventh Coast Guard District, Brickell Plaza, Federal Building, 909 Southeast 1st Avenue, Miami, Florida 33131–3050, (305) 536–4108.

SUPPLEMENTARY INFORMATION: The purpose of the project is to link the Miracle/Everest Parkway in Cape Coral with the proposed Midpoint Bridge. The Miracle/Everest Parkway project would consist of an ultimate six-lane arterial roadway from the Burnt Store Road extension/Miracle Parkway intersection to Everest Parkway at Del Prado Boulevard. The proposed Midpoint Bridge Corridor would begin in the West at Del Prado Boulevard in Cape Coral, with a connection to the Miracle/Everest Parkway project, as discussed above. From that point eastward, the midpoint project would provide a four-lane, divided, limited access facility for a length of approximately 8.8 miles.

The Coast Guard, as lead Federal agency has determined that this project will have a significant impact on the environment and has therefore, prepared a draft Environmental Impact Statement (DEIS). Copies of the DEIS are available for review at the office of the Seventh Coast Guard District at the above address from 7:30 a.m. to 4:00 p.m., Monday through Friday, except Federal holidays.

The hearing will be informal. Representativs from the Coast Guard will preside at the hearing, make a brief opening statement and announce the procedures to be followed at the hearing. Each person who wishes to make an oral statement should notify the Commander (oan), Seventh Coast Guard District, at the above address by September 8, 1989. Such notification should include the approximate time required to make the presentation. Depending upon the number of scheduled statements, it may be necessary to limit the amount of time allocated to each person.

Any limitation of time allocated will be announced at the beginning of the hearing. Comments previously submitted are a matter of record and need not be resubmitted at the hearing. Speakes are encouraged to provide written copies of their oral statements to the hearing officer at the time of the hearing. Those wishing to make written comments only may submit those comments at the hearing, or to the Commander, Seventh Coast Guard District, through September 22, 1989. A transcript of the hearing, as well as written comments received outside of the hearing, will be available for public review at the office of the Seventh Coast Guard District approximately 30 days after the hearing date.

All comments, whether received in writing or presented orally at the public hearing, will be fully considered before final agency action is taken on the permit application.

(Sec. 502, 60 Stat 847, as amended; 33 U.S.C. 525; 49 U.S.C. 1655(g)(c); 49 CFR 1.45(c))

Dated: August 7, 1989.

John W. Lockwood,

Captain, U.S. Coast Guard, Acting Chief, Office of Navigation Safety and Waterway Service.

[FR Doc. 89–18838 Filed 8–10–89; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: August 7, 1989.

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 2224, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Bureau of the Public Debt

OMB: New
Form Number: PD 1993
Type of Review: New Collection
Title: Reinvestment Application
Description: This form may be used to request payment of matured Series H Savings Bonds and reinvestment of the proceeds in Series HH Savings Bonds bearing current issue dates.
Respondents: Individuals or households
Estimated Number of Respondents: 270,000
Estimated Burden Hours Per Response: 15 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 67,500 hours
Clearance Officer: Rita DeNagy (202) 447–1640, Bureau of the Public Debt, Room 137, BEP Annex 300 13th Street, SW., Washington, DC 20239–0001.
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. 89–18828 Filed 8–10–89; 8:45 am]

BILLING CODE 4810–25–M

Public Information Collection Requirements Submitted to OMB for Review

Date: August 7, 1989.

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 2224, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0187
Form Numnber: 4835
Type of Review: Revision
Title: Farm Rental Income and Expenses
Description: This form is used by landowners (or sub-lessors) to report farm income based on crops or livestock produced by the tenant when the landowner (or sub-lessor) does not materially participate in the operation or management of the farm. This form is attached to Form 1040 and the data is used to determine whether the proper amount of rental income has been reported.
Respondents: Individuals or households, Farms
Estimated Number of Respondents: 407,719
Estimated Burden Hours Per Response/Recordkeeping: Recordkeeping—2 hours, 57 minutes; Learning about the law or the form—5 minutes; Preparing

the form—1 hour, 5 minutes; Copying, assembling, and sending the form to IRS—20 minutes
Frequency of Response: Annually
Estimated Total Recordkeeping/ Reporting Burden: 1,814,350 hours.

OMB Number: 1545–0823
Form Number: None
Type of Review: Extension
Title: Indian Tribal Governments Treated as States for Certain Purposes
Description: The regulations provide that if a governing body of a tribe etc. of native American Indians or Alaska natives is not designated as an Indian tribal government for purposes of sections 7701 and 7871, the governing body may apply for a ruling from the IRS. The same provisions are made for subdivisions of Indian tribal governments.
Respondents: Indian Tribal governments (or sub-divisions thereof)
Estimated Number of Respondents: 25
Estimated Burden Hours Per Response: 1 hour
Frequency of Response: Once
Estimated Total Reporting Burden: 25 hours
Clearance Officer: Garrick Shear (202) 535–4297, 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. 89–18829 Filed 8–10–89; 8:45 am]
BILLING CODE 4810–25–M

Public Information Collection Requirements Submitted to OMB for Review

Date: August 7, 1989.

The Department of the 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 2224, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512–0027
Form Number: ATF Form 4 (5320.4)
Type of Review: Extension
Title: Application for Tax-Paid Transfer and Registration of Firearms
Description: This form must be submitted to ATF to obtain approval for a tax paid transfer of NFA firearms. Approval of a transfer and registration of a firearm to a new owner are accomplished with the information supplied on this document.
Respondents: Individuals or households, Businesses or other for-profit, Small businesses or organizations
Estimated Number of Respondents: 6,000
Estimated Burden Hours Per Response: 4 hours
Frequency of Response: On occasion
Estimated Total Reporting Burden: 24,000 hours

OMB Number: 1512–0029
Form Number: ATF Form 10 (5320.10)
Type of Review: Extension
Title: Application for Registration of Firearms Acquired by Certain Government Entities
Description: This form provides a method for certain government entities to register, for OFFICIAL USE ONLY firearms; otherwise unregisterable, such as those unregistered weapons seized by or abandoned to local law enforcement agencies.
Respondents: State or local governments
Estimated Number of Respondents: 300
Estimated Burden Hours Per Response: 30 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 300 hours
Clearance Officer: Robert Masarsky (202) 566–7077, Bureau of Alcohol, Tobacco and Firearms, Room 7011, 1200 Pennsylvania Avenue, NW., Washington, DC 20226.
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. 89–18830 Filed 8–10–89; 8:45 am]
BILLING CODE 4810–25–M

Bureau of Alcohol, Tobacco and Firearms

Granting of Relief; Federal Firearms Privileges

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

ACTION: Notice of granting of restoration of federal firearms privileges.

SUMMARY: The persons named in this notice have been granted restoration of their Federal firearms privileges by the Director, Bureau of Alcohol, Tobacco and Firearms.

As a result, these persons may lawfully acquire, transfer, receive, ship, and possess firearms if they are in compliance with applicable laws of the jurisdiction in which they live.

FOR FURTHER INFORMATION CONTACT: Special Agent in Charge Phil A. Orsini, Firearms Enforcement Branch, Firearms Division, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226, (202–566–7258).

SUPPLEMENTARY INFORMATION: In accordance with 18 U.S.C. 925(c), the persons named in this notice have been granted restoration of Federal firearms privileges with respect to the acquisition, transfer, receipt, shipment, or possession of firearms. These privileges were lost by reason of their convictions of crimes punishable by imprisonment for a term exceeding one year or because they otherwise fell within a category of persons prohibited by Federal law from acquiring, transferring, receiving, shipping or possessing firearms.

It has been established to the Director's satisfaction that the circumstances regarding the applicants' disabilities and each applicant's record and reputation are such that the applicants will not be likely to act in a manner dangerous to public safety, and that the granting of the restoration will not be contrary to the public interest.

The following persons have been granted restoration:

Aaron, Ronald L., Rural Delivery 3, Box 147, Clarion, Pennsylvania, convicted on May 5, 1982, in the Court of Common Pleas, Mercer County, Pennsylvania.

Aaron, Steven Louis, 5311 Park Lane, Dallas, Texas, convicted on January 5, 1979, in the United States District Court, Eastern Texas, Texarkana, Texas.

Abel, Harold III, 316 South Lincoln Street, Three Rivers, Michigan, convicted on August 11, 1980, St. Joseph County Circuit Court, Saint Joseph, Michigan.

Adams, Edward Derunto C., 1010 Arlington, Ada, Oklahoma, convicted on November 14, 1962, in the County of Greer, Oklahoma.

Adams, Frankie Carle, Route 1, Box 240 A–1, Rock, West Virginia, convicted on May 11, 1978, in the United States District Court, Bluefield, West Virginia.

Adams, Gordon, 2029 North Columbia, Springfield, Missouri, convicted on October 20, 1977, in the Circuit Court, Greene County, Missouri.

Adams, James Bernard, Route 1, Box 72, Pine City, Minnesota, convicted on April 30, 1985, in the Third Judicial District Superior Court, Anchorage, Alaska.

Adams, Joe Sam Junior, 7322 Richmond Place, St. Louis, Missouri, convicted on March 16, 1985, in the United States District Court, St. Louis, Missouri.

Adams, Larry Joe, 636 North West Avenue, Springfield, Missouri, convicted on January 19, 1965, in the Greene County Circuit Court, Springfield, Missouri.

Adams, Philip Alan, 20 Van Gogh Drive, Apartment 5, Osterville, Massachusetts, convicted on October 11, 1966, in the Worcester Superior Court, Worcester, Massachusetts.

Akers, Christopher Russell, 524 East Pine, Apartment C, Walla Walla, Washington, convicted on December 10, 1981, in the Walla Walla County Superior Court, Washington.

Albrough, John Leonard, 814 East 9th Avenue, Sault Ste Marie, Michigan, convicted on August 19, 1983, in the Western District of Michigan.

Alford, Joseph Paul, Route 5, Box 139, Gatesville, Texas, convicted on October 29, 1982, in the District Court, Coryell County, Texas.

Anderson, David J., 670 North Atlantis Drive, Orem, Utah, convicted on November 12, 1982, in the Fourth Judicial District Court, Utah County, Utah.

Anderson, Paul, 934 South Revere, Mesa, Arizona, convicted on December 1980, in the Maricopa County Superior Court, Mesa, Arizona.

Andrews, Barry David, 6277 Bethel Road Southeast, Port Orchard, Washington, convicted on September 9, 1977, in the Superior Court, Kitsap County, Washington.

Andrews, Scott Leslie, 940 Linden Avenue, Apartment 138, Sunnyvale, California, convicted on December 30, 1980, in the County Municipal Court, Santa Clara, California.

Ansell, Duane Franklin, 1640 Seminary, Alton, Illinois, convicted on August 3, 1977, in the Seventh Judicial Circuit Court, Jerseyville, Illinois.

Aponte-Arroyo, Amparo, Ruta Estrella Buzon 65, Minillas, Bayamon, Puerto Rico, convicted on May 5, 1981, in the District Court, Bayamon, Puerto Rico.

Appleton, Macel Vernon, Senior, Box 44, Sardis, Mississippi, convicted on December 21, 1970, in the United States District Court, Oxford, Mississippi.

Arkava, Morton L., 536 Harvey Lane, Hamilton, Montana, convicted on March 9, 1984, in the United States District Court, State of Montana.

Armentrout, David Wilbur, Route 4, Box 383, Covington, Virginia, convicted on June 2, 1982, in the Circuit Court of Alleghany County, Virginia.

Armstrong, Barry Dixon, 1100–A Weeping Willow Drive, Lynchburg, Virginia, convicted on February 28, 1978, in the Circuit Court, Tazewell County, Virginia.

Armstrong, James Victor, Route 20, Box 376B, Gray Highway, Macon, Georgia, convicted on October 27, 1976, in the United States District Court, Macon, Georgia.

Arnold, John Vernon, Post Office Box 208, Vader, Washington, convicted on August 18, 1982, in the United States District Court, Western District of Washington, Tacoma, Washington.

Arnold, Luther Aubrey, 1401 Garfield Avenue, Lynchburg, Virginia, convicted on December 11, 1953, in the Corporation Court, Lynchburg, Virginia.

Arrington, James Edgar Junior, 114 Mill Avenue, Lebanon, Virginia, convicted on April 16, 1984, in the United States District Court, Abingdon, Virginia.

Arthur, Lynn Barry, 1752 Clarkson Road, Apartment B, Richmond, Virginia, convicted on November 4, 1974, in the Circuit Court, Lynchburg, Virginia.

Asbury, Allen Wayne, 8123 Anne Drive, Orland Park, Illinois, convicted on March 14, 1981, in the Circuit Court, Twelfth Judicial District, Will County, Illinois.

Ashley, Jessie William, Route 1, Box 383, Timberlake, North Carolina, convicted on August 25, 1982, in the Middle Judicial District, Greensboro, North Carolina.

Ashman, John Carson, Route 4, Box 36, Amelia, Virginia, convicted on April 5, 1983, in the Circuit Court, Amelia County, Virginia.

Augustitus, Paul Franklin, 106 Hidden Oaks Drive, Apartment 2B, Cary, North Carolina, convicted on November 7, 1983, in the Circuit Court, Arlington County, Virginia.

Aumiller, Robbie Del, 1104 "J" Street, Centralia, Washington, convicted on October 17, 1980, in the Lewis County Superior Court, Washington.

Austin, Thomas Franklin, 3801 Nathan Hale Road, Pascagoula, Mississippi, convicted on December 8, 1981, in the Circuit Court, Jackson County, Mississippi.

Avery, Martin Duane, 74 Linmar Homes, Aziqippa, Pennsylvania, convicted on May 6, 1977, in the Court of Common Pleas of Beaver County, Pennsylvania.

Ayala-Ortiz, Ramon, 1345 Damasco Street, Villa Borin Quen, Puerto Nuevo, Puerto Rico, convicted on September 30, 1964, in the Superior Court, San Juan, Puerto Rico.

Ayers, Harold Guy, Highway 231, Halfway, Kentucky, convicted on June 6, 1980, in the Allen County Circuit Court, Scottsville, Kentucky.

Ayers, Larry Dean, Rural Route 2, Box 235A, Mattoon, Illinois, convicted on August 7, 1975, in the Fifth Judicial Circuit of Illinois, Charleston, Illinois.

Ayre, Donn Michael, 14 Holiday Drive, Springfield, Illinois, convicted on December 22, 1982, in the United States District Court, Springfield, Illinois.

Azevedo, George Machado, 142 Parallell Avenue, Ripon, California, convicted on February 3, 1958, in the United States District Court, Northern District of California.

Bachman, Keith Wayne, 1102 13th Avenue Northeast, Brainerd, Minnesota, convicted on September 27, 1978, in the Crow Wing County Court Ninth Judicial District, Minnesota.

Back, Calvin Edmund, 919 Springhill Road, Staunton, Virginia, convicted on November 9, 1978, in the Circuit Court of Staunton, Staunton, Virginia.

Baddorf, Ronald Eugene, 11522 Old Carrollton Court, Richmond, Virginia, convicted on April 12, 1983, in the United States District Court, Richmond, Virginia.

Baer, Ora Daniel, 60927 C.R. 15 South, Elkhart, Indiana, convicted on June 26, 1984, in the United States District Court, Northern District of Indiana.

Bailey, Loyce Edmond, 308 Bowden Street, Senatabia, Mississippi, convicted on October 23, 1981, in the United States District Court, Northern District of Mississippi.

Bailey, Thomas Jordan Junior, Apartment 5, Sprouses Corner, Dillwyn, Virginia, on January 7, 1980, in the Albemarle County Court, Charlottesville, Virginia.

Baker, Archie Clee, Route 3, Box 186, Maxton, North Carolina, convicted on January 26, 1979, in the North Carolina Superior Court, Roberson County, Lumberton, North Carolina.

Baker, G.R. Senior, Post Office Box 17, Hazard, Kentucky, convicted on October 26, 1965, in the United States District Court, Jackson, Kentucky.

Baker, Garry Ronald, 5539 West Wilshire, Phoenix, Arizona, convicted on June 7, 1977, and on April 8, 1982, in the Superior Court, Maricopa City, Phoenix, Arizona.

Baker, Howard Arnold, 1587 Tittabawassee River Road, Midland, Michigan, convicted on April 28, 1958, November 21, 1958, June 30, 1961, December 5, 1962, and July 19, 1968, in the Circuit Court for the County of Saginaw, Michigan.

Baker, Larry James, 2101 Nuttal Avenue, Edgewood, Maryland,

convicted on November 1, 1957, in the Court of Baltimore, Maryland.

Baker, Larry Louis, 1106–A Tuscaloosa Avenue, Gadsden, Alabama, convicted on February 24, 1976, in the Circuit Court of Etowah County, Alabama.

Baker, Paul Dean, 3323 North Colorado, Loveland, Colorado, convicted on July 7, 1981, in the Larimer County District Court, Larimer County, Colorado.

Baker, William Leander, East 401 Augusta, Apartment 5, Spokane, Washington, convicted on July 15, 1980, in the United States District Court, Wyoming.

Balducci, Felice Joseph, 505 Don Drive, Greenville, South Carolina, convicted in June 1954, in the Court of General Sessions, Kings County, Brooklyn, New York.

Baldwin, Leo Lyman Senior, 1381 Millburn Drive, Conklin, New York, convicted on February 29, 1980, in the Broome County Court, Binghampton, New York.

Ball, Kenneth Charles, 430 South Lincoln, Casper, Wyoming, convicted on May 5, 1983, in the Seventh District Court, State of Wyoming.

Bandy, Larry Dean, 4777 East Gettysburg, Apartment 111, Fresno, California, convicted on January 1, 1972, in the Superior Court, Fresno, California.

Bane, Hallie Clifton Junior, 105 First Street, Bluefield, Virginia, convicted on August 25, 1978, in the Circuit Court of Tazewell County, Virginia.

Banks, Scott Edwin, 799 South Yankeetown Highway, Booneville, Indiana, convicted on June 15, 1984, in the Superior Court, Wassick County, Indiana.

Bantle, James Lester Senior, 4244 Parker Road, Port Huron, Michigan, convicted on July 3, 1958, in the Macomb County Circuit Court, Mt. Clemens, Michigan.

Barbara, Arnold Richard, 8220 North Kendall Drive, Miami, Florida, convicted on October 31, 1978 in the Seventeenth Judicial District of Florida, Broward County.

Barisic, Bradley Vaughn, 1970 Eighth Avenue, San Francisco, California, convicted on November 7, 1980, in the United States District Court, San Francisco, California.

Barker, Willard Wesley, 1116 East Cleveland, Guthrie, Oklahoma, convicted on February 3, 1983, in the Western District Court, Oklahoma City, Oklahoma.

Barnes, Alexander G., 3733 Calle San Antonio, Palm Springs, California, convicted on September 7, 1978, in the Superior Court, Orange County, California.

Barnes, James H., Route 1, Cosby, Tennessee, convicted on February 22, 1974, in the United States District Court, Greenville, Tennessee.

Barnes, Jeffrey Monroe, 1102 "B" North Skagit, Burlington, Washington, convicted on August 29, 1980, in the Superior Court, Island County, Washington.

Barnes, Leroy Champlin, 625 West Anderson, Apartment 1, Idaho Falls, Idaho, convicted on December 18, 1979, in the Deschutes County Circuit Court, State of Oregon.

Barreras, Severo, 3000 Flax Street, El Paso, Texas, convicted on April 29, 1972, in the United States District Court, El Paso, Texas.

Barrois, Dennis James, 2118 Delille Street, Chalmette, Louisiana, convicted on May 1, 1981, in the United States District Court, Eastern District, Louisiana.

Basham, Thelma Jane, 126 South English, Leitchfield, Kentucky, convicted on September 5, 1980, in the Grayson County Circuit Court, Leitchfield, Kentucky.

Bates, Douglas Dean, 22811 Poppy Street Northwest, St. Francis Minnesota, convicted on February 14, 1980, in the Tenth District Judicial Court, Anoka County, Minnesota.

Bates, Jace Andrew, 2613 San Andres, Odessa, Texas, convicted on January 28, 1983, in the One-hundred-and-fourth Judicial District Court, Taylor County, Texas.

Baumgartner, George Patrick, #5 Anastasia Park Drive, Saint Augustine, Florida, convicted on November 3, 1980, in the Eighth Judicial Circuit Court, Alachua County, Florida.

Bayne, Allen Lee, 312 West Main Street, Glencoe, Alabama, convicted in 1948 in the Circuit Court of Etowah County, Alabama; on October 18, 1952, in the Circuit Court of Etowah County and on March 14, 1957, in the Circuit Court, Limestone County, Alabama.

Beard, Charles Thomas, Route 3, Box 449, Ridgeway, Virginia, convicted on May 14, 1975, in the Henry County Circuit Court, Martinsville, Virginia.

Beard, Sharon R., 3045 East Enos, Springfield, Illinois, convicted on January 21, 1976, in the Twenty-Fourth Judicial District Court, Jefferson Parish, Louisiana.

Bearup, Eugene Scott, 8036 South Ninth Street, Phoenix, Arizona, convicted on September 21, 1976, in the United States District Court, Tucson, Arizona.

Beasley, Barry Donford, Post Office 535, Ponder and Sims Road, Haleyville, Alabama, convicted on May 24, 1972, in the Circuit Court of Winston County, Alabama.

Beasley, Jerry Bruce, 4703 Welford, Bellaire, Texas, convicted on April 20, 1980, in the One-hundreth and Eighty-Second District Court, Harris County, Texas.

Beasley, John, 754 134th Place, Chicago, Illinois, convicted on June 18, 1940, in the United States District Court, District of Nebraska.

Beck, Ralph John Junior, Post Office Box 57, Vowinckel, Pennsylvania, convicted on June 10, 1977, in the Court of Common Pleas, Alleghany County, Pennsylvania.

Beismer, Harold Clinton Junior, Long Hill Road, County Road 30, Box 657, Afton, New York, convicted on May 1, 1978, in the Delaware County Court, Delhi, New York, and on June 2, 1980, in the Supreme Court Otsego County, New York.

Beldock, Stephen Allen, Rural Delivery 2, Lisbon, New York, convicted on August 27, 1981, in the State of New York, County Court, St. Lawrence County and convicted on July 7, 1982, in the St. Lawrence County Court, New York.

Bell, Don Gregory, Route 5, Box 367, Coushatta, Louisiana, convicted on November 23, 1982, in the United States District Court, Shreveport, Louisiana.

Benedict, Kenneth Carl, 102 Railroad Street, Box 115, Cranton, Wisconsin, convicted on December 29, 1982, in the Clark County Circuit Court, Branch II, Neillsville, Wisconsin.

Benford, Patrick James, 4232 East McKinney Street, Phoenix, Arizona, convicted on April 24, 1962, in the Superior Court, Bay County, Michigan.

Bennett, Raymond Russell, 144 Worthington-Lane, Chesapeake City Maryland, convicted on December 11, 1936, in the Medie Court House, Medie, Pennsylvania.

Bennett, Warren R., Route 2, Box 126A, Lecompte, Louisiana, convicted on February 9, 1979, in the United States District Court, Eastern District of Texas.

Bennington, John Robert, 555 Chestnut Drive, Harrisonburg, Virginia, convicted on March 21, 1960, in the Circuit Court of Page County, Lurray, Virginia.

Bentley, Robert LeRoy, 204 Woodcrest Drive, Fallbrook, California, convicted on January 28, 1982, in the Marion County Court, Hannibal, Missouri, and also convicted on February 8, 1982, in the Marion County Court, Hannibal, Missouri.

Berger, Ronald Robert, 826 Laurel Avenue, St. Paul Park, Minnesota, convicted on December 12, 1980, in the Washington County District Court, Stillwater, Minnesota.

Bermudez, Fernando, 264 Tenth Avenue, New York, New York,

convicted on November 21, 1981, in the Bronx Supreme Court, Bronx, New York.

Berry, Fred Wesley, 6435 Ditman Street, Philadelphia, Pennsylvania, convicted on October 17, 1969, in the Criminal Court, Bucks County, Pennsylvania.

Berry, Joseph Mohamed, 40350 West 7 Mile Road, Northville, Michigan, convicted on July 30, 1965, in the Detroit Recorders Court, Michigan.

Bertsch, Delmar Dale, 107 4th Avenue Southeast, Watertown, South Dakota, convicted on September 6, 1966, in the Fourth Judicial Circuit Court, Pankinton, Aurora County, South Dakota.

Berzon, Frederick Louis, 1400 River Street, Hyde Park, Massachusetts, convicted on October 10, 1962, in the Superior Court, Boston, Massachussetts.

Billingsley, David Harold, Route 3, Box 798–A, Ashford, Alabama, convicted on September 21, 1984, in the United States District Court, Middle District of Alabama Montgomery.

Bima, Gerald D., 3390 Farm Lane, Ann Arbor, Michigan, convicted on October 22, 1971, in the Circuit Court, Oakland County, Michigan.

Bishop, Homer, Route 2, Box 313, Winfield, Alabama, convicted on August 22, 1979, in the Circuit Court, Marion County, Alabama.

Bishop, Kenneth Dewayne, Route 4, Box 185, Wills Point, Texas, convicted on April 16, 1976, October 15, 1980 and October 15, 1980 in the Eighty-Sixth Judicial District Court, Van Zandt County, Texas.

Bishop, Roy Carroll, Route 1, Box 12, Early Branch, South Carolina, convicted on January 17, 1973, in the United States District Court, South Carolina.

Bivens, Paul Nelson, 55590 Lazy River Drive, Sunriver, Oregon, convicted on March 21, 1977, in the Superior Court, Lane County, Oregon.

Black, James L., 12121 Hope Road, Mustang, Oklahoma, convicted on February 9, 1983, in the Western Oklahoma Court, Oklahoma.

Blackwell, Gerald Richard, 125 South Galvez Street, New Orleans, Louisiana, convicted on November 3, 1981, in the United States District Court, Eastern Judicial District, Louisiana.

Blake, Kim, No. 4 Lehigh Circle, Slatington, Pennsylvania, convicted on April 2, 1981, in the Court of Common Pleas, Berks County, Reading, Pennsylvania.

Blakney, Johnny Odell, 1215 Harvell Court, Cedar Hill, Texas, convicted on December 20, 1963, in the Criminal District Court, Dallas, Texas.

Blanchard, David Allen, Post Office Box 85, East Bethel Road, Locke Mills, Maine, convicted on September 26, 1980, in the Oxford Superior Court, Oxford County, Maine.

Blanchard, David Lee, Post Office Box 283, Main Street, Evergreen, Louisiana, convicted on November 23, 1970, in the United States District Court, Western Judicial District, Lafayette, Louisiana.

Bland, Herman Junior, Post Office Box 14, Montebello, Virginia, convicted on July 17, 1975, in the Circuit Court of the City of Fredericksburg, Virginia.

Blanding, Charles Randolph Junior, 1634 Freedom Way, Baltimore, Maryland, convicted on June 29, 1965, and also convicted on March 24, 1960 in the Baltimore District Court, Baltimore, Maryland.

Blankenship, Charles Eugene, Route 1, Box 347, Munford, Alabama, convicted on August 8, 1982, in the United States District Court, Northern Alabama, Birmingham, Alabama.

Bleiwess, Bruce Martin, 801 North 2nd Street, Harrisburg, Pennsylvania, convicted on January 28, 1986, in the Cumberland County Court of Common Pleas, Carlisle, Pennsylvania, and on February 12, 1985, in the Dauphin County Court of Common Pleas, Harrisburg, Pennsylvania.

Block, William James, 202 West Bush, Caro, Michigan convicted on September 4, 1975, in the Oakland County Circuit Court, and on February 20, 1975, in the Macomb County Circuit Court, Michigan.

Bobes, Barry Philip, 30920 Southwest 191 Avenue, Homestead, Florida, convicted on May 20, 1971, in the Circuit Court, Dade County, Florida.

Boeking, Henry Edward, 6802 Northwest Grand Boulevard, Oklahoma City, Oklahoma, convicted on June 3, 1983, in the Western District, Oklahoma City, Oklahoma.

Bohannon, Horace Vincil, Block 1, Lot 10, Box 3467, Plano Colorado Estates, Milan, New Mexico, convicted on September 15, 1962, in the Bernalillo District Court, New Mexico.

Bolt, Floyd Ashley, 178 Ruth Circle, Huntsville, Alabama, convicted on January 14, 1969, in the Madison County Circuit Court, Huntsville, Alabama.

Bonck, Michael Joseph, 3341 Tulane Drive, Kenner, Louisiana, convicted on March 26, 1964, in the Orleans Parrish District Court, Orleans Parrish, Louisiana.

Bond, Laurence Frank, Box 1830, Black Canyon Stage, convicted on June 25, 1979, in the Superior Court, Yavapai County, Arizona.

Booker, George Donald, Route 2, Box 71, Woodland Hills, Blue Mountain, Mississippi, convicted on June 30, 1960, in the Criminal Court, Shelby County, Tennessee.

Booker, John Wayne, Route 7, Box 85, Meridian, Mississippi, convicted on October 23, 1969, in the United States District Court, Meridian, Mississippi.

Booth, Stephen Ellis, 27 Sherwood Court, Winchester, Kentucky, convicted on January 22, 1982, in the Mercer County Circuit Court, Harrodborg, Kentucky.

Boring, James Russell, Post Office Box 68, Optima, Oklahoma, convicted on August 10, 1982, in the Western Judicial District of Oklahoma.

Born, Henry Ernest, Lot 70, Whitley Trailer Court, South Whitley, Indiana, convicted on February 28, 1979, in the Circuit Court, Whitley County, Columbia City, Indiana.

Bosarge, David Paul, 9605 Wilkerson Circle, Pascaqoula, Mississippi, convicted on November 7, 1980, in the United States District Court, Jackson, Mississippi.

Bowe, Charles Willard, 1 South Slate Street, Chippewa Falls, Wisconsin, convicted on October 15, 1983, in the Circuit Court Branch One, Chippewa County, Eau Claire, Wisconsin.

Bower, Robert Michael, 14 Margaret Lane, Brewer, Maine, convicted on September 29, 1980, in the Superior Court, Peobscot County, Bangor, Maine.

Bowers, Terry Allen, 133 North Magnolia, Spokane, Washington, convicted on June 17, 1981, in the Superior Court, Spokane County, Washington.

Bowker, Albert Lewis, 2442 Market Street Northwest, Apartment 251, Seattle, Washington, convicted on March 8, 1973, in the King County Superior Court, Seattle, Washington.

Bowman, Leabern T. Junior, 16826 Rockbend, Houston, Texas, convicted on January 26, 1971, in the United States District Court, Southern District of Texas, Houston, Texas.

Bowman, Paul Lee, 820 West Indiana Street, New Buffalo, Michigan, convicted on February 20, 1953, in the Berrien County Circuit Court, Michigan.

Bowyer, Luther Lee Junior, Route 2, Box 51, Moneta, Virginia, convicted on June 27, 1979, in the Circuit Court, Bedford County, Virginia.

Brackley, Robert Eimer Junior, RFD 3, Box 3670, Farmington, Maine, convicted on Feburary 9, 1979, in the Superior Court of Franklin County, Maine.

Brad, David Jonathon, Route 1, Box 6A, Lake Winter Road, Winter Wisconsin, convicted on August 14, 1984, in the Circuit Court, State of Wisconsin.

Bradford, William Michael, 1718 South Charles Street, Baltimore, Maryland, convicted on May 28, 1977, in the District Court, Worcester, Maryland.

Brannon, Glenn Olan, Post Office Box, 728, St. George, Utah, convicted on May 14, 1981, in the District Court of Washington County, Utah.

Brantner, Alfred Landon, Post Office RFD 2, Box 214, Kennett, Missouri convicted on April 8, 1957, in the Dunklin County, Circuit Court, Kennett, Missouri, and convicted on October 24, 1983, in the United States District Court, Cape Girardeau, Missouri.

Brasswell, William Dale, 717 Murfreesboro Road, #12, Nashville, Tennessee, convicted on September 12, 1980, in the Superior Court of Liberty County, Georgia.

Bravo, John Wendell, 516 Park Avenue, Mukilteo, Washington, convicted on November 7, 1980, in the Superior Court, Snohomish County, Washington.

Braxton, Charles Zelior, 4701 Lebanon Road, Apartment B–113, Nashville, Tennessee, convicted on April 8, 1976, in the Superior Court, Richmond County, Georgia.

Brelsford, Kenneth George, 34 Ashwood Road, Milford, Connecticut, convicted on November 1, 1953, in the District Court, Parish of Saint Tammany, Louisiana.

Brewster, Michael Lavoyce, Route 1, Box 208H, Frierson, Louisiana, convicted on June 24, 1981, in the Eleventh Judicial District Court, DeSoto Parish, Louisiana.

Bridgeman, Vernon Jerome, Route B, Box 185, Kingston, Oklahoma, convicted on August 12, 1983, in the United States District Court, Muskogee, Oklahoma.

Bridges, David Keith, 2913 Malcom Street, Fort Worth, Texas, convicted on July 27, 1981, in the Tarrant County District Court 3, Fort Worth, Texas.

Bright, Harry Major, 1852 East Eighth Avenue, Spokane, Washington, convicted on November 18, 1977, in the Superior Court of Spokane, Washington.

Brigman, James Dennis, Box 862, Hillside Trailer Court 14, Rawlins, Wyoming convicted on April 7, 1983, in the United States District Court Judicial District of Wyoming.

Brink, John Alfred, 5747 West Dickerson Road, Akron, Michigan, convicted on January 19, 1982, in the Circuit Court, Tuscola, Michigan.

Britton, George C., 1112 South 8th Street, Yakima, Washington, convicted on May 12, 1967, in the Superior Court, Sacramento County.

Britzen, Richard James, 217 West Lancaster, North Muskegon, Michigan, convicted on June 1, 1970, in the United States District Court, Grand Rapids, Michigan.

Brock, Jerry Lee, 4767 North 34th Street, Milwaukee, Wisconsin, convicted on December 30, 1965, in the Circuit Court, Milwaukee, Wisconsin.

Bronzynski, Raymond Lee, 17190 Mount Vernon Road #56 Golden, Colorado, convicted on June 30, 1971, in the Second Judicial District Court, Carbon County, Wyoming.

Brooks, Hattie Marie, 329 West White Oak Street, Leitchfield, Kentucky, convicted on August 25, 1980, in the Grayson County Circuit Court, Leitchfield, Kentucky.

Brooks, James Richard, 6540 Paris Southeast, Grand Rapids Michigan, convicted on October 22, 1962, in the Superior Court Grand Rapids, Michigan.

Brooks, Ronald Edward, 2113 Harris Road, Huntsville, Alabama, convicted on August 30, 1983, in the United States District Court, Northern Alabama, Birmingham, Alabama.

Brown, George F., 7950 Jefferson Highway, Apartment 106, Baton Rouge, Louisiana, convicted on June 15, 1977, in the United States District Court, Baton Rouge, Louisiana.

Brown, Harding, 34260 Allen Road, Cottage Grove, Eugene, Oregon, convicted on October 23, 1981, in the Circuit Court, Eugene, Oregon.

Brown, Jerry Ray, 239 Beech Street, Clarksville, Tennessee, convicted on August 4, 1972, in the United States District Court of the Northern Judicial District, Atlanta, Georgia.

Brown, Levi Bud Junior, Route 1, Box 264C, Bishopville, South Carolina, convicted on September 28, 1959, in the General Sessions Court, Lee County, South Carolina.

Brown, Mannie L., 108 Lake of Pines, Jackson, Mississippi, convicted on February 25, 1982, in the Southern Judicial District, United States District Court, Jackson, Mississippi.

Brown, Randall Monroe, Route 1, Box 701, Morehead, Kentucky, convicted on October 24, 1974, in the Fleming County Circuit Court, Flemingburg, Kentucky.

Brown, Roy M., Rural Delivery 1, Box 902, Shinglehouse, Pennsylvania, convicted on September 10, 1975, in the Court of Common Pleas, McKean County, Pennsylvania.

Brown, Timothy Patrick, 7150 Petrie Road, Pulaski New York, convicted on June 20, 1980, in the Oswego County Court, New York.

Brown, Wayne Earl, 116 South Rosemary, Lansing, Michigan, convicted on October 1, 1951, in the Gratiot County Circuit Court, Michigan.

Browning, Charles Ray, Post Office Box 235, Verdunville, West Virginia, convicted on January 16, 1959, in the Logan County Circuit Court, Logan, West Virginia.

Browning, Nathan Ray, 8352 Old Homestead Drive, Dallas, Texas, convicted on October 19, 1979, in the Criminal District Court Number 5, Dallas County, Texas.

Brudseth, Cynthia Diane, Route 2, Box 196–T, St. Maries, Idaho, convicted on October 14, 1981, in the Benewah County District Court, Idaho.

Bruley, Timothy Leo Senior, 1737 Blair Avenue, St. Paul, Minnesota, convicted on September 10, 1980, in the Ramsey County, Second Judicial District Court, St. Paul, Minnesota.

Brummett, Todd Sawyer, Route 4, Box 118, Princeton, Kentucky, convicted on September 24, 1980, in the Caldwell County Court, Princeton, Kentucky.

Bryan, Glenn Allen, 3604 Vance Avenue, Fort Wayne, Indiana, convicted on September 24, 1979, in the Allen County Circuit Court, Allen County, Indiana.

Bryarly, Harold Dale Junior, 69639 Thomas Road, White Pigeon, Michigan, convicted on October 5, 1955, in the Elkhart Superior Court, Elkhart, Michigan.

Bucci, Florindo A., 2223 Fairhill Avenue, Glenside, Pennsylvania, convicted on November 26, 1984, in the United States District Court, Philadelphia, Pennsylvania.

Buchanan, Landon Haynes, 1021 Howbert Street, Roanoke, Virginia, convicted on April 26, 1979, in the Circuit Court, City of Roanoke, Virginia.

Burchett, Alva Ewell Junior, Route 1, Adairville, Kentucky, convicted on November 21, 1969, in the Grayson County Court, Independence, Virginia, also convicted on May 30, 1974, in the United States District Court, Bowling Green, Kentucky.

Burgan, Freddy David, Route 1, Box 304, Midway, Kentucky, convicted on October 10, 1974, in the United States District Court, Lexington, Kentucky, and on March 17, 1978, in the Fayette Circuit Court, Fayette County, Kentucky.

Burgess, Thomas Shaw, 930 Grand Concourse, Apartment 6, Bronx, New York, convicted on November 5, 1954, in the Supreme Court, State of New York.

Burgos-Colon, Carlos Jose, North 85, Hostos Street, Guayama, Puerto Rico, convicted on January 24, 1962, in the Superior Court, Guayama, Puerto Rico.

Burk, Donald Earl, 235 East Ninth Avenue, Anchorage, Alaska, convicted on May 11, 1981, in the United District Court, Anchorage, Alaska.

Burkall, Larry Steven, 6711 North 35th Avenue, Apartment 44, Phoenix, Arizona, convicted on May 17, 1982, in the United States District Court, Phoenix, Arizona.

Burke, Wilbert Ernest, 1050 Fifth Street North, Birmingham, Alabama, convicted on February 6, 1957, in the

Circuit Court, Jefferson County, Alabama.

Burks, Joseph Webb, Route 3, Box 40, Quinlan, Texas, convicted on June 15, 1979, in the Two-Hundred-and-Ninety-Second Judicial District, Dallas County, Texas.

Burnham, William Joseph, Myers Road, Box 456, Shaftsbury, Vermont, convicted on July 7, 1982, in the United States District Court, Burlington, Vermont.

Burns, Douglas Dale, 1204 North 7th Street, Kelso, Washington, convicted on May 7, 1982, in the United States District Court, Judicial District of Washington.

Burns, Lewis Fred, 1353 Oliver Avenue, Bowling Green, Kentucky, convicted on June 17, 1980, in the Warren County Circuit Court, Bowling Green, Kentucky.

Burns, Timothy Joseph, 3113 Covington Street, Fairfax, Virginia, convicted in September 1974 and in March 1975, Fairfax County Circuit Court, Fairfax, Virginia.

Burroughs, Kenneth Norris, 2497 16th Street North, Zephyrhills, Florida convicted on date unknown in the Orange County Superior Court, Chelsea, Vermont.

Burton,, Steven Jeffrey, Box 73094, Fairbanks, Alaska, convicted on March 5, 1982, in the United States District Court, District of Arizona.

Busch, George Walter Junior, 3511 Chippendale Street, Philadelphia, Pennsylvania, convicted on April 14, 1967, in the County Court, Bucks County, Pennsylvania.

Busho, Marlowe Eugene, 1152 Rice Lake Street, Owatonna, Minnesota, convicted on September 27, 1974, and on June 13, 1980, in the Steele County District Court, Third District, Owatonna, Minnesota.

Busley, Robert Clifton, 1300 South Third Street, Kelso, Washington, convicted on October 24, 1974, and also convicted on June 13, 1980, in the Superior Court, Clark County State of Washington.

Butler, Jerry Sylvester, Route 3, Box 529B, Rustburg, Virginia, convicted on March 27, 1975, in the United States District Court, Lynchburg, Virginia.

Butler, Michael Edward, Route 1, Box 42, Thompsonville Highway, Buelah, Michigan, convicted on January 30, 1957, in the Benzie County Circuit Court, Michigan.

Butterfield, Kenneth Roy, 65450 Eight Mile Road, South Lyon, Michigan, convicted on July 22, 1978, in the United States Court, Detroit, Michigan.

Buttles, Jerry Harrison, 3547 East Lamona Fresno, California, convicted on May 3, 1965, in the Superior Court, Fresno, California, and February 10, 1969, in the United States District Court, Fresno, California.

Buysse, Robert Harry, Rural Route 3, Box 162, Marshall, Minnesota, convicted on January 20, 1972, in the Fifth Judicial District Court, Lyon County, Marshall, Minnesota.

Byerly, Glen Robert, 1709 Leonard Road, Lexington, North Carolina, convicted on July 22, 1971, in the Davidson County Superior Court, Lexington, North Carolina.

Byrne, Darol Erwin, 20101 61st Place West, Apartment E–305, Lynwood, Washington, convicted on September 16, 1974, in the Superior Court of Washington, Seattle, Washington.

Cain, James Andrew, 3057 Louisiana Avenue South, Saint Louis Park, Minnesota, convicted on October 11, 1985, in the Hennepin County District Court, Fourth Judicial District, Minneapolis, Minnesota.

Calloway, Patrick Grayson, Post Office Box 2363, Cody, Wyoming, convicted on September 15, 1976, in the Superior Court, Baxter County, Arkansas.

Campbell, Dempsey Blair, Box 464, Little Sandy Creek, Elkview, West Virginia, convicted on February 7, 1972, and on October 14, 1981, in the Circuit Court of Mason County, Point Pleasant, West Virginia.

Campbell, Karl Douglas, 2024 Cumberland Avenue, Middlesboro, Kentucky, convicted on February 10, 1978, in the United States District Court, London, Kentucky.

Canessa, Peter Michael, Oakridge Road, Lunenburg, Massachusetts, convicted on May 7, 1979, in the United States District Court District of Massachusetts.

Cannon, Isiah Junior, 317 South Sixth Street, Saginaw, Michigan, convicted on May 18, 1973, in the Saginaw County Circuit, Michigan.

Cantrell, Russell Ernest, Junior, 2315 Bell Avenue, Amarillo, Texas, convicted on February 4, 1977, in the One-Hundred-and Eighth District Court, Potter County, Texas.

Capps, Larry Elvi, Hatfield Village Apartments, Maple Avenue, Apartment 02–9, Hatfield, Pennsylvania, convicted on July 2, 1974, in the Fourteenth Judicial District, Henry County, Cambridge, Illinois.

Carazzai, Renato Riccardo, 36 Hillside Avenue, Princeton, New Jersey, convicted on January 24, 1956, in the West Windsor Municipal Court, Mercer County, New Jersey.

Carlson, Michael John, 34½ River Loop Road, Tonasket, Washington, convicted on November 14, 1980, in the Superior Court of Okonogan County, Washington.

Carmichael, James A., 93 Cherokee Street, Emporia, Kansas, convicted on March 23, 1960, in the District Court, Pawnee County, Kansas.

Carnley, Eddie Dean, 105 Cawthon Street, Andalusia, Alabama, convicted on February 28, 1969, in the Circuit Court of Covington County, Andalusia, Alabama.

Carollo, Joseph Frank, 425 Boxwood Drive, Shirley, New York, convicted on May 15, 1979, in the Supreme Court, Queens County, Jamaica, New York.

Carpenter, Bobby Clinton, Route 1, Cascilla, Mississippi, convicted on October 5, 1962, in the United States District Court, Northern Mississippi, Oxford, Mississippi.

Carper, Dennis Jay, 501 Sandalwood Road, Baltimore, Maryland, convicted on January 20, 1983, in the District Court, Baltimore, Maryland.

Carrolli, Joseph Albert, 591 Willow Avenue, Greensburg, Pennsylvania, convicted on December 9, 1981, in the United States District Court, Western District of Pennsylvania.

Carswell, Kathy Payne, 9151 Wild Road, Jacksonville, Florida, convicted on December 18, 1970, December 21, 1972, and March 5, 1973, in the Criminal Court of Duval County, Jacksonville, Florida.

Carter, Melvin Douglas, Route 1, Box 305C, Magnolia, Mississippi, convicted on June 9, 1980, in the Cheatham County Circuit Court, Ashland, Tennessee.

Carter, William Sanford, 4720 Brown Road, Vassar, Michigan, convicted on May 17, 1977, in the United States District Court, Flint, Michigan.

Cartwright, Glenn Thomas, 716 Lochridge Street, Mayfield, Kentucky, convicted on November 30, 1981, in the United States District Court, London, Kentucky.

Carver, Shannon Bruce, 605 South Olympia #59, Kennewick, Washington, convicted on November 10, 1976, in the Yakima County Superior Court, State of Washington.

Casey, Daniel C., 111 Crevar Drive, Butler, Pennsylvania, convicted on June 19, 1979, in the Court of Common Pleas, Butler County, Pennsylvania.

Caso, Michael Robert, 801 Strait View Drive, Port Angeles, Washington, convicted on November 12, 1976, in the Clallam County Superior Court, State of Washington.

Catchot, William Douglas, 3140 Cedar Woods Drive North, Theodore, Alabama, convicted on February 11, 1983, in the United States District Court, Mobile, Alabama.

Caudill, Evelyn Elizabeth, 4975 Florida Street, Detroit, Michigan, convicted on May 28, 1978, in the Circuit Court, County of Ingham, Michigan.

Caudill, Johnny Dwight, Box 204, Whitesburg, Kentucky, convicted on October 30, 1975, in the Letcher Circuit Court, Whitesburg, Kentucky.

Cecil, James Craig, 2060 Bruce Street, Northeast, Salem, Oregon, convicted on October 26, 1979, in the Circuit Court for Klamath County, State of Oregon.

Cerio, James J., 105 West Manchester Road, Syracuse New York, convicted on October 29, 1969, in the Seneca County Court, Waterloo, New York.

Certaine, Dehaven Madrid, 1201 Airdrie Street, Philadelphia, Pennsylvania, convicted on February 3, 1969, in the United States District Court, Eastern Judicial District of Pennsylvania.

Chabannes, Norbert Augusta Rene, 19 Forrestaisa, Tuscaloosa, Alabama, convicted on April 24, 1979 and October 2, 1978, in the Circuit Court of Tuscaloosa County, Alabama.

Chamberlain, Michael A., 10235 North 31st Street, Apartment 23, Phoenix, Arizona, convicted on November 5, 1980, in the Circuit Court, Duval County, Florida and convicted on January 16, 1981, United States District Court, Jacksonville, Florida.

Champlain, Jacob Leroy, Route 3, Box 18, Wagoner, Oklahoma, convicted on February 10, 1956, in the Tulsa County District Court, Oklahoma.

Chapman, Gary Ray, Route 1, Box 278-B, Greenville, Tennessee, convicted on May 27, 1983, in the United States District Court, Greeneville, Tennessee.

Charbonneau, Gus Salis, Rural Delivery Route 5, Cobblehill Road, Milton, Vermont, convicted in August 10, 1982, in the Vermont District Court, Franklin Circuit, Saint Albans, Vermont.

Chavez, Timothy M., 4101 Breton Street, Indianapolis, Indiana, convicted on August 13, 1981, in the Southern District of Indiana.

Cheadle, Theodore Alan, 3208 Kallin Avenue, Long Beach, California, convicted on April 1962, in the Superior Court of Los Angeles, California.

Chess, Kenneth Ray, 65135 Redmond Bend Highway Bend, Oregon, convicted on August 15, 1983, in the Deschutes County Superior Court, Oregon.

Childers, Jerry Anthony, 1324 Steed Street, Post Office Box 3423, Rock Hill, South Carolina, convicted on September 8, 1976, in the Superior Court of York County, South Carolina.

Childers, Timmie Berl, 216 North 1st Avenue, Apartment 12, Conover, North Carolina, convicted on March 8, 1982, in the Catawba County Superior Court, Newton, North Carolina.

Christenson, George Melvin, 1280 South County Road 10, Moose Lake, Minnesota, convicted on February 10, 1982, in the Sixth Judicial District, Carlton County, Minnesota.

Christian, Jarrett Delawrence, 8431 Church Lane, Randallstown, Maryland, convicted on April 14, 1967, in the Davidson County Court, Davidson County, North Carolina, and on February 6, 1975, in the Circuit Court of Maryland, Baltimore, Maryland.

Church, Clifford Louis, 5291 Westview, Pontiac, Michigan, convicted on July 12, 1955, and April 6, 1956, in the Oakland County Circuit Court, Pontiac, Michigan, and September 21, 1971, in the United States District Court, Detroit, Michigan.

Ciatti, Frederick Charles, Route 1, Box 220A, Nashwauk, Minnesota, convicted in 1966 in the St. Louis County Court, Hibbing, Minnesota, and in 1981 in the United States District Court, St. Paul, Minnesota.

Cira, Salvatore William, 6215 Wyoming Avenue, Saint Louis, Missouri, convicted on September 7, 1979, in the Circuit Court, Saint Louis, Missouri.

Clark, James Edward, 917 Delaware Avenue, Lexington, Kentucky, convicted on March 4, 1982, in the Circuit Court, Richmond, Kentucky.

Clark, Joseph G., 5970 SouthKoinia, New Berlin, Wisconsin, convicted on January 17, 1981, in the Vilas County Circuit Court, Eagle River, Wisconsin.

Clark, Lionel L., 2700 Eaton Rapids Road #102, Lansing, Michigan, convicted on August 21, 1964, in the Ingham County Court, Michigan.

Clegg, Kenneth Ray, Junior, 2928 Candlewood Street, Lakewood, California, convicted on March 23, 1966, in the Superior Court, Los Angeles, California.

Clements, Jimmie Lee, 4559 Highway Avenue, Jacksonville, Florida, convicted on May 13, 1977, in the United States District Court, Southern Judicial District of Florida.

Cline, Euland Ira, Box 83, Baisden, West Virginia, convicted on September 27, 1947, in the Circuit Court of Mingo County, West Virginia.

Cline, Rodney Leroy, 515 Third Street, New Cumberland, Pennsylvania, convicted on September 7, 1971, in the Court of Common Pleas of Cumberland County, Carlisle, Pennsylvania.

Clowney, Allen Coffer, 110½ West 51st Street, Savannah, Georgia, convicted on September 11, 1967, in the Supreme Court of the State of New York, 87-1221 P County of New York.

Coates, Christopher Morley, Post Office Box 141 (United States Route #1), Ladysmith, Virginia, convicted on August 4, 1980, in the Circuit Court, Hanover County, Virginia.

Cobb, Terry W., Post Office Box 221, Smithland, Kentucky, convicted on December 2, 1975, in the Livington Circuit Court, Smithland, Kentucky.

Cogar, Dueward Lynn, Post Office Box 411, Webster Springs, West Virginia convicted on January 18, 1977, in the Circuit Court of Webster County, Webster Springs, West Virginia.

Colbert, Donald Kay, 1937 Suffolk Lane, Indianapolis, Indiana, convicted on October 20, 1982, in the United States District Court, Southern District of Indiana.

Cole, Gerald Coy, 3433 Dearcy Avenue, Louisville Kentucky, convicted on December 20, 1962, in the Jefferson County Circuit Court, Louisville, Kentucky.

Cole, Walter R., 23 Winnikee Avenue, Poughkeepsie, New York, convicted on February 10, 1942, in the Dutchess County Supreme Court, Poughkeepsie, New York.

Coleman, James Bruce, Route 2, Box 390, Unionville, Virginia, convicted on March 31, 1978, in the Circuit Court of Orange County, Virginia.

Coley, James Wesley, 578 Broadway Street, Apartment 807, Gary, Indiana, convicted on October 5, 1950, in the St. Joseph Criminal Court Number Two.

Collins, Ernest Berl, General Delivery, Neola, West Virginia, convicted on June 27, 1973, in the Pocahontas County Courthouse, Marlinton, West Virginia.

Collins, Herbert Howard, 2228 Rancho Drive, San Diego, California, convicted on May 12, 1980, in the Superior Court of the State of California, County of San Diego, California.

Collins, John Tucker, Route 1, Box 58-B, Eureka, Montana, convicted on July 2, 1982, in the Superior Court, Lincoln County, Montana.

Colombo, Frank Joseph, 394 Shelford Road, Apartment 3, Rochester, New York, convicted on April 20, 1970, in the Monroe County Court, Rochester, New York.

Combs, Randall Ray, 1601 Robinhood Trail, Austin, Texas, convicted on December 11, 1975, in the One-hundred-and forty-seventh Judicial District Court, Travis County, Texas.

Company—Boeing, Post Office Box 3707, M/S13-08, Seattle, Washington, convicted on June 30, 1982, in the United States District Court, District of Columbia.

Company—General Electric (PA), Re-Entry and Environmental Systems Division, 3198 Chestnut Street, Philadelphia, Pennsylvania, convicted on May 13, 1985, in the United States District Court, Eastern District of Pennsylvania.

Company—General Electric (VT), Lakeside Avenue, Burlington, Vermont, convicted on April 21, 1983, in the

United States District Court, New Jersey, and on May 13, 1985, in the United States District Court, Eastern District of Pennsylvania.

Compton, Monte Dean, Rural Route #2, Box 87, Watonga, Oklahoma, convicted on October 8, 1982, in the United States District Court, Western Judicial District of Oklahoma.

Condes, Mark A., 10749 Eagle Pass, El Paso, Texas, convicted on July 2, 1980, in the One-hundred-and-ninety-eighth Judicial District Court, Menard County, Texas.

Condon, Ray Leo, Junior, 3004 North LaBarre Road, Metairie, Louisiana, convicted on January 4, 1978, in the United States District Court, Eastern District of Louisiana.

Conlin, Danny Thomas, Post Office Box 116 (31920 Highway 108), Strawberry, California, convicted on February 9, 1973, in the United States District Court, Eastern District of California.

Connolly, William John, 11504 West Outer Drive, Detroit, Michigan, convicted on May 16, 1977, in the Wayne County Circuit Court, Detroit, Michigan.

Conti, Angelo Anthony, 315 Clinton Street, Findlay, Ohio, convicted on February 23, 1973, and on March 28, 1960, in the Cook County Circuit Court, Chicago, Illinois.

Conti, Gaetano, 4 Valley Court, Thiells, New York, convicted in January 1983, in the United States District Court, Eastern District of New York.

Cook, Albert John, 2109 Pitney Road, Baltimore, Maryland, convicted on May 8, 1951, in the Baltimore City Court, Baltimore, Maryland.

Cook, Roy P., 272 Twelve Buck Trail, Durango, Colorado, convicted on February 27, 1984, in the United States District Court, Central District of California.

Coons, Kenneth Lloyd, L-221 Bethlehem Terrace, Slingerlands, New York, convicted on March 28, 1957, in the Albany County Court, Albany, New York.

Cooper, Roger Dale, Route 7, Murray, Kentucky, convicted on December 3, 1980, in the Calloway County Circuit Court, Murray, Kentucky.

Coqueuoniot, Karla Kay, 2417 Odell Street, Casper, Wyoming, convicted on March 15, 1978, in the Seventh Judicial District Court, Wyoming.

Corbitt, Albert Gerald, Post Office Box 1151, Muldrow, Oklahoma, convicted June 23, 1967, Sequoyah County, Sallisaw, Oklahoma, and convicted on April 23, 1963, United States District Court, Western Arkansas.

Corn, James Jeffrey, 5013 Fremont Avenue North, Minneapolis, Minnesota, convicted on November 12, 1979, in LaCrosse County Court, Circuit 1, LaCrosse, Wisconsin.

Corporation—General Dynamics, Pierre Laclede Center, Saint Louis, Missouri, convicted on December 2, 1985, in the United States District Court, Los Angeles, California.

Corporation—Martin Marietta, 6801 Rockledge Drive, Bethesda, Maryland, convicted on February 17, 1987, in the United States District Court, Maryland.

Cosmano, Gene John, 5550 North Forty-fourth Street, Phoenix, Arizona, convicted on May 16, 1983, in the Superior Court, Phoenix, Arizona.

Coson, James R., Junior, 7683 North Woodson, Fresno, California, convicted on June 14, 1976, in the United States District Court, Fresno, California.

Costner, Grier Wayne, Jr., Route 1, Box 84 B, Bessemer City, North Carolina, convicted on December 2, 1980, in the United States District Court, Western District of North Carolina.

Costner, Randy Wayne, 907 Union Terrace, Gastonia, North Carolina, convicted on December 2, 1980, in the United States District Court, Charlotte, North Carolina.

Cota, Frank James, 97 Airport Parkway, South Burlington, Vermont, convicted on March 12, 1982, in the United States District Court, Burlington, Vermont.

Cotton, John Lee, 1505 Albert Street, Camden, South Carolina, convicted on October 4, 1977, in the Court of General Sessions, Kershaw County, Camden, South Carolina.

Coufal, Donald B., Rural Route 1, Box 177B, Arenzville, Illinois, convicted on June 16, 1981, in the Central Judicial District, Springfield, Illinois.

Covert, John Raymond, Route 2, Hutchinson, Kansas, convicted on December 5, 1962, in the District Court, Reno County, Kansas.

Covert, Sharon Ann, Route 2, Hutchinson, Kansas, convicted on December 30, 1974, in the Ninth Judicial District Court, McPherson County, Kansas.

Cox, Frankie Lee, Route 1, Box 1070, Partlow, Virginia, convicted on January 24, 1975, in the Circuit Court, City of Staunton, Virginia.

Cox, James Roger, 416 "G" Street, North Wilkesboro, North Carolina, convicted on November 5, 1969, in the United States District Court, Greensboro, North Carolina.

Cox, Timothy, Route 2, Box 256, Hayesville, North Carolina, convicted on January 23, 1984, in the United States District Court, Western District of North Carolina.

Coy, Daniel Duane, Route 1, Box 219, Pemberton, Minnesota, convicted on October 10, 1980 in the Freebom County District Court, Freebom County, Minnesota, and on July 16, 1980, in the Third Judicial District, Waseca County, Minnesota.

Craig, Gary Lee, 108 Abbott, Venice, Illinois, convicted on November 25, 1975, in the Twelveth Circuit Court, Saint Claire County, Illinois.

Craig, Stewart Patrick, 820 West 13th Street, Front Royal, Virginia, convicted on October 19, 1974, in the Circuit Court, Frederick County, Virginia.

Crawford, Donald Glenn, 131 Old Bridge Lake, Houston, Texas, convicted on June 13, 1985, in the United States District Court, Southern District, Texas.

Crawmer, Donald Edward, 166 South Collins Avenue, Baltimore, Maryland convicted on July 21, 1972, in the Howard County Circuit Court, Howard County, Maryland.

Crevison, Ross Milford, 109 Church Street, Milan, Michigan, convicted on September 10, 1970, in the United States District Court, Detroit, Michigan.

Crippen, Robert Harvey, 511 Elk Drive, Riverton, Wyoming, convicted in April 1974 and September 1975, in the Superior Court, Santa Cruz, California.

Cronk, Michael Allen, RFD 3, Box 857, Bangor, Maine, convicted on May 20, 1974, in the Superior Court, Penobscot County, Maine.

Cross, Gordon Lee, Route 1, Box 47, Zimmerman, Minnesota, convicted on June 25, 1982, in the United States District Court, Judicial District of Minnesota.

Crowe, Kenneth E., 530 Elm Street, Owensboro, Kentucky, convicted on August 3, 1971, in the Daviess County Circuit Court, Owensboro, Kentucky.

Crowley, James Trent, 2416 Willinghurst Drive, Germantown, Tennessee, convicted on November 7, 1984, in the United States District Court, Western District of Tennessee.

Crowson, Thomas Christopher, Route 2, Box 14-C, Boonville, North Carolina, convicted on July 12, 1978, in the Superior Court of Winston-Salem, North Carolina.

Cruikshank, Steven Patrick, 2439 Oakland Road, Minnetonka, Minnesota, convicted on January 9, 1984, in the United States Military Court, Fort Bragg, North Carolina.

Crumpton, Charles William, Route 2, Box 1, Space 11, Laramie, Wyoming, convicted on July 1, 1976, and on November 12, 1975, in the District Court, Second Judicial District, State of Wyoming.

Cucci, John Joseph Junior, 1612 North 20th Avenue, Melrose Park, Illinois, convicted on June 21, 1984, in the United States District Court, Northern District, Illinois.

Cuccia, Peter Alan, 1639 Douglas Avenue, Racine, Wisconsin, convicted on January 7, 1985, in the Circuit Court Branch 4, Racine, Wisconsin.

Cuervo, Peter Hector, Unabilla Road, Putnam Valley, New York, convicted on September 7, 1983, in the Putnam County Court, Putnam, New York.

Cullison, Bruce Edward, 598 Gatlin Avenue, Orlando, Florida, convicted on August 9, 1974, in the United States District Court, Tampa, Florida, and on August 8, 1974, Orange County Circuit Court, Orlando, Florida.

Cummings, Owen Neal, 1019 Riva Ridge Drive, Great Falls, Virginia, convicted on October 19, 1981, in United States District Court, District of Columbia, Washington, DC.

Currier, Robert Lee, 484 Carley Road, Springfield, Vermont, convicted on March 15, 1965, in the Municipal Court, Springfield, Vermont.

Curtis, David Benton, Railroad Bed Road, Route 1, Summertown, Tennessee, convicted on September 10, 1982, in the United States District Court, Middle of Tennessee.

Curtis, John Edward, 440 Twenty-seventh Avenue, North Saint Cloud, Minnesota, convicted on March 9, 1978, in the Seventh Judicial District Court, Saint Cloud, Minnesota.

Curtis, Martin Gregory, Post Office Box 144, River Road, Phillips, Maine, convicted on May 3, 1977, in the Superior Court, Franklin County, Farmington, Maine.

Custer, Jeffrey Dean, 14121 60th Avenue West, Edmonds, Washington, convicted on June 24, 1976, in the Skagit County Superior Court, State of Washington.

Cyr, Paul, 7914 Manor House Drive, Fairfax Station, Virginia, convicted on September 29, 1982 and July 26, 1984, in United States District Court, Washington, DC.

Czura, Walter Murphy, 9–B Wanderer Lane, Hilton Head Island, South Carolina, convicted on January 13, 1982, in the United States District Court, Charleston, South Carolina.

D'Aloia, Cosimo, Plymouthtown Apartments, 367 Chelton Court, Norristown, Pennsylvania, convicted on December 14, 1981, in the Court of Common Pleas, Delaware City, Media, Pennsylvania.

D'Aquin, Robert Paul, 5501 Amite Drive, Marrero, Louisiana, convicted on February 19, 1982, in the Jefferson Parish Court, Louisiana.

D'Auria, Michael Martin, 30 Rolling Drive, Brookville, New York, convicted June 25, 1981, in the United States District Court, Eastern District of New York.

Daberkow, Douglas Clyde, 1549 2nd Avenue, Windom, Minnesota, convicted on April 6, 1981, in the District Court, Fifth Judicial District, Jackson County, Minnesota.

Dahnert, Michael Paul, Route 2, Box 265, Fort Atkinson, Wisconsin, convicted on December 27, 1977, in the Jefferson County Circuit Court, Jefferson, Wisconsin.

Dail, Franklin Wayne, Route 2, Box 10, Walstonburg, North Carolina, convicted on September 8, 1982, in the United States District Court, Greensboro, North Carolina.

Dalton, Bobby Gene, 3464 Colonial Avenue, Southwest, Building O, Apartment 99, Roanoke, Virginia, convicted on August 12, 1975, in the United States District Court, Roanoke, Virginia.

Dalton, Clyde Hassell Senior, 1825 Glenn Street, Danville Virginia, convicted on December 5, 1978, in the District Court of Danville, Virginia.

Dalton, David Albert, Post Office Box 131, Gervais, Oregon, convicted on December 29, 1981, in the Marion County Superior Court, Marion County, Oregon.

Dalton, Rufus Edward, 2317 Windward Shore Drive, Virginia Beach, Virginia, convicted on August 7, 1980, in the Eastern Judicial District Court, Virginia.

Daniel, Fred K. Junior, 398 Annex Avenue, Nashville, Tennessee, convicted on November 8, 1972, in the Criminal Court, Davison County, Tennessee.

Daugherty, Sterling J., 301 O'Hara, Grand Saline, Texas, convicted on November 3, 1982, in the Criminal District Court #86, Kaufman County, Texas.

Daugherty, Walter David, Route 3, Box 12, Rushville, Indiana, convicted on October 26, 1978, in the Rush County Circuit Court, Rushville, Indiana.

Davidson, Charles Todd, 3555 Kenbrooke Court, Kalamazoo, Michigan, convicted on January 24, 1983, in the Kalamazoo County Circuit Court, State of Michigan.

Davidson, Virgil Lee, 19203 Hollingsworth, West Covina, California, convicted on August 7, 1981, in the Superior Court, Benton County, Washington.

Davila, Jose Campos, 1706 Guatemozin, Laredo, Texas, convicted on October 6, 1981, in the United States District Court, San Antonio, Texas.

Davis, Clifford Lee, Route 2, Box 700–B, Astoria, Oregon, convicted on February 11, 1980, in the Curry County Circuit Court, Astoria, Oregon.

Davis, Daniel Clarence, 17724 Unicorn Street, Southwest, Rochester, Washington, convicted on April 8, 1981, in the Superior Court, Thurston County, Washington.

Davis, Edward Ray, Route 1, Box 149–1, Lansing, North Carolina, convicted on October 12, 1981, in the Superior Court, Ashe County, Jefferson, North Carolina.

Davis, George Oliver, Route 1, Box 88, Crescent, Oklahoma, convicted on December 16, 1982, in Western Oklahoma, Oklahoma City, Oklahoma.

Davis, Herbert Wayne, 174 Allman Road, Winlock, Washington, convicted on December 3, 1980, in the Lewis County Superior Court, State of Washington.

Davis, Jack D., 209 West Main, Duncan, Oklahoma, convicted on July 29, 1982, in the United States District Court, Oklahoma City, Oklahoma.

Davis, James Christopher, 2875 Washington Street, Apartment 17G, Boston, Massachusetts, convicted on August 15, 1937, in the Roxbury District Court, Boston, Massachusetts, and on January 17, 1939, in the Suffolk Superior Court, Boston, Massachusetts.

Davis, Larry Ornan, 709 J Street, Aurora, Nebraska, convicted on July 23, 1974, in the Natrona County District Court, Casper, Wyoming.

Davis, Matthias, Route 1, Box 271–35, Chattaroy, Washington, convicted on October 3, 1978, in the United States District Court, District of Utah.

Davis, Trez Harley, 2653 Bon Bon Drive, San Jose, California, convicted on June 23, 1960, in the Superior Court, Santa Clara County, California.

Davis, Walter Royal, 2006 Gulf, Midland, Texas, convicted on March 8, 1948, in the United States District Court, Northern District of California.

Davoli, Phillio T., 5361 Fortuna Parkway, Clay, New York, convicted on March 13, 1979, in the Onondaga County Court, Syracuse, New York.

Daw, George David, Post Office Box 835, Highway 59 South, Foley, Alabama, convicted in September 1976, in the Jefferson County Circuit Court, Birmingham, Alabama.

Dawson, William John, 25 Western Avenue, Cohoes, New York, convicted on January 11, 1970, in the United States District Court, Northern Judicial District of New York.

Day, Daniel Engles, 4606 Cairnsean, Houston, Texas, convicted on September 23, 1982, in the Madison County Circuit Court, Madison, Tennessee.

Dean, Vernon Wayne, 109 Tall Timber Drive, Kountze, Texas, convicted on July 18, 1980, in the District Court, Jefferson County, Texas.

DeAngelo, Ronald Eugene, 124 Butler Street, Butler, Pennsylvania, convicted

on July 3, 1972, in the Court of Common Pleas, Butler County, Pennsylvania.

Deck, Donald Eugene, 17 East Grandview Avenue, Mercerburg, Pennsylvania, convicted on August 20, 1984, in the United States District Court, Middle Judicial District of Pennsylvania, Harrisburg, Pennsylvania.

Deel, Irene Sue, Route 2, Box 636, Haysi, Virginia, convicted on January 28, 1982, in the Buchanan County Circuit Court, Grundy, Virginia.

Deichert, John Woodrow, 6280 Carlisle Pike, Lot 402, Mechanicsburg, Pennsyvlania, convicted on September 9, 1980, in the Court of Common Pleas, Lebanon County, Pennsylvania.

Deiter, Robert J., 108 West Calhoun Street, Cuba City, Wisconsin, convicted on August 29, 1983, in the Circuit Court Branch I, Lancaster, Wisconsin.

Dela, Allan Truman Odel, 2163 Constance Boulevard, Northeast, Ham Lake, Minnesota, convicted on July 8, 1981, in the United States District Court, Middle District of Georgia.

Demers, Gregory Lind, 12249 Marshall Road Southeast, Tenino, Washington, convicted on November 26, 1975, in the Superior Court, State of Washington.

Demus, Michael William, 1515 Moore, Beloit, Wisconsin, convicted on October 18, 1982, in the Rocky Circuit Court IV, Beloit, Wisconsin.

Denner, Gay Norman, 300 West Bluff, Boscobel, Wisconsin, convicted on February 14, 1983, in the Grant County Circuit Court, Wisconsin.

Denton, Lee Roy, 212 West Cypress Street, Coweta, Oklahoma, convicted on February 14, 1984, in the United States Court, Eastern District of Oklahoma.

Derrico, Lvle David, Post Office Box 434, Cedars Plaza Baggs, Wyoming convicted on July 16, 1982, in the District Court, Carbon County, Wyoming.

Detzel, John Edward, 20301 Southwest One-hundred-seventeenth Court, Miami, Florida, convicted on March 17, 1976, in the Eleventh Judicial Circuit Court, Miami, Dade County, Florida.

Dickey, Carl Alwin III, 26235 E, 9th Street, Space #17, Highland, California, convicted on September 23, 1973, in the District Court, Dallas, Texas.

Diehl, Jack Donald, 353 South Front Street, Milton, Pennsylvania, convicted on December 18, 1961, in the Court of Quarter Sessions, County of Northumberland, Pennsylvania.

Digby, Lawrence Walter, 12951 Lookingglass Road, Roseburg, Oregon, convicted on April 9, 1980, in the Douglas County Superior Court, State of Oregon.

Diguiseppe, Joseph Michael, 1706 East Gaylon Drive, Tempe, Arizona, convicted on April 15, 1983, in the Superior Court of Maricopa City, Arizona.

Dile, Freddy, Route 2, E.P. Terry Estates, Apartment E–2, Cave City, Kentucky, convicted on April 28, 1972, in the Warren County Court, Bowling Green, Kentucky.

Dillard, James H., 106 Highland School Road, Hopkinsville, Kentucky, convicted on September 27, 1974, in the Christian County Circuit Court, Hopkinsville, Kentucky.

Dillard, Tony A., Route 2, Box 584, Honaker, Virginia 24260, convicted on September 21, 1983, in the Circuit Court of Russell County.

Dillman, Bobby Wayne, Route 1, Box 50D, Atkins, Virginia, convicted on June 25, 1975, in the Circuit Court, Smyth County, Virginia, and on March 11, 1976, in the United States District Court, Greenwood, South Carolina.

Dilorenzo, Anthony John, 11533 Mississippi Drive, Champlin, Minnesota, convicted on November 3, 1972, in the Los Angeles County Court, Norfolk, California.

Dishman, Edward E., 406 Sundown, Norman, Oklahoma, convicted on September 16, 1983, in the Western Oklahoma, Oklahoma City, Oklahoma.

Dixon, Richard Allen, 150 East Green Acres Lane, Lancaster, California, convicted on February 14, 1975, in the Superior Court, Los Angeles, California, and on March 28, 1977, in the Superior Court, Pierce County, Washington.

Dixon, Walter Edward, 3026 Tennessee Avenue, Baltimore, Maryland, convicted on December 20, 1973, in the District Court of Maryland, Baltimore, Maryland.

Dobbins, Alan Matthew, 247 Loma Linda, Amarillo, Texas convicted on September 11, 1975, in the 181st Judicial District Court, State of Texas.

Dobish, Michael John, Box 123, Beccaria, Pennsylvania, convicted on August 24, 1970, in the Court of Common Pleas, Clearfield County, Pennsylvania.

Donovan, Jerry P., 3 Barrister Lane, Levittown, New York, convicted on October 9, 1974, in the Nassau County Court, Mineola, New York.

Dorris, Chester Elwood, 206 East 31st Street, New York, New York, convicted on October 9, 1974, in the Supreme Court, Kings County, New York.

Dougherty, Carol Sue, 204 Richardson Drive, Twin Falls, Idaho, convicted on December 18, 1981, in the Fifth Judicial District Court, Idaho.

Dowdy, Roger Joe, 2301 South Main Street, Blacksburg, Virginia, convicted on November 12, 1976, in the Circuit Court, Montgomery County, Virginia.

Dressel, Shane Lee, 726 Avenue, Apartment B304, Snohomish, Washington, convicted on October 26, 1982, in the Superior Court, Snohomish County, Washington.

Drew, Ronald Lee, Route 1, Box 228A, Bolivia, North Carolina, convicted on May 26, 1981, in the Superior Court of Brunswick County, North Carolina.

Drinkard, William David, 600 Mangum Avenue, Selma, Alabama, convicted on March 3, 1969, in the Perry County Circuit Court, Marion, Alabama.

Driver, David William, 311 Cooper Drive, Stuarts Draft, Virginia, convicted on November 21, 1975, in the Circuit Court, Augusta County, Virginia.

Drory, Edward Robert, 3213 42nd Street, Metarie, Louisiana, convicted on November 24, 1981, in the United States District Court, Eastern District of Louisiana.

Dubbelde, Arnold Paul, 4425 Slater Road, Eagan, Minnesota, convicted on June 26, 1974, and June 7, 1976, in the Minnehaha Circuit Court, Sioux Falls, South Dakota.

Duckworth, Ray, 908 Green Valley Drive, Nashville, Tennessee, convicted on December 23, 1980, in the Middle District of Tennessee.

Ducoty, Richard Bruce, 508 Sunset Drive, Capitola, California, convicted on October 30, 1969, in the Superior Court, Santa Clara County, California.

Duffey, Anthony Eugene, 874 Willow Drive, Shreveport, Louisiana, convicted on November 26, 1979, in the Twenty-sixth Judicial District Court, Bossier Parish, Louisiana.

Duffield, Jeffrey D., 567 North 2350 West, West Point, Utah, convicted on November 7, 1980, in Whitman County, Washington.

Dunagan, Donald Travis, 1435 North Ashland, East Wenatchee, Washington, convicted on April 14, 1977, in the Douglas County Superior Court, Washington.

Dunagan, Joseph Walton, Route 2, Post Office Box 227, Horse Cave, Kentucky, convicted on October 5, 1983, in the United States District Court, Bowling Green, Kentucky.

Dunaisky, James Stephen, 129 East Harney Road, Esko, Minnesota, convicted on May 20, 1983, in the St. Louis County District Court, Sixth Judicial District, Duluth, Minnesota.

Dunloy, Zaran, 120 West 28th Street, New York, New York, convicted on May 2, 1978, in the United States District Court, Southern District of New York.

Dupree, Todd James, 4705 East Caballero, Apartment 3, Mesa, Arizona, convicted on March 5, 1979, in the Missoula County District Court, Missoula, Montana and on June 24, 1981, in the Superior Court, Phoenix, Arizona.

Duskie, Bradley G., 1717 East 6th, Lot 1, Concordia, Kansas, convicted on May

10, 1979, in the 12th Judicial District Court, Mitchell County, Kansas.

Dyer, Daniel M., Post Office Box 73, 4th and Washington Streets, Moscow Mills, Missouri, convicted on November 26, 1965, in the Eastern District of Missouri, and on October 2, 1961, in the Circuit Court of Pike County, Bowling Green, Kentucky.

Dykes, Randy Lee, 1013 Landon Avenue, Yakima, Washington, convicted on March 26, 1975, in the Yakima County Superior Court, Washington.

Earhart, Jeffrey Lewis, Star Route, Box 123, Churchville, Virginia, convicted on March 7, 1983, in the Circuit Court of Augusta County, Augusta County, Virginia.

Earley, Danny Jerald, 1717 Winston Road, Mobile, Alabama, convicted on October 13, 1976, in the Circuit Court, Mobile County, Alabama, and convicted on January 13, 1984, in the Superior Court, Dougherty County, Georgia.

Eaton, Peter James, Route 2, Box 36, Lovelace Road, Pelham, North Carolina, convicted on February 8, 1965, and May 10, 1966, in the United States District Court, Western District, Danville Division, Virginia, and March 18, 1966, in the United States District Court, Western District, Ashville, North Carolina.

Ebert, Allen Richard, 51 Locust Street, Repon, Wisconsin, convicted in September 1980, in the Circuit Court, Greenlake City, Greenlake, Wisconsin.

Eby, Morris Lee, Post Office Box 608, #112–D, Walla Walla, Washington, convicted on April 13, 1966, in the Circuit Court of Douglas County, Oregon.

Eddlemon, James Marion, 72 Aspen Drive, Jackson, Tennessee, convicted on September 13, 1977, in the United States District Court, Western District of Tennessee.

Eden, Thomas L., 18331 Coastline Drive, Malibu, California, convicted on April 19, 1982, in the United States District Court, Los Angeles, California.

Edinger, Clayton Monroe, Road No. 1, Rimersburg, Pennsylvania, convicted on April 8, 1985, in the Court of Common Pleas, Clarion County, Pennsylvania.

Edwards, Maceo, 187 West Ostrander Avenue, Syracuse, New York, convicted on October 24, 1957, in the County of Onondaga, Syracuse, New York.

Egan, Terrance L., 5704 Coughran Court, Sioux Falls, South Dakota, convicted on November 21, 1978, in the Second Judicial Circuit Court, Sioux Falls, South Dakota.

Elder, Jesse James, Junior, Route 4, Box 413, Murfreesboro, Tennessee, convicted on March 16, 1981, in the Rutherford County Circuit Court, Tennessee.

Eldred, Darrell Wayne, 1517 Kimberly Lane, Killeen, Texas, convicted on October 11, 1963, in the District Court #4, Dallas County, Texas.

Eldred, Jimmy Dale, Post Office Box D, Stratford, Oklahoma, convicted on April 18, 1985, in the United States District Court, Oklahoma City, Oklahoma.

Elfner, Marc Allen, 1624B Washington Street, Two Rivers, Wisconsin, convicted on May 20, 1981, in the Monitowoc Circuit Court Branch I, Monitowoc, Wisconsin.

Ellis, Clifford Ralph, Route 1, Box 83, Maramec, Oklahoma, convicted on October 13, 1982, in the United States District Court, Northern District of Oklahoma.

Ellswoth, William Vaughn, 1051 North Grand Avenue, Mesa, Arizona, convicted on December 26, 1975, in the United States District Court, Phoenix, Arizona.

Elmenhorst, Paul W., Rural Route 1, El Reno, Oklahoma, convicted on July 29, 1982, in the Western District, Oklahoma City, Oklahoma.

Elsasser, Thomas J., 81 Monitor Street, Brooklyn, New York, convicted April 4, 1957, in the Supreme Court of New York, County of Kings, New York.

Elsemore, Mark, 511 East Pine, Ironwood, Michigan, convicted on February 13, 1984, in the Circuit Court of Gogebil County, Michigan.

Emery, Elizabeth A., 1781 Arlington Avenue, Pittsburgh, Pennsylvania, convicted on March 18, 1955, in the Court of Common Pleas, Allegheny County, Pennsylvania.

Enders, Ronald Edward, 2277 Holloway Avenue, East, North St. Paul, Minnesota, convicted on September 10, 1982, in the United States District Court, Third Judicial District, Minneapolis, Minnesota.

Epperson, Oscar Floyd, Box 205, Big Laurel, Kentucky, convicted on September 30, 1976, in the Pike Circuit Court in Pikeville, Kentucky.

Ertle, John R., Senior, 601 Seneca Manor Drive #8L, Rochester, New York, convicted on May 20, 1953, in the Monroe County Superior Court, Rochester, New York.

Espeseth, James Stanley, 441 South Park Avenue, Apartment D–13, Helena, Montana, convicted on April 22, 1982, in the United States District Court, Southern District of Florida.

Evans, David George, 105 Lilac Lane, Sarver, Pennsylvania, convicted on June 17, 1970, in the Court of Common Pleas, Butler County, Pennsylvania.

Evans, Robert Michael, 1115 East Stewart Road, Midland, Michigan, convicted on June 11, 1971, in the District Court, Hansford County, Texas.

Everhart, Jimmy J., 1137 West Elliott, Springfield, Illinois, convicted on April 11, 1980, in the United States District Court, Central District of Illinois.

Evert, Charles Downey, 1418 Green Pasture Road, Sandston, Virginia, convicted on July 27, 1973, in the Circuit Court, Fairfax County, Virginia.

Evison, Theodore A., 8719 Dresden Lane, Southwest, Tacoma, Washington, convicted on April 30, 1970, in the United States District Court, Western District of Washington.

Eyster, Al Lee, Route 2, Box 263A, Hunt, Texas, convicted on April 9, 1985, in the United States District Court, Houston, Texas.

Faccio, Anthony P., 433 Second Street, Hardford, Wisconsin, convicted in June 1981, in the Circuit Court, Milwaukee County, Milwaukee, Wisconsin.

Fadler, Danny Paul, Route 1, Box 525B, Marksville, Louisiana, convicted on October 22, 1979, in the United States District Court, Western District of Louisiana.

Fagan, Francis Lee, 8175 Meadow Road, Apartment 237, Dallas, Texas, convicted on March 19, 1980, in the Quachita Parish District Court, Louisiana.

Faris, Wayne Faris, Route 1, Box 678, Evington, Virginia, convicted on September 10, 1976, in the Pittsylvania County Circuit Court, Chatham, Virginia.

Farkas, Michael L., Post Office Box 781, Moody Road, Tupper Lake, New York, convicted on March 28, 1983, in the United States District Court, Albany, New York.

Farnum, Harlan F., 5174 Wright, Troy, Michigan, convicted on June 3, 1957, in Bay County Circuit Court, Bay County, Michigan.

Farr, Brandon Orlan, 407 West Camden, Stafford, Kansas, convicted on December 4, 1984, in the Scott County District Court, Scott City, Kansas.

Farrison, Theodore Ceodise, 3585 Portland Avenue, Tacoma, Washington, convicted in October 1955 and October 1957 in the United States Army, Ft. Lewis, Washington.

Faught, Ralph Edwin, 1155 Locust Street, Twin Falls, Idaho, convicted on November 1, 1977, in the District Court, Twin Falls County, Idaho.

Faulkner, Joseph Michael, Rural Route 2, Box 277, Gays Mills, Wisconsin, convicted on August 3, 1981, in the State Circuit Court, Branch I, Grant County, Wisconsin.

Faurote, Thomas Allan, 6431 Londonerry Lane, Fort Wayne, Indiana, convicted on February 6, 1983, in the United States District Court, Fort Wayne, Indiana.

Faust, Teddy George, Route 4, Box 162, Gensua Road, Amite, Louisiana, convicted on November 24, 1976, in the Twenty-first Judicial District Court, Tangipahoa Parish, Louisiana.

Favreau, Robert Peter, 10037 Ratcliff Court, Orlando, Florida, convicted on July 2, 1977, in the United States District Court, Charleston, South Carolina.

Fay, Dennis Arthur, Rural Delivery 1, Box 213AA, Unadilla, New York, convicted on May 25, 1977, in the General Court of Justice, Superior Court Division, Catawba County, North Carolina.

Feddersen, Donald D., 908 Sabre Pass, Route 4, El Reno, Oklahoma, convicted on July 29, 1982, in the Western Judicial District of Oklahoma, Oklahoma City, Oklahoma.

Fedrick, Melvin Thelon, Route 8, Box 169, Philadelphia, Mississippi, convicted on April 12, 1967, in the United States District Court, Meridian, Mississippi.

Ferguson, Bobby Gene, Route 2, Box 1000, Warsaw, Virginia, convicted on March 15, 1975, in the Circuit Court of Richmond County, Virginia.

Ferguson, Richard Dennis, Route 1, Box 297A, Robert, Wisconsin, convicted on December 16, 1981, in the United States District Court, District of Minnesota.

Ferguson, Wade Blakely, 1247 Crest Circle, Winchester, Virginia, convicted on August 10, 1971, in the Circuit Court, City of Winchester, Virginia.

Fernalld, Kevin Warren, Route 1, Box 221 A, Wendell, Idaho, convicted on December 1, 1982, in the Circuit Court, Umatilla County, Oregon.

Fernandez, Jose Manuel, 922 Saint Dunstan's Road, Baltimore, Maryland, convicted on January 6, 1977, in the District Court of Baltimore, Baltimore, Maryland.

Fesler, Wesley Kent, 1603 Melrose Drive, Quincy, Illinois, convicted on January 7, 1971, in the Circuit Court, Lewis County, Missouri, and on February 15, 1972, in the Circuit Court, Adams County, Illinois.

Few, Wilbert Turman, 7392 South Robin Court, Hanover, Maryland, convicted on April 19, 1949, in the Circuit Court, Carroll County, Maryland.

Finken, Kenneth Henry, Route 5, St. Cloud, Minnesota, convicted on July 25, 1977, in the United States District Court, Third Division, St. Paul, Minnesota.

Finley, David Douthit, 4744 Harriet Avenue South, Minneapolis, Minnesota, convicted on April 6, 1978, in the United States District Court, St. Paul, Minnesota.

Fisher, Joseph William, 4263 County 15, Yuma, Arizona, convicted on August 17, 1976 in the United States District Court, Greensboro, North Carolina.

Fisher, Michael L., Post Office Box 110230, Anchorage, Alaska, convicted on September 29, 1969, in the Superior Court, Lincoln County, Nebraska.

Fite, Robert Boyd, 964 Ridge Road, Chelsea, Michigan, convicted on February 1, 1961, convicted in the Washtenaw County, Sheriffs Department, Chelsea, Michigan.

Fitzgerald, Jack Alden, 23 Crescent Drive, Kalamazoo, Michigan, convicted on August 5, 1960, in the Kalamazoo County Circuit Court, Kalamazoo, Michigan, and on May 24, 1962, in the Jackson County Circuit Court, Jackson, Michigan.

Fleming, Thomas Edward, 948 Gilley Street, Flatwoods, Kentucky, convicted on March 20, 1973, in the Greenup Circuit Court, Greenup, Kentucky.

Flint Eugene E., 4940 Lake Road, Avon, New York, convicted on February 12, 1979, in the Middle District of Tennessee.

Florence, Kenneth Russell, 1023 East Gilbreath Street, Graham, North Carolina, convicted on July 15, 1982, in the Superior Court of Alamance County, North Carolina.

Flournoy, Donald Richard, 3307 Fleming, Baytown, Texas, convicted on June 23, 1959, in the Superior Court, St. Mary's Parish, Louisiana.

Folland, Roger Dean, 4431 Wallingford Avenue North, Apartment 6, Seattle, Washington, convicted on June 20, 1975, in the United States District Court, Western District of Washington.

Ford, Willis Rou, 92 Ashlee Drive, Alexander, Arkansas, convicted on November 5, 1947, in the Circuit Court, Chickasawba District, Mississippi County, Arkansas.

Foreman, Jesse Charles, 818 Blackburn Trailer Park, Ellege Lane, Route 4, Tuscumbia, Alabama convicted on December 14, 1977, in the United States District Court, Birmingham, Alabama.

Forgas Richard Allen, Rural Delivery 2, Box 394, Altoona, Pennsylvania, convicted on April 15, 1968, in the Justice Court, Blair County, Pennsylvania.

Fossati, David Roy, 816 Oak Point Road, Longview, Washington, convicted on February 18, 1971, in the Cowlitz County Superior Court, Washington.

Foster, Frank Ernest, 1220 North Jeffers, North Platte, Nebraska, convicted on October 7, 1981, in the Buffalo County District Court, Nebraska.

Fought, David Wayne, 9530 Circlewood, Dallas, Texas, convicted on March 3, 1984, in the Twelveth District Court, Carter County, Oklahoma.

Foust, Cecil Veroy, 501½ Fifth Street, Rocky, Oklahoma, convicted on April 19, 1984, in the Western District Of Oklahoma, Oklahoma City, Oklahoma.

Foutch, Oscar David, 3912 South Grand Traverse, Flint, Michigan, convicted on January 2, 1935, Roscommon County Court, Michigan.

Fox, Emil Odell, 2005 Belair, Moore, Oklahoma, convicted on August 26, 1982, in the United States District Court, Oklahoma City, Oklahoma.

Fox, Steven B., 1100 Stoney Lane, Gladwyne, Pennsylvania, convicted on March 10, 1987, in the United States District Court, Eastern District, Philadelphia, Pennsylvania.

Francisco, James Leonard, Route 1, Box 35, Gleason, Tennessee, convicted on March 21, 1984, in the United States District Court, Jackson, Tennessee.

Frank, Jerome Thomas, 441 Chatterton Drive, Virginia Beach, Virginia, convicted on October 17, 1973, in the Circuit Court, Marinette County, Wisconsin.

Franklin, George Edward Junior, 5500 Milford Road, Charlotte, North Carolina, convicted on August 13, 1981, in the United States District Court, Western District of North Carolina, Charlotte, North Carolina.

Franklin, Homer Wayne, 4515 Washington Drive, Fort Worth, Texas, convicted on November 3, 1978, in the United States District Court, Reno, Nevada, and convicted on February 22, 1979, in the United States District Court, New York, New York.

Frazier, Carroll J., Post Office Box 439, Warrenton, Virginia, convicted on February 10, 1977, in the Circuit Court, County of Fauquier, Virginia.

Frazier, Earl Junior, 121 Pandora Drive, Goose Creek, South Carolina, convicted September 18, 1974, in the Charleston County Court, South Carolina.

Freeman, Robert Gene, Box 99, Marcum, Clay County, Kentucky, convicted on August 15, 1979, in the United States District Court, Cincinnati, Ohio.

Freeman, Thurman Yarwood, 491 Huntington Avenue, Boston, Massachusetts, convicted on October 24, 1968, in the Supreme Court, Kings County, New York.

French, Owen Dale, Route 2, Ladderback Lane, Mt. Olviet, Kentucky, convicted on January 14, 1981, in the Robertson Circuit Court, Mt. Olivet, Kentucky.

Frey, William Torrence, 1858 East 11th, Spokane, Washington, convicted on May 1, 1974, in the Superior Court, Spokane, Washington, and convicted on October 14, 1975, in the Superior Court of Spokane, Washington.

Fritz, Raymond Gene, 1511 Gateway, Yuma, Arizona, convicted in November 1976, in the United States District Court, San Diego, California.

Frostad, Kevin Carroll, 811 Northeast Halsey, Portland, Oregon, convicted April 26, 1978, in the Circuit Court, Washington County, Oregon.

Frye, George Thomas Junior, Elder Street, Post Office Box 48, Alamance, North Carolina, convicted on October 6, 1981, in the United States District Court, Greensboro, North Carolina.

Frye, Michael Joe, 4613 South Village Parkway, Topeka, Kansas, convicted on October 23, 1980, in the District Court, Shawnee County, Kansas.

Gaboury, Richard Murray, 4547 Northeast Sixty-sixth Street, Portland, Oregon, convicted on December 25, 1968, in the Circuit Court Multnonrah County, Oregon.

Gaither, Melinda Kaye, 118 West Pine, Hot Springs, Arkansas, convicted on May 14, 1979, in the Circuit Court, Garland County, Arkansas.

Gaither, Roy Karl, 8501 South Council, Oklahoma City, Oklahoma, convicted on December 14, 1973, in the Superior Court, Oklahoma County, Oklahoma.

Galdieri, Michael Peter, 3123 Brian Court, Arcata, California, convicted on December 10, 1971, in the Superior Court, County of San Francisco, California; and on February 25, 1977, in the Superior Court, County of Humboldt, California.

Galetka, Joseph J., Rural Route 4, Box 523, Neillsville Wisconsin, convicted on November 18, 1981, in the Clark County Circuit Court, Neillsville, Wisconsin.

Galioto, Anthony Joseph, 22 Westwood Drive, West Orange New Jersey, committed on May 11, 1971, in the District Court, Essex County, New Jersey.

Gallazzi, Joseph Carmine, 2124 Patou Drive, West Jacksonville, Florida, convicted on April 17, 1972, in the State Court of New York, Queens, New York.

Galletta, Anthony Lee, Route 13, Box 1023 #1, Hattiesburg, Mississippi, convicted on January 29, 1982, in the Circuit Court, Forrest County, Mississippi.

Galvan, Jesus, Junior, 3814 Tiger Lane, Corpus Christi, Texas, convicted on May 7, 1983, in the United States District Court, Corpus Christi, Texas.

Gamache, Michael William, 1204 8th Street, Paducah, Texas, convicted on February 28, 1979, in the United States District Court, St. Paul, Minnesota.

Gamble, Douglas Ray, 140 Poplar Drive, Blue Ridge, Virginia, convicted on November 10, 1981, in the Circuit Court of Botetourt County, Fincastle, Virginia.

Gande, Daniel Wayne, Post Office Box 248, Pounding Mill, Virginia, convicted on May 3, 1977, United States District Court, Roanoke, Virginia, and on January 23, 1978, in the Circuit Court, Giles County, Virginia.

Garcia, Mateo Antonio, 15010 Hiram Clarke, Houston, Texas, convicted on December 4, 1975, in the One-hundred-and-eighty-fourth District Court, Harris County, Texas.

Gardner, Howard Carl, Route 6, Box 248, Joplin, Missouri, convicted on September 15, 1975, and February 1, 1977, in the Circuit Court of Jasper County, Joplin, Missouri.

Garel, Vernon Mitchell, 1336 Logan Southeast, Grand Rapids, Michigan, convicted on March 27, 1946, in the Kent County Circuit Court, Grand Rapids, Michigan.

Garrett, Lance Patrick, 8795 West Darmouth Place, Lakewood, Colorado, convicted on April 20, 1981, in the United States District Court, Southern District of California.

Garruba, Angelo P., 926 Fernrest Drive, Harbor City, California, convicted on June 24, 1982, in the Eastern District Court, Brooklyn, New York.

Gartman, Richard Lee, 346 East Florence Avenue, LaHabra, California, convicted on January 3, 1970, in the Criminal Court, Parish of Orleans, Louisiana; on January 19, 1971, in the Circuit Court, Jefferson County, Alabama; on January 2, 1973, in the Circuit Court, Tenth Judicial District, Alabama; and on September 10, 1973, in the United States District Court, Northern District of Alabama.

Gartner, Randy Wallace, Route 3, Box 68, Madison, South Dakota, convicted on May 19, 1976, in the Sixth Judicial Circuit Court, Philip, Haakon County, South Dakota, and on March 3, 1978, in the Eighth Judicial Circuit Court, Belle Fourche, Butler County, South Dakota.

Gasaway, Joe Edward, 200 South Brookwood, Derby, Kansas, convicted on August 9, 1982, in the United States District Court, Wichita, Kansas.

Gaskell, George C., 102 Hillview, San Antonio, Texas, convicted on March 11, 1979, in the United States District Court, San Antonio, Texas.

Gaston, Frank Lee, 645 South Robert Street, St. Paul, Minnesota, convicted on February 1, 1974, in the United States District Court, Fourth Division, St. Paul, Minnesota.

Gatewood, William Stepen, Route 5, Box 321–F, Old Dover Road, Clarksville, Tennessee, convicted on February 16, 1972, in the Fayette Circuit Court, Lexington, Kentucky.

Gaudino, Nicholas Anthony, 2004 Spencer Street, Las Vegas, Nevada, convicted on June 5, 1978, in the United States District Court, New Jersey.

Geary, Robert Lee, Route 1, Box 2, Dextor, Missouri, convicted on November 23, 1976, in the Circuit Court, New Madrid County, Missouri.

Gelazin, Gregory Paul, 1949 East Michigan, Phoenix, Arizona, convicted on March 12, 1982, in the Superior Court, Phoenix, Arizona.

Gerber, Edwin Scott, 20637 Church Lake Drive East, Sumner, Washington, convicted on June 20, 1980, in the Superior Court of Whatcom County, Washington.

Gertz, Bruce Edward, Route 1, Box 620, Walland, Tennessee, convicted on March 22, 1977, in the Criminal Court, Ann Arundel County, Maryland.

Gibson, Bruce Richard, 533 Summitt Avenue, St. Paul, Minnesota, convicted on September 19, 1980, United States District Court, St. Paul, Minnesota.

Gibson, Richard Dale, Post Office Box 277, Altoona, Florida, convicted on September 4, 1979, in the Fifth Judicial Circuit Court, Lake County, Florida.

Giddings, Virgil Reed, Route 2, Box 202, Gibbon, Nebraska, November 23, 1964, in the Washington County District Court, Washington, Kansas.

Giese, James Marvin, 124 Barstow, Horicon, Wisconsin, convicted on September 14, 1984, in the Circuit Court, Dodge County, Juneau, Wisconsin.

Giesen, James Robert, 6704 Schroeder Road, Apartment 17, Madison, Wisconsin, convicted on September 10, 1981, in the Grant County Circuit Court, Lancaster, Wisconsin.

Gilbert, Frank Dixon, 1107 2nd Avenue South, Pell City, Alabama, convicted on January 16, 1980, in the St. Clair County Circuit Court, Pell City, Alabama.

Gildner, Laverne Earl, Junior, 11535 Bexley Drive, Whittier, California, convicted in October 1978, in the United States District Court, Baltimore, Maryland.

Giles, Phillip Ray, Route 1, Box 578, Roanoke, Virginia, convicted on January 23, 1976, in the Circuit Court, Franklin County, Virginia.

Giles, Ronald Dean, Route 9, Box 494, Cleveland, Tennessee, convicted on August 20, 1984, in the Bradley County Criminal Court, Tennessee.

Gill, James Neal, Route 4, Box 336, Murfreesboro, Tennessee, convicted on May 8, 1980, in the Circuit Court, Haids County, Mississippi, and on July 21, 1980, in the United States District Court, Western District of Tennessee.

Gilley, Darrell Wayne, 212 New Salem Road, Glasgow, Kentucky, convicted on December 8, 1980, in the Barren County Circuit Court, Glasgow, Kentucky.

Gilmer, Steven Lee, 1808 19th Street Apartment E, Two Rivers, Wisconsin, convicted on February 29, 1980, in the Circuit Court, Branch One, Manitowoc County, Manitowoc, Wisconsin.

Glander, Robert James, 17 Pond Brook Road, Newton, Connecticut, convicted on June 8, 1981, in the Circuit Court, Bradford County, Florida.

Glashen, Jerry Wayne, 211 Bluff Street, Wichita Falls, Texas, convicted on September 29, 1980, in the United District Court, Wichita Falls, Texas.

Glover, Coy Eugene, 22 Terrace Woods, 1136 North Market Street, Paris, Tennessee, convicted on March 16, 1984, in the United States District Court, Western Judicial of Tennessee, Memphis, Tennessee.

Goben, Gary Dean, Route 2, Box 2696, Toppenish, Washington, convicted on September 2, 1980, in the Superior Court, Yakima Washington.

Goessinger, George Francis, Box 212, Red Hook, New York, convicted on January 11, 1950, in the Superior Court, Fairfield County, Connecticut.

Golden, Gerald Mack, Route 2, Box 247, Cable, Wisconsin, convicted on May 15, 1985, in the Bayfield County District Court, Washburn, Wisconsin.

Gomez-Perez, Jose M., Calle Alfa #237, Extension Round Hill, Trujillo Alto, Puerto Rico, convicted on January 6, 1968, in the Superior Court of Carolina, Puerto Rico.

Gonser, George Emanuel, 863 Lincoln, Apartment A3, Holland, Michigan convicted on October 4, 1979, in the Muskegon County Circuit Court, Michigan.

Gonzales, Thomas C., 630 South Kenmore Avenue, Apartment 307, Los Angeles, California, convicted on October 1, 1951, in the Supreme Court, Richmond County, New York.

Good, Rene Clark, 5 North Circle Drive, Yardley, Pennsylvania, convicted on January 12, 1960, in the Superior Court, Bucks County, Pennsylvania.

Goodman, David Ray, 4250 Barber Street, Kannapolis, North Carolina, convicted on November 9, 1976, in the Superior Court of Cabarrus County, North Carolina.

Goodman, James Byron, Post Office Box 1108, Delta Junction, Alaska, convicted on August 12, 1983, in the United States District Court, District of Alaska.

Goolsby, Larry Roan, Post Office Box 534, Chiefland, Florida, convicted on December 3, 1968, in the Alachua County Circuit Court, Gainesville, Florida.

Gootlieb, Alan Merrill, 4725—136th Street Southeast, Bellevue, Washington, convicted on June 8, 1984, in the United States District Court, Western District of Washington.

Gordon, Daniel Bowman, 265 South Twelveth Street, Wytheville, Virginia, convicted on November 6, 1974, in the Circuit Court, Wytheville, Virginia.

Goss, Cadmus Levi Gordon, 1335 East Orangewood, Phoenix, Arizona, convicted on March 21, 1977, in the United District Court, Phoenix, Arizona.

Grabowski, Stanley Vincent, 1601 Lasalle Road, Highland, Michigan, convicted on July 18, 1980, in the Circuit Court, Oakland County, Michigan.

Grades, Ronald Lee, 2311 East Clark Road, Bath, Michigan, convicted on November 3, 1969, in the Circuit Court, Lansing, Michigan.

Graham, Evelyn Mae, 1847 Greencastle Road, Bowling Green, Kentucky, convicted on December 12, 1980, March 22, 1966, April 13, 1981, and July 14, 1982, in the Warren County Circuit Court, Bowling Green, Kentucky.

Grant, James K., 300 Elmhurst Avenue, High Point, North Carolina, convicted on October 20, 1980, in the Gullford County Superior Court, Greensboro, North Carolina.

Grasso, James John, Junior, 3425 Yorkway, Baltimore County, Maryland, convicted on June 2, 1982, in the District Court, Baltimore County, Maryland.

Graunke, George, 7335 St. James, Wauwatosa, Wisconsin, convicted on April 3, 1967, in the Langlade County Circuit Court, Antigo, Wisconsin.

Gray, Ronald Eugene, 214 East Walton Avenue, Altoona, Pennsylvania, convicted on November 30, 1970, in the Court of Common Pleas, Blair County, Pennsylvania.

Gray, Stanley Alan, 216 Hickory, El Dorado Springs, Missouri, convicted on October 19, 1981, in the Circuit Court of Cedar County, Missouri.

Green, Edward Leroy, 4019 Raymonn Avenue, Baltimore, Maryland, convicted on December 5, 1968, in the Criminal Court of Baltimore, Baltimore, Maryland.

Green, John Wesley, Junior, 16011 Kangaroo Street, Northwest, Ramsey, Minnesota, convicted on July 28, 1961, in the District Court, Minneapolis, Minnesota.

Green, Samuel Theron, 1710 South 8th Avenue, Yakima, Washington, convicted on February 19, 1968, in the Yakima County Superior Court, Washington.

Green, Teresa Biggs, 1131½ Wilson Street, Bowling Green, Kentucky, convicted on September 21, 1978, in the Warren County Circuit Court, Kentucky.

Greener, Edmund Martin, 811 Claremont, Dearborn, Michigan, convicted on May 13, 1976, in the Wayne Court, Detroit, Michigan.

Greenfield, Scott G., 906 Glenwoood Avenue Northeast, Apartment 10, Renton, Washington, convicted on July 21, 1978, in the Superior Court, King County, Washington.

Gregory, David Wayne, 5218 Braford Road, Apopka, Florida, convicted on December 14, 1964, in the Goochland County Circuit Court, Chesterfield, Virginia.

Gregory, Leslie Wayne, 4128 Hoffman Avenue, Cincinnati, Ohio, convicted on October 18, 1974, in the Court of Common Pleas, Hamilton County, Cincinnati, Ohio.

Gregory, Rocky Wayne, Box 276, Greenville, Virginia, convicted on August 31, 1972, in the Circuit Court, Augusta County, Virginia.

Griffin, John Hubbard, 568 Radnor Avenue, Baltimore, Maryland, convicted on January 5, 1953, in the Baltimore District Court, Baltimore, Maryland.

Griffin, Kenneth Royal, Junior, Route 1, Box 202, Pomaria, South Carolina, convicted on June 14, 1978, in the Court of General Sessions, Newberry County, South Carolina.

Griffing, Carey Riley, 3021 Honeysuckle, Garland, Texas, convicted on April 14, 1972, in the Criminal District Court Four, Dallas County, Texas.

Grimmett, Floyd, II, 5531 Northwest 50th Street, Apartment D, Oklahoma City, Oklahoma, convicted on September 1, 1983, in the Seventh Judicial District Court, Oklahoma City, Oklahoma.

Griswood, James Forrest, 27 Deerwood, Morrilton, Arkansas, convicted on February 2, 1981, in the United States District Court, Eastern District of Arkansas.

Gross, Jimmy Ray, 513 Glen Lily Road, Apartment 4, Bowling Green, Kentucky, convicted on June 10, 1981, in the Warren County Circuit Court, Bowling Green, Kentucky.

Grossman, Robert D., Junior, Rural Delivery 3, Flemming Road, Grover City, Pennsylvania, convicted in December 1970, in the Court of Common Pleas, Mercer County, Pennsylvania.

Grove, Gerald Erling, 14514 72nd Avenue, Court East, Puyallup, Washington, convicted on December 13, 1983, in the Military Court, McCord Air Force Base, Washington.

Guidotti, Richard L., 3938 Tutwiler, Memphis, Tennessee, convicted on September 29, 1978, in the United States District Court, Baltimore, Maryland.

Guilliams, Charles David, Route 3, Box 220B, Ferrum, Virginia, convicted on October 29, 1976, in the United States District Court, Western District of Virginia, Roanoke, Virginia.

Gullerat, David Charles, 518 Lenox Avenue, Oneida, New York, convicted

on January 10, 1983, in the Madison County Court, Wampeville, New York.

Gunn, Robert Christopher, 4786 Holton Road, Twin Lake, Michigan, convicted on February 15, 1980, in the Muskegon County Circuit Court, Muskegon, Michigan.

Guthrie, Kathryn Ann, 7116 Brackleigh Drive, Hazelwood, Missouri, convicted on March 6, 1980, in a General Court-Martial, Bitburg Airbase, Germany.

Gyorfy, Howard, 2799 North Avondale Boulevard, Milwaukee, Wisconsin, convicted on December 24, 1935, in the Milwaukee County Circuit Court, Milwaukee, Wisconsin.

Haas, Jonathan Louis, 1050 North 19th Street, Apartment 211, Phoenix, Arizona, convicted on February 7, 1980, in the Superior Court, Phoenix, Arizona.

Hackney, Vernon Anthony, 1920 Canyon Road, Alva, Oklahoma, convicted on August 24, 1982, in the Western Judicial District of Oklahoma.

Hafferty, Joseph Alfred, 96 Wilson Avenue, Warwick, Rhode Island, convicted on April 28, 1961, in the Superior Court, Providence County, Rhode Island.

Hafford, Leverette J., RFD 1, Allagash, Maine, convicted on September 24, 1976, in the Superior Court, Houlton, Maine.

Hagee, Charles Ellis, Route 4, Box 847, Thomasville, North Carolina, convicted on February 8, 1980, in the Superior Court, Davidson County, North Carolina.

Hagen, Ralph Aulden, 13702 Eighty-sixth Avenue East, Puyallup, Washington, convicted on March 5, 1982, in the United States District Court, Tacoma, Washington.

Hagen, Wilbur V., Senior, Route 3, Neillsville, Wisconsin, convicted on September 28, 1982, in the Circuit Court of Clark County, Neillsville, Wisconsin.

Hageny, Scott Hunter, 3057 Bohicket Court, Fairfax, Virginia, convicted on September 3, 1981, in the Circuit Court of Vilas County, Eagle River, Wisconsin.

Hahn, Thomas Lyle, 402 Cooper Drive, Stuarts Draft, Virginia, convicted on March 29, 1978, in the Circuit Court, Waynesboro, Virginia.

Haines, Arthur Cyril, 2483 North 10th Street, Springfield, Oregon, convicted on July 26, 1979, in the Superior Court, Lane County, Oregon.

Hale, Olie, Junior, 108 North Hampton, Rush Springs, Oklahoma, convicted on April 5, 1984, in the United States District Court, Western District of Oklahoma.

Hall, John Clyde, Post Office Box 25, Neon, Kentucky, convicted on March 22, 1976, in the Pike County Circuit Court, Pikeville, Kentucky.

Hall, Russell Lee, 7401 North Hickory, Kansas City, Missouri, convicted on January 27, 1977, in the Campbell Circuit Court, Division Two, Commonwealth of Kentucky, Newport-Alexandria, Kentucky.

Hall, Will, Junior, 1007 20th Avenue South, Seattle, Washington, convicted on November 6, 1974, in the Superior Court, Pierce County, Washington.

Hall, William Edward, 5610 Court of York, Houston, Texas, convicted on June 13, 1985, in the United States District Court, Houston, Texas.

Hamaker, J.D., Route 2, Box 993, Laramie, Wyoming, convicted on May 19, 1981, in the District Court, Albany, Wyoming.

Hamilton, Charles William, Junior, Route 1, Box 204, Berry, Kentucky, convicted on January 26, 1973, Pendleton Circuit Court, Falmouth, Kentucky.

Hamilton, Clarence Eugene, 621 South Thirteenth Street, Vincennes, Indiana, convicted on March 3, 1976, and on February 6, 1978, in the Superior Court, Knox County, Indiana.

Hamilton, Lile Kent, Route 1, Box 164, Sinton, Texas, convicted on March 26, 1976, in the United States District Court, Baltimore, Maryland.

Hamm, Burl Ervin, Senior, 420 Marley Road, Elkton, Maryland, convicted on March 10, 1971, in the Circuit Court, Cecil County, Maryland.

Hammock, George High, 1207 Gilbert Street, Durham, North Carolina, convicted on February 2, 1957, and on November 11, 1954, in the Durham County Court, Durham, North Carolina.

Hammock, Ronald Earl, Route 1, Box 246F, Henry, Virginia, convicted on September 14, 1964, in the United States District Court, Danville, Virginia.

Hampton, Samuel Spencer, Junior, 45759 Wakefield, Utica, Michigan, convicted on February 1, 1960, in the Oakland County Circuit Court, Pontiac, Michigan.

Hamsher, Edward Roy, 8173 Canadice Lake Road, Springwater, New York, convicted on April 28, 1977, in the Circuit Court, Virginia Beach, Virginia.

Hance, Michael Lee, 256 River Road, North Clarendon, Vermont, convicted on September 8, 1981, in the District Court ot Vermont, Unit 1, Rutland Circuit, Rutland, Vermont.

Hancock, Kenneth Moran, 3709 68th Street, Lubbock, Texas, convicted on March 18, 1983, in the United States District Court, Western District of Texas.

Hancock, Mickey V., 4015 5th Street, Rear Apartment, Meridian, Mississippi, convicted on October 22, 1979, in the Circuit Court, Pike County, Mississippi.

Hande, Edwin Kenneth, 5813 Knox Avenue South, Minneapolis, Minnesota, convicted on June 20, 1938, in the Judicial District, Stearns County, Saint Cloud, Minnesota.

Hansen, John Lee, 405 Monterrey, Victoria, Texas, convicted on June 18, 1982, in the District Court, Victoria County, Texas.

Hansen, John Paul, 2611 Spring Street, Apartment 23, Paso Robles, California, convicted on July 30, 1963, in the Seventeenth Judicial Court, Adams County, Colorado.

Hanson, John Andrew, Junior, Post Office Box 191, Bayfield, Wisconsin, convicted on October 11, 1965, and on May 29, 1968, in the Ashland County District Court, Ashland Wisconsin.

Hardbarger, Kenneth Ray, 800 Washington Avenue, Lot 10, Princeton, West Virginia, convicted on January 31, 1980, in the Circuit Court of Mercer County, West Virginia.

Hardin, Larry Lee, 6600 Bardstown Road, Louisville, Kentucky, convicted on September 14, 1978, in the Mercer County Circuit Court, Harrodsburg, Kentucky; and October 23, 1981, in the Boyle County Circuit Court, Danville, Kentucky.

Hardin, Robert Boz, Post Office Box 1187, Andrews, North Carolina, convicted on May 27, 1964, in the United States District Court, Bryson City, North Carolina, and on January 10, 1975, in the United States District Court, Northern District of Georgia.

Hare, Thomas Mason, 3412 New Harmony Road, Evansville, Indiana, convicted on November 4, 1970, in the Vandenburg Circuit Court, Evansville, Indiana.

Harms, Dale Gene, Rural Route 1, Box 194, Fremont, Nebraska, convicted on April 30, 1982, in the United States District Court, Omaha Judicial District of Nebraska, Omaha, Nebraska.

Harp, Paul Pickett, Route 3, Box 740, Grantsburg, Wisconsin, convicted on February 28, 1984, in Burnette County, Wisconsin.

Harper, Charles Eugene, 29 Quick Road, Clendenin, West Virginia, convicted on April 19, 1972, in the Circuit Court of Kanawha County, Charleston, West Virginia.

Harpole, James Willard, 616 North Seventh Street, Niles, Michigan, convicted on August 14, 1967, in the Berrien County Circuit Court, Michigan.

Harrell, Jesse, Junior, 268 McBride Road, Mount Airy, North Carolina, convicted on May 24, 1973, in the United States District Court, Middle District, Winston-Salem, North Carolina.

Harris, Harvey, Junior, 624 Burbank Court, Lexington, Kentucky, convicted on June 25, 1971, in the United States District Court, Eastern District of Kentucky.

Harris, Willie, 2304 Hardie Avenue, Selma, Alabama, convicted on February

19, 1942, and October 25, 1974, in the Dallas County Circuit Court, Selma, Alabama.

Hart, Arthur Lee, Junior, 5734 Jonquil Avenue, Baltimore, Maryland, convicted on May 15, 1981, in the Circuit Court of Maryland, Baltimore, Maryland.

Hart, Gregory Ernest, Box 53, United States Route 13, Parksley, Virginia, convicted on June 14, 1977, in the Circuit Court, Accomack County, Virginia.

Hart, Robert R., Senior, 106 Leitch Street, Fulton, New York, convicted on December 13, 1984, in the Oswego County Court, Oswego, New York.

Hartman, Richard Alan, North 814 Mamer Road, Spokane, Washington, convicted on December 21, 1967, in the Spokane County Superior Court, State of Washington.

Hartnett, Timothy W., 170 Spruce Street, Jackson, Wyoming, convicted on December 19, 1983, in the Court of Common Pleas, Centre County, Pennsylvania.

Hartsock, Mack Hamilton, 124 Commonwealth Extension, Bristol, Virginia, convicted on December 18, 1983, in the United States District Court, Abingdon, Virginia.

Hartwig, John Thomas, Junior, Star Route 2, Box 457A, Buckeye, Arizona, convicted on July 31, 1973, in the United States District Court, Baltimore, Maryland.

Harvey, Thomas Franklin, 2037 Pleasant Avenue, Ceres, California, convicted on April 3, 1964, in the Superior Court, Stanislaus County, California.

Hatchell, Kenneth Dale, 1428 Alton Road, Lawrenceburg, Kentucky, convicted on September 14, 1982, in the United States District Court, Anderson County, Kentucky.

Haught, Russell Paul, 305 Spruce Street, Farmington, Missouri, convicted on October 1964 and September 1967, in Wayne County, Detroit, Michigan.

Haukos, Wayne Thomas, 306 Second Street, Raymond, Minnesota, convicted on May 14, 1982, in the Eighth Judicial District, Benson, Minnesota.

Haycox, Frederick Addenbrook, III, 1656 Bay Point Drive, Virginia Beach, Virginia, convicted on May 19, 1981, in the United States District Court, Eastern District, Norfolk, Virginia.

Hayland, Richard Alexander, Junior, 8 South 41dst (#E–4 Terrace Heights), Yakima, Washington, convicted on April 28, 1982, in the Superior Court, Yakima County, Washington.

Haynes, Bobby Dean, Route 1, Box 295, Galax, Virginia, convicted on April 23, 1966, in the Carroll County Circuit Court, Hillsville, Virginia, on July 7, 1966, and December 31, 1966, in the Grayson County Circuit Court, Independence, Virginia.

Haynes, Gary Lee, 6057 South Caine Road, Vassar, Michigan, convicted on November 8, 1976, in the Tuscola County Circuit Court, Caro, Michigan.

Haynie, Joseph G., Junior, 9812 Dacono Drive, Richmond, Virginia, convicted on September 4, 1973, in the United States District Court, Richmond Division, Eastern Judicial District of Virginia.

Hazelton, Dale Patrick, 1414 Menomonee Street, Eau Claire, Wisconsin, convicted on September 19, 1983, in the Circuit Court, Eau Claire—Branch II, Eau Claire, Wisconsin.

Head, Murdock, Airlie Farm, Airlie, Virginia, convicted on July, 17, 1981, in the United States District Court, Alexandria, Virginia.

Hearn, Winfred Kenneth, 1305 West 3rd Street, Apartment 12, Weslaco, Texas, convicted on January 3, 1986, in the United States District Court, Southern Judicial District of Texas.

Hecht, Frank H., 1305 Stadium Drive, Mankato, Minnesota, convicted on May 19, 1982, in the United States District Court, St. Paul, Minnesota.

Heflin, Ricky Jewel, 227 Beiderman Street, Paducah, Kentucky, convicted on September 12, 1980, in the Pinellas County Court, Clearwater, Florida.

Heiden, Earl S., 1502 M. Oak, Guthrie, Oklahoma, convicted on December 15, 1982, in the Western District of Oklahoma, Oklahoma City, Oklahoma.

Heider, Roger Paul, Post Office Box 112, Liberty Hill, Texas, convicted on February 28, 1977, in the District Court, Dallas County, Texas.

Heitzmen, Daniel Bruce, 11414 Avondale Road, #33, Redmond, Washington, convicted on January 20, 1978, in the Superior Court, King County, Washington.

Helms, Carl Michael, Route 3, Heath Springs, South Carolina, convicted on May 31, 1965, in the General Sessions Court, County of Lancaster, South Carolina.

Helsley, Leslie Howard, Route 1, Box 369, Edinburg, Virginia, convicted on October 10, 1980, in the United States District Court, Eastern District of Virginia, Alexandria, Virginia.

Henderson, Robert William, 831 South Sycamore, Los Angeles, California, convicted on September 2, 1982, in the United States District Court, Miami, Florida.

Henderson, Terry Abraham, Route 4, Box 200, Winfield, Alabama, convicted on March 20, 1980, in the United States District Court, Birmingham, Alabama.

Hendricks, Charles Leroy, Junior, 2 Topaz Court, Apartment 2D, Baltimore, Maryland, convicted on December 8, 1953, in the Criminal Court, Baltimore, Maryland.

Henry, Elmer, 228 Court Street, Irvine, Kentucky, convicted on May 15, 1936, in the Irvine County Circuit Court, Irvine, Kentucky.

Hensley, Larry Wayne, 910 Meadow Street, Charlottesville, Virginia, convicted on June 17, 1980, in the Circuit Court, County of Albemarle, Virginia.

Hensley, Roy Iveland, 1502 East 17th Street, San Angelo, Texas, convicted on July 24, 1964, in the Ector County District Court, Texas, on October 5, 1965, and June 7, 1967, in Lea County, New Mexico, and on July 28, 1971, in the Tom Greer County, Texas.

Hernandez, Edwin, 549 Memory Lane, Addison, Illinois, convicted on October 5, 1975, in the First District State Court, Cook County, Illinois.

Herrera, Jose Antonio, 6550 Victory, Space 8, Boise, Idaho, convicted on October 19, 1977, in the Cameron County District Court, Texas.

Hibben, Gilbert Waugh, 2703 Costigan Way, Louisville, Kentucky, convicted on October 11, 1978, in the United States District Court, Missouri.

Hicks, Doyle Wayne, 1706 Calumet Road, Brookings, South Dakota, convicted on May 20, 1983, in the United States District Court, Sioux Falls, South Dakota.

Hicks, Elmer Glenn, 2724 Baker Street, Baltimore, Maryland, convicted on May 6, 1981, in the District of Maryland, Baltimore City Criminal Court.

Hicks, Garman Leon, 4812 Northwest 30th Street, Oklahoma City, Oklahoma, convicted on March 24, 1983, in the United States District Court, Oklahoma County, Oklahoma.

Higgs, Clarence Rudolph, 3951 North Nice Street, Philadelphia, Pennsylvania, convicted on January 5, 1960, in the United States District Court, Philadelphia, Pennsylvania.

Hile, Oliver Golmer, Box 2, Karn City, Pennsylvania, convicted on May 4, 1934, in the Criminal Court, Butler County, Pennsylvania.

Hill, Donald R., 210 Austin Lane, Elmira, New York, convicted on May 6, 1977, in the Chewung County Court, Elmira, New York.

Hill, Leonard Samuel, Junior, 100 North Garfield, Apartment J, Columbus, Ohio, convicted on November 9, 1984, in the United States District Court, Cincinnati, Ohio, and on November 19, 1984, in the Common Pleas Court, Franklin County, Columbus, Ohio.

Hill, Thomas Leslie, Post Office Box 23, Pickford, Michigan, convicted on July 12, 1973, in the Circuit Court, Wayne County, Michigan; and on July 1, 1975, in

the Circuit Court, Wayne County, Michigan.

Hills, Ernest Jay, 2221 Coe #111, Laramie, Wyoming, convicted on January 25, 1971, in the Superior Court, State of Washington.

Hiner, Raymond William, Rural Route 1, Box 786 Aurora, Indiana, convicted on January 14, 1955, in the Decateur County Circuit Court, Greensburg, Indiana.

Hirst, Carolyn W., 8108 Viola Street, Springfield, Virginia, convicted on September 9, 1983, in the United States District Court, Eastern District of Alexandria, Virginia.

Hirvela, William John, 3211 4th Avenue West, Hibbing, Minnesota, convicted on October 9, 1984, in the United States District Court, District of Minnesota.

Hoag, Alonzo E., 1061 North Shore, Springport, Michigan, convicted on September 18, 1980, in the Eaton County Circuit Court, Charlotte, Michigan.

Hoback, Wendell Elwin, Route 2, Box 704, Wytheville, Virginia, convicted on October 27, 1980, in the Circuit Court of Wythe County, Virginia.

Hobbs, Gregory Lee, 2702 Bay Area Boulevard, Apartment 4120, Houston, Texas, convicted on June 26, 1976, in the Howard County Court, Kokomo, Indiana.

Hodge, Thomas Edward, Betsy Bell Apartments, Apartment A–4, Staunton, Virginia, convicted on March 14, 1975, in the Circuit Court, Augusta County, Virginia.

Hogan, Robert John, 4016 Putty Hill Avenue, Baltimore, Maryland, convicted on February 15, 1963, in the Criminal Court of Baltimore, Baltimore, Maryland.

Holberg, Thomas Richard, 1510 Pewaukee Road, Waukesba, Wisconsin, convicted on April 2, 1984, in the Circuit Court Branch Eight, Waukesba City, Waukesba, Wisconsin.

Holewinski, Daniel Joseph, 11A Second Avenue, Skaggs Island, California, convicted on September 10, 1979, in the Circuit Court Four, Sheboygan County, Wisconsin.

Holmes, Charles Bradley, 373 North 8 Mile Road, Casper, Wyoming, convicted on August 31, 1978, in the Superior Court, Thurston County, Washington.

Holmes, Milton, Junior, 22 Green Acres Trailer Court, Murphysboro, Illinois, convicted on July 14, 1973, in the Circuit Court, Jackson County, Illinois.

Holmes, William Carrington, 2255 Northwest Overton Street, Portland, Oregon, convicted on April 16, 1958, in the Circuit Court, State of Oregon.

Hood, Sparks C., 222 South Cambrian, Bremerton, Washington, convicted in 1949, in the United States District Court, Southern District of Illinois.

Hope, Ramelle McKay, 200 Vallejo Circle, Columbia, South Carolina, convicted on February 4, 1980, in the Calhoun County General Sessions Court, St. Matthews, South Carolina.

Hopkins, Arthur William, 59502 Long Lake Road, Lot 53, Box 285, Colon, Michigan, convicted on January 29, 1973, in the Circuit Court of St. Joseph County, State of Michigan.

Hopkins, Clifford Marion, Junior, Route 10, Box 107, Fort Worth, Texas, convicted on October 19, 1971, in the One-hundred-and-ninth Judicial District Court, Andrews County, Texas.

Hopkins, Donald Wayne, 3209 Keller, Temple, Texas, convicted on June 29, 1981, in the United States District Court, Northern District of Texas.

Horrell, Ross Elmer, 799 Beulah Church Road, Apollo, Pennsylvania, convicted on July 17, 1979, in the Armstrong County Court of Common Pleas, Kittanning, Pennsylvania.

Horstman, Mark Christopher, 312 North Buchanan, Edwardsville, Illinois, convicted on September 12, 1980, in the Third Judicial Circuit Court, Madison County, Illinois.

Horton, Raymond K., 1100 West Illinois, Midland, Texas, convicted on November 8, 1979, in the United States District Court, Dallas, Texas.

Horvath, Julius T., Senior, 919 Curtis Northwest, Roanoke, Virginia, convicted on June 6, 1977, in the Circuit Court, Botetourt City, Fincastle, Virginia.

Howes, Edward Lyman, Junior, 4440 Gladys Avenue, Santa Cruz, California, convicted on December 20, 1974, in the Superior Court, Santa Cruz, California.

Hoy, Michael J., 714 20th Street, Port Townsend, Washington, convicted on December 13, 1976, in the United States District Court, Grand Rapids, Michigan.

Hudson, David William, 1839 Chedworth Lane, Stone Mountain, Georgia, convicted on March 8, 1985, in the Fulton County Superior Court, Atlanta, Georgia.

Huff, Johnnie Clonnie, 10055 Ward, Detroit, Michigan, convicted on November 30, 1959, in the Eastern District of Michigan.

Hughes, Roger Glenn, Route 5, Box 187, Decatur, Alabama, convicted on February 21, 1963, and on July 29, 1970, in the Circuit Court, Morgan County, Alabama.

Hughes, Wayne E., 9435 U.S. 231, Utica, Kentucky, convicted on March 23, 1984, in the United States District Court, Western Judicial District of Kentucky.

Hume, Eddie Dean, Box 849, Mount Gilerd Road, Tompkinsville, Kentucky, convicted on January 17, 1986, in the United States District Court, Bowling Green, Kentucky.

Humes, Gary D., Box 441, Tompkinsville, Kentucky, convicted on December 9, 1981, in the Monroe Circuit County, Tompkinsville, Kentucky.

Humphrey, Donald, 810 Atlantic Street, Bridgeport, Connecticut, convicted on September 5, 1976, in the Supreme Court, New York, New York.

Humphrey, Ronald Brown, Route 3, Box 130A, Fulton, Missouri, convicted on August 4, 1971, in the Jasper County Circuit Court, State of Missouri.

Hunsicker, Scott Linden, 1501 Mexico Street, Castroville, Texas, convicted on October 22, 1979, in the Two-hundred-and-sixteenth Judicial District Court, Kendall County, Boerne, Texas.

Hunt, David Sullivan, 2161 Lochlevin Drive, Memphis, Tennessee, convicted on September 1982, in the United States District Court, Memphis, Tennessee.

Hunt, Jonathan Lee, 104 Southeast 6th Street, College Place, Washington, convicted on August 19, 1982, in the Superior Court, Walla Walla County, Walla Walla, Washington.

Hunziker, Robert Andrew, 78 Dolphin Street, Tuckerton, New Jersey, convicted on October 30, 1969, in the Common Pleas Court, Philadelphia, Pennsylvania.

Hurwitz, Albert, 3241 Bon Vivant Drive, Tampa, Florida, convicted on February 25, 1977, in the United States District Court, New Jersey.

Huss, Robert Leo, 201 Hackberry, Apartment 1403, Clute, Texas, convicted on July 23, 1982, in the United States District Court, Portland, Maine.

Hyter, Charles K., 2206 West Minister, Hutchinson, Kansas, convicted on February 27, 1984, in the United States District Court, Wichita, Kansas.

Ibrahim, Jamal I., 301 Plymouth Drive, Apartment 233, Chalmette, Louisiana, convicted on October 8, 1982, in the United States District Court, Louisiana.

Ildefonso-Cruz, Nelson, 2 Troscher Lane, Bethpage, New York, convicted on May 31, 1985, in the United States District Court, Eastern Judicial District of New York.

Immerfall, Duane Allen, 225 Crestline Court, Duluth, Minnesota, convicted on July 28, 1982, in the St. Louis County District Court, Duluth, Minnesota.

Incorporation—Rockor, 11441 Willows Road Northeast, Post Office Box 97009, Redmond, Washington, convicted on April 27, 1984, in the United States District Court, Western District, Seattle, Washington.

Incorporation—Watlington-Anderson, 1204 North Linden, Bloomington, Illinois, convicted on June 3, 1985, in the Eleventh Judicial Circuit Court, Bloomington, Illinois.

Inglesby, Willis Burn, Junior, 3160 South, Salt Lake City, Utah, convicted

on October 27, 1983, in the United States District Court, Northern District of California.

Jackson, Harry J., 1222 South Illinois Street, Indianapolis, Indiana, convicted on January 16, 1959, in the Daviess County Circuit Court, Washington, Indiana.

Jackson, John Lewis, 4935 Spruce Street, Philadelphia, Pennsylvania, convicted on October 26, 1970, and May 10, 1971, in the Court of Common Pleas, Philadelphia, Pennsylvania.

Jackson, Lamont Elroy, 534 Hollow Creek Road, Lexington, Kentucky, convicted on March 23, 1979, in the Fayette County Circuit Court, Lexington, Kentucky.

Jackson, Richard Harvey, 518 Belton Street, Charlotte, North Carolina, convicted on May 26, 1978, in the Mecklenburg County Superior Court, Charlotte, North Carolina.

Jackson, Roger Dale, 101 East 21st Street, Owensboro, Kentucky, convicted on November 25, 1976, in the Kentucky Circuit Court, Owensboro, Kentucky.

Jackson, William Eugene, 5649 South Garnett Road, Tulsa, Oklahoma, convicted on July 1, 1974, in the State District Court, Oklahoma City, Oklahoma.

Jacobs, Mark Edward, 550 South Barrington #2319, Los Angeles, California, convicted in 1972, and 1973, in the Seventy-fifth District Court, Chambers County, Texas.

James, Jerry Lee, 202 Florida Avenue, Winter Garden, Florida, convicted on November 6, 1981, in the Circuit Court, Orange County, Florida.

James, Ray McVay, Route 1, Box 192D, Ferrum, Virginia, convicted on January 10, 1983, in the United States District Court, Greensboro, North Carolina.

Janke, Paul K., 12888 RBC Road 8, Meeker, Colorado convicted on December 5, 1983, in the District Court, Montrose County, Colorado.

Jenkins, Donald Edward, 1508 Continental Square Apartments, Apartment 4, Lexington, Kentucky, convicted on October 5, 1984, in the Fayette Circuit Court, Lexington, Kentucky.

Jenkins, Richard Stephen, 921 7th Avenue, Iowa City, Iowa, convicted on October 20, 1969, in the Story County District Court, Nevada, Iowa.

Jenniches, Franz, 1488 Drift Creek Road, Silverton, Oregon, convicted on February 24, 1958, in the Superior Court, Los Angeles County, California.

Jennings, James Allen, 226 Southeast 54th Street, Oklahoma City, Oklahoma, convicted on May 15, 1959, in the District Court, Oklahoma County, Oklahoma

Jensen, Steve A., Route 1, Box 266, Thorp, Wisconsin, convicted on August 31, 1982, in the Clark County Circuit Court, Neillsville, Wisconsin.

Jessup, Dean H., 223 Yesler Way, #819, Seattle, Washington, convicted on May 18, 1970, in the Superior Court, Harris County, Texas.

Jett, Donald Lewis, Senior, Route 7, Box 360–S, Fredericksburg, Virginia, convicted on April 24, 1970, in the Circuit Court, Fredericksburg, Virginia.

Jim, Sam, Senior, Box 12 Georgeville, Goldendale, Washington, convicted on March 25, 1952, in the Yakima Superior Court, Yakima County, Washington.

Johnson, Alan Daryl, 4683 North Breton Court, Apartment 75, Kentwood, Michigan, convicted on February 16, 1970, October 15, 1971, May 30, 1972, August 23, 1972, and on April 4, 1975, in Kent County, Michigan.

Johnson, Buddy Lewis, Route 1, Box 57A, Ferrum, Virginia, convicted on November 5, 1975, in the United States District Court, Middle District of North Carolina.

Johnson, Charles Joseph, 25 West Pond Road, North Branford, Connecticut, convicted on June 14, 1977, in the Superior Court, New Haven County, Connecticut.

Johnson, David Michael, 246 North 25th Street, Decatur, Illinois, convicted on January 30, 1978, in the Macon County Circuit Court, Illinois.

Johnson, Eli, Route 1, Box 1350, Sandy Hook, Kentucky, convicted on December 10, 1935, in the United States Court, Eastern District of Kentucky, Catlettsburg, Kentucky.

Johnson, Elvis Eugene, 3437 Carol Drive, Springfield, Missouri, convicted on April 10, 1981, in the United States District Court, Southern District of Texas, Houston, Texas.

Johnson, Frederick Douglas, Junior, 125 Harvey Street, Belzoni, Mississippi, convicted on April 10, 1981, in the United States District Court, Northern Judicial District of Mississippi, Greensville, Mississippi.

Johnson, Jack Emmett, Post Office Box 1119, Northeast, 600 Roessel Road, Belfair, Washington, convicted on October 5, 1978, in the Superior Court, Mason County, Washington.

Johnson, James Patrick, Junior, 2121 Haveman Court, Kalamazoo, Michigan, convicted on August 3, 1973, in the Kalamazoo County Court, Kalamazoo, Michigan.

Johnson, Jerry Dwight, Route 1, Box 235, Mocksville, North Carolina, convicted on April 18, 1973, in the United States Middle District, Wilkesboro, North Carolina.

Johnson, Larry Rae, 4610 Crane Street, Eureka, California, convicted on August 17, 1983, in the Superior Court, Humboldt County, California.

Johnson, Robert Eugene, 3216 Karl Road, Columbus, Ohio, convicted on March 11, 1963, in the Franklin County Court of Common Pleas, Columbus, Ohio.

Johnson, Rodney Allan, Southeast 3133 Arcadia Road, Shelton, Washington, convicted on September 17, 1981, in the Superior Court, Mason County, Washington.

Johnson, Teddy Austin, Route 2, Box A–51, Jenkins, Kentucky, convicted on March 19, 1973, and on May 30, 1974, in the Rowan Circuit Court, Morehead, Kentucky.

Johnson, William Patrick, Route 1, Cleveland, Missouri, convicted on December 4, 1979, in the Circuit Court of Jackson County, Missouri.

Johnson, Willie Hugh, Route 2, Box 13B, Brodnax, Virginia, convicted on November 6, 1986, in the Circuit Court of the City of Mecklenburg, Virginia.

Johnston, Vincent Leroy, 359 First Avenue South, South St. Paul, Minnesota, convicted on February 14, 1983, in the United States District Court, St. Paul, Minnesota.

Jones, Clifton Allen, 2742 Meadowcliff Drive, Charlotte, North Carolina, convicted on November 21, 1975, in the Mecklenburg County Superior Court, Charlotte, North Carolina.

Jones, Edgar Eugene, Route 2, Hayesville, North Carolina, convicted on September 28, 1983, in the United States District Court, Western Judicial District, Bryson City, North Carolina.

Jones, James Larry, 403 Wallace Street, Opp, Alabama, convicted on June 7, 1963, July 11, 1966, and August 24, 1966, in the Covington County Circuit Court, Andalusia, Alabama.

Jones, Kenneth Donovan, 6524 Woodchuck, Greenville, Texas, convicted on April 18, 1980, in the Hunt County Court, Texas.

Jones, Richard Thomas, 413 Gregory Court, Lebanon, Ohio, convicted on July 21, 1987, in the United States District Court, Cincinnati, Ohio.

Jones, Thomas Victor, 1050 Moraga Drive, Los Angeles, California, convicted on May 1, 1974, in the United States District Court, Washington, DC.

Jones, Warren Lee, Post Office Box 9188, Spokane, Washington, convicted on July 19, 1982, in the United States District Court, Spokane, Washington.

Jorgensen, Kurt Henties, 2038 Palm Street, #235, Las Vegas, Nevada, convicted on May 28, 1971, in the United States District Court, Eastern District of New York.

Joseph, David L., Senior, 899 Brighton Boulevard, Zanesville, Ohio, convicted

on June 21, 1974, in the United States District Court, Southern District of Ohio.

Josephs, Budwah Joe, 1016 Hall Avenue, West St. Paul, Minnesota, convicted on December 15, 1985, in the Dakota County District Court, Hastings, Minnesota.

Justice, Erse, Post Office Box 2863, Pikeville, Kentucky, convicted in 1948 in the United States District Court, State of Kentucky.

Justice, Willard Ara, Post Office Box 102, McCracken, Kansas, convicted on June 6, 1977, in the District Court, Rush County, Kansas.

Kachel, David Todd, 103 Sunset Circle #19, Benecia, California, convicted on January 24, 1983, in the Barnes County Court, North Dakota.

Kanowsky, Kenneth Charles, 8633 Northwest Old Orchard Drive, Vancouver, Washington, convicted on October 18, 1982, in the United States District Court, Judicial District of Oregon.

Kantrowitz, Ronald, 126 Barlow Drive, Brooklyn, New York, convicted on November 11, 1980, in the United States District Court, Eastern District of Brooklyn, New York.

Kapp, Terry Robert, 1114 West Packard Street, Appleton, Wisconsin, convicted on March 3, 1964, and on December 16, 1966, in the Outagamie County Circuit Court, Branch, Appleton, Wisconsin.

Kappel, David Laurence, 509 East Franklin Street, Marshfield, Wisconsin, convicted on September 25, 1984, in the Circuit Court, Taylor County, Medford, Wisconsin.

Karnes, Donny Wayne, 100 Skyline Drive, Bedford, Virginia, convicted on November 24, 1980, and April 16, 1982, in the Circuit Court, Bedford County, Virginia.

Kasper, Lester S., 8218 33 Avenue North, St. Petersburg, Florida 33710, on November 7, 1980, in the United States District Court, Brooklyn, New York.

Keeble, Barney Jerome, 1301 Fieldcrest Apartments, Dothan, Alabama, convicted on September 30, 1969, in the United States District Court, Montgomery, Alabama.

Keene, William Charles, Junior, Route 1, Box 383–E, Faber, Virginia, convicted on May 17, 1984, in the United States District Court, Alexandria, Virginia.

Keener, Joseph Gaylord, 1121 Marion Highway, Apartment 1, Farmesville, Louisiana, convicted on April 19, 1965, in the Thirtieth District Court, Wichita County, Texas, and on May 5, 1965, in the Sixty-fourth District Court, Swisher County, Texas.

Keeton, William Richard, 2526 Country Club Drive, Pearland, Texas, convicted on October 28, 1982, in the Twenty-third Judicial District Court, Angleton, Texas.

Kellogg, Henry Alton, 2907 Independence Avenue, Shreveport, Louisiana, convicted on August, 18, 1983, in the United States District Court, Shreveport, Louisiana.

Kelly, Donald Duane, Route 9, Box 1461, Beaumont, Texas, convicted on February 9, 1979, in the United States District Court, Beaumont, Texas.

Kelly, Edward J., 198 Charissa Drive, Bayshore, New York, convicted on December 5, 1968, in the United States District Court, Eastern District of New York.

Kelly, Joan Ann, 198 Charissa Drive, Bayshore, New York, convicted on December 5, 1958, in the United States District Court, New York.

Kelly, Richard, 520 Cash Nichols Road, Stevensville, Montana, convicted on January 12, 1984, in the United States District Court, District of Columbia.

Kelly, Walter Lee, Senior, Route 4, Box 165, Leland, North Carolina, convicted on April 2, 1976, in the Superior Court of Brunswick County, North Carolina.

Kelting, Daniel E., 6291 Rapid Fall Northeast, Belmont, Michigan, convicted on September 6, 1977, in the Kent County Circuit Court, Grand Rapids, Michigan.

Kennedy, John F., 1112 West Olive, El Dorado, Kansas, convicted on July 10, 1980, in the Butler County District Court, El Dorado, Kansas.

Kennedy, Lloyd Henry, 478 Wasp Street, Marietta, Pennsylvania, convicted on December 15, 1961, in the Lancaster County Court, Lancaster, Pennsylvania.

Kent, Arthur Merritt, 2005 Gardener Street, Augusta, Georgia, convicted on June 5, 1975, in the United States District Court, Southern District of Georgia.

Kent, John Taylor, 2601 West 34th Avenue, Anchorage, Alaska, convicted on January 19, 1976, in the Superior Court, Spokane, Washington.

Kenyon, Gregory Eugene, Route 1, Box 283, Star Tannery, Virginia, convicted on February 15, 1980, in the Circuit Court, Shenandoah County, Virginia.

Keough, Ronald Joseph, 716 East 30 Street, Joplin, Missouri, convicted on December 16, 1980, in the Jasper County Circuit Court, Joplin, Missouri.

Kerns, Dwight L., Route 1, Box 52, Indianola, Oklahoma, convicted on September 8, 1983, in the United States District Court, Eastern District of Oklahoma.

Kessler, Howard Lee, 3200 North Lakeshore Drive, Chicago, Illinois, convicted on July 16, 1979, in the United States District Court, Chicago, Illinois.

Kettelhut, Steven Scott, 4428 Regent Street, Apartment 3, Duluth, Minnesota, convicted on December 18, 1979, in the Sixth Judicial District, St. Louis County, Duluth, Minnesota.

Key, Arthur Tilman, Post Office 251, West Union, South Carolina, convicted in January 1971, in the Aiken County, South Carolina Court of General Sessions.

Keyes, Kenneth Eugene, 205 Jefferson Street, Frederick, Maryland, convicted on August 25, 1966 and February 2, 1970, in the Washington County District Court, Washington County, Maryland.

Kibbey, Billy Ray, 3560 East Hawser, Tucson, Arizona, convicted on September 16, 1975, in the Superior Court, Pima County, Arizona.

Kidd, Randall Leon, Route 1, Box 423, Louisville, Tennessee, convicted on July 16, 1982, in the United States District Court, Knoxville, Tennessee.

Kieser, Rodney C., Route 1, Box 193A, Easton, Missouri, convicted on June 18, 1982, in the Circuit Court of Platte County, Platte City, Missouri.

King, Danny Cleo, Route 1, Box 63, Ragley, Louisiana, convicted on March 12, 1981, in the Eleventh Judicial District Court, Parish of Sabine, Louisiana.

King, Johnny Ray, Route 2, Box 298, Holcomb, Mississippi, convicted on August 11, 1976, in the Grenada County Circuit Court, Grenada, Mississippi.

King, Joseph Cletus, Route 1, Box 135, Bassfield, Mississippi, convicted on April 19, 1951, in the United States District Court, Hattiesburg, Mississippi.

Kinser, Kenneth Ray, Lot 16, Lost River Estates, 2809 Nashville Road, Bowling Green, Kentucky, convicted on April 21, 1972, in the Warren County Circuit Court, Bowling Green.

Kirby, Randy Ray, Route 6, Box 493, Bowling Green, Kentucky, convicted on March 18, 1970, in the Warren County Circuit Court, Bowling Green, Kentucky.

Kirk, Karlton James, Route 2, Box 78, Leesburg, Virginia, convicted on December 12, 1977, in the Circuit Court, Loundon County, Virginia.

Kirker, Donald William, 399 Bank Street, Fall River, Massachusetts, convicted on May 13, 1975, in the Superior Court, Taunton, Massachusetts.

Kirven, Douglas Joshua, Route 6, Box 156, Highway 78, Summerville, South Carolina, convicted on February 22, 1983, in Dorchester County Court, South Carolina.

Kistler, Charles James, Junior, 155 West Beechwood Boulevard, Columbus, Ohio, convicted on July 23, 1981, in the United States District Court, Southern Judicial District of Florida, Miami, Florida.

Klave, Larry Earl, 901 East Iowa Street, Indianapolis, Indiana, convicted on October 19, 1973, in the Marion County Criminal Court III, Indianapolis, Indiana.

Klein, Arthur Howard, 3416 Milford Mill Road, Baltimore, Maryland, convicted on October 5, 1968, in the Municipal Court, Baltimore City, Maryland.

Klein, George M., 2426 Country Club Road, Indianapolis, Indiana, convicted on November 14, 1980, in the United States District Court, Southern District of Florida, Miami Florida.

Klein, Gordon Francis, Route 2, Princeton, Minnesota, convicted on May 9, 1962, and June 8, 1977, in the Wright County District Court, Buffalo, Minnesota.

Kleinfelter, Roy Alfred, 765 North 32nd Street, Lebanon, Pennsylvania, convicted on February 24, 1970, in the Common Court of Pleas, City of Lebanon, Pennsylvania.

Klinesmith, Roy, 1640 South 10th East #B, Salt Lake City, Utah, convicted on December 15, 1982, in the District Court for Cheyenne County, Nebraska.

Klutts, Billy J., Route 5, Box 428, Muskogee, Oklahoma, convicted on May 1, 1964, in the United States District Court, Western District of Oklahoma.

Knight, James Elbert, 4430 Faronia Road, Memphis, Tennessee, convicted on March 4, 1974, in the United States District Court, Northern Division of Mississippi, State of Mississippi.

Knopp, Calvin Wayne, Route 3, Box 31, Rupert, Idaho, convicted on January 2, 1979, in the District Court, Minidoka County, Idaho.

Knott, Thomas E., Route 1, Box 660, Stanley, Virginia, convicted on January 29, 1957, in the Circuit Court of Page County, Luray, Virginia.

Knott, William Howard, Junior, 3708 Clipper Road, Baltimore, Maryland, convicted on May 18, 1949, in the Circuit Court, Anne Arundel County, Maryland.

Knowles, Shirlene K., 1006 South 8th Avenue, Lanett, Alabama, convicted on July 27, 1979, in the United States District Court, Middle Judicial District of Alabama.

Knowles, Tony Earl, 205 30th Street, Opelika, Alabama, convicted on June 29, 1972 and November 9, 1976, in the Circuit Court of Lee County, Opelika, Alabama.

Knudsen, Tommy Lynn, Route 5, Box 15, Georgetown, Texas, convicted on May 12, 1982, in the United States District Court, Austin, Texas.

Knutson, Arnold Robert, 473 Milbeth Drive, Pittsburgh, Pennsylvania, convicted on February 17, 1982, in the United States Court, Western District of Pennsylvania.

Kretzmer, Peter Young, 450 NE 147th Terrace, North Miami, Florida, convicted on October 7, 1955, in the District Court, Fourth Judicial District, Santa Rosa, New Mexico.

Kuba, Lionel Thomas, 4037 Jay Em Court, Ellicott City, Maryland, convicted on March 15, 1982, in the Criminal Court, Baltimore, Maryland.

Kuck, Lloyd R., 2130 Floral Drive, Boulder, Colorado, convicted on September 22, 1975, in the Circuit Court of Fairfax County, Commonwealth of Virginia.

Kuenkler, Curtis Charles, Post Office Box 308, Highway 41, Spirit Lake, Idaho, convicted on February 14, 1974, in the Circuit Court, Multandoma County, Oregon.

Kunz, Harold Arthur, 5020 North Argonne Road, Spokane, Washington, convicted on April 19, 1982, in the Spokane County Superior Court, Washington.

Lacicero, Michael Joseph, South Road Box 21, Milton, New York, convicted on October 24, 1983, in the Ulster County Court, Kingston, New York.

Lackey, John Edward, 109 Fifth Avenue Southwest, Taylorsville, North Carolina, convicted on August 19, 1983, in the United States District Court, Statesville, North Carolina.

Lacock, Gary Joseph, 5720 North Topeka, Lot 17, Topeka, Kansas, convicted on June 28, 1984, in the District Court, Shawnee City, Kansas.

Lacrone, Ivan Eugene, 419 South Chesnut, Iola, Kansas, convicted on February 27, 1978, in the District Court, Woodson County, Kansas.

Ladson, Norman, Junior, 5401 Lynview Avenue, Baltimore, Maryland, convicted on June 2, 1952, in the Criminal Court of Baltimore, Baltimore, Maryland.

Lafreniere, Luc Albert, 43 Crown Street, Springfield, Massachusetts, convicted on July 11, 1984, in the Hampden District Court, Massachusetts.

Lambert, James Bradley, 6214 Northview Street, Boise, Idaho, convicted on June 25, 1981, in the Fourth District Court, State of Idaho.

Lambert, Keith Lewis, Rural Route 4, Box 350, Martinsburg, West Virginia, convicted on October 2, 1967, in the Circuit Court of Berkeley County, West Virginia.

Lambert, Bruce Harrel, Route 4, Box 573, Marler Road, Leesville, Louisiana, convicted in 1953, United States Army, Camp Gordon, Georgia.

Lanham, Donald Ray, 100 Gilmore Court, Owensboro, Kentucky, convicted on November 7, 1971, in the Owensboro Circuit Court, Owensboro, Kentucky.

Lanier, Gary Cottle, Route 1, Box 93, Burgaw, North Carolina, convicted on October 19, 1982, in the Superior Court, Duphin County, North Carolina.

Laperle, J.A. Roland, 134 Canterbury Street, Worcester, Massachusetts, convicted on April 9, 1979, in the United States District Court, Boston, Massachusetts.

Laplant, Edward Lawrence, Post Office Box 98, 5 River Street, Chateaugay, New York, convicted on February 28, 1983, in Franklin County Court, Malone, New York.

Larson, Einar Albin, Junior, Post Office Box 773502, Eagle River, Alaska, convicted on October 17, 1974, in the Superior Court, State of Alaska.

Larson, Roger Clifford, 700 Simon Avenue, St, Paul, Minnesota, convicted on January 28, 1982, in the United States District Court, Minneapolis, Minnesota.

Lato, Peter Anton, 2539 Monroe Street, Northeast, Minneapolis, Minnesota, convicted on October 12, 1981, in the Circuit Court Branch II, Eau Claire, Wisconsin.

Lauck, Bernard Aloysious, 109 Glade Boulevard, Walkersville, Maryland, convicted on October 17, 1979, in the District Court, Anne Arundel County, Maryland.

Lawson, Jacquelyn, 1503 Stillman, Corpus Christi, Texas, convicted on January 19, 1981, in the Three-Hundred and Nineteenth District Court, Nueces County, Texas.

Lawson, Pamela Walker, 1330 Winrock Boulevard, No, 2707, Houston, Texas, convicted on December 5, 1975, in the Circuit Court, Commonwealth of Virginia, Danville, Virginia.

Laylock, Robert James, 3509 Teakwood Street, Plano, Texas, convicted on July 8, 1988, in the United States District Court, Dallas, Texas.

Lecroy, Russell Kirk, 300 Clarence Street, Charlotte, North Carolina, convicted on September 22, 1972, in the United States District Court, Western District of North Carolina.

Lee, Jack O., 2510 Apollo, Saginaw, Michigan, convicted on October 18, 1978, in the Eastern District of Michigan, Bay City, Michigan.

Lee, James Robert, 3824 Bevans, Cheyenne, Wyoming, convicted on September 6, 1962, in the Larimer County Superior Court, Colorado.

Lee, Lawrence E., 2231 A. Diamond, Tucson, Arizona, convicted on December 27, 1963, in the United States District Court, Chicago, Illinois.

Lee, Toney Robert, 320 Beltline Boulevard, Anderson, South Carolina, convicted on March 26, 1971, in the Court of Common Pleas, Clark County, Ohio, and on February 5, 1964, in the Court of General Sessions, Anderson County, South Carolina.

Leeds, Arthur James, 2433 East Tuscany, Merced, California, convicted on May 27, 1976, in the Superior Court, Los Angeles, California.

Leets, Melvyn Stewart, 15416 Circle Ridge Lane, Hacienda Heights, California, convicted on June 12, 1978, in the United States District Court, Los Angeles, California.

Leggins, Odie Ray, 304 Parish Street, Martin, Tennessee, convicted on March 21, 1984, in the United States District Court, Jackson, Tennessee.

Leighton, James Robert, Junior, 620 North 11th Street, Klamath Falls, Oregon, convicted on June 15, 1982, in the Klamath County Superior Court, Klamath Falls, Oregon.

Leinwand, Philip David, 3 Diamond Pointe Avenue, Christiansburg, Virginia, convicted on December 7, 1982, in the Montgomery County Circuit Court, Christianburg, Virginia.

Lejuene, Mitchell, Route HC, Box 103, Oberlin, Louisiana, convicted on May 16, 1983, in the United States District Court, Alexandria Division, Western Judicial District of Louisiana.

Lemley, Billy Ray, 4 Quail Ridge Road, Texarkana, Texas, convicted on February 25, 1980, in the United States District Court, Texarkana, Texas.

Lemon, Timothy Gerald, 618 Cloverleaf Parkway Northeast, Blaine, Minnesota, convicted on February 19, 1981, in the Tenth Judicial District Court, Anoka, Minnesota.

Lemon, Willie Gus, 1124 10th Street Northwest, Apartment 201, Washington, DC, convicted on March 29, 1950, in the United States District Court, Atlanta, Georgia.

Lendway, Steven John, 5695 Upper 182nd Street, Farmington, Minnesota, convicted on February 4, 1980, in the Cass County District Court, Ninth Judicial District, Walker, Minnesota.

Lennon, Kenneth Charles, 2618 Sunset Avenue, Greenville, North Carolina, convicted on September 2, 1980, in the North Carolina Superior Court, Whiteville, North Carolina.

Lester, Quade Clarkson, Junior, 813 Pitty Pat Drive, Florence, South Carolina, convicted on August 4, 1978, in the General Sessions Court, Columbia, South Carolina.

Lesueur, Frank James, Route 4, Box 135A, Culpeper, Virginia, convicted on January 9, 1968, in the Buckingham County Circuit Court, Virginia.

Levan, Delbert Clyde, Rural Delivery 5, Box 438, Lehighton, Pennsylvania, convicted on July 15, 1981, in the Court of Common Pleas, Jim Thorpe, Pennsylvania.

Lewis, David Arnold, 2217 "B" Gebbie Place, High Point, North Carolina, convicted on October 14, 1974, in the Superior Court, Robeson, North Carolina, on January 27, 1983, in the Superior Court, Randolph, North Carolina, and on February 8, 1983, in the United States District Court, Greensboro, North Carolina.

Lewis, Edwin Alan, 700 Pensinger Boulevard, Mount Lake Park, Maryland, convicted in October 1974, and in March 1975, in the Circuit Court, Garrett County, Maryland.

Lewis, Kenneth Arnold, HCR 35, Box 43, Rolla, Missouri, convicted on November 30, 1968, in the State of Illinois and on October 6, 1970, March 23, 1971, and May 12, 1974, in the Circuit Court, Phelps County, Missouri.

Liberatore, Dominic A., Rural Delivery 1, Box 116, Haskins Road, Belfast, New York, convicted on January 13, 1964, in the United States District Court, Western District of New York.

Lillis, Richard Patrick, 5237 F. Broadway Avenue, Eielson Air Force Base, Alaska, convicted on March 17, 1977, in the Circuit Court, Virginia Beach, Virginia.

Lilly, Roy Miller Junior, Route 1, Box 40, Gibsland, Louisiana, convicted on October 9, 1974, in the United States District Court, Eastern District of Louisiana, and on October 22, 1974, in the Twenty-second Judicial District Court, Parish of Washington, Louisiana.

Lim, David Alan, 2436 Date Street, Apartment 3, Honolulu, Hawaii, convicted on April 12, 1978, in the First Circuit Court, Hawaii.

Lintz, Clayton Mark, Rural Route 1, Crawfordsville, Iowa, convicted on February 8, 1983, in the United States District Court, Southern District of Iowa, in Des Moines, Iowa.

Linville, Gary Vincent, Mount Vernon Road, Berea, Kentucky, convicted on February 19, 1980, in the Madison Circuit Court, Richmond, Kentucky.

Lissy, Thomas Irvin, 8640 Sunnyside Cut-Off Road, Sanpoint, Idaho, convicted on March 3, 1969, in the United States District Court, Northern Division of Florida.

Litofsky, Joseph, 3135 Old Post Drive, Baltimore, Maryland, convicted on May 21, 1956, in the Circuit Court, Baltimore City, Maryland.

Litton, Jimmie Lee, 1308 Brighton, Oklahoma City, Oklahoma, convicted on May 27, 1983, in Western District of Oklahoma, Oklahoma City, Oklahoma.

Loftus, Richard Joseph, 152 34th Street, Grand Rapids, Michigan, convicted on July 5, 1979, in the Kent County Circuit Court, Grand Rapids, Michigan.

Lohman, Terry Ernest, Route 3, Box 374, Adamsville, Tennessee, convicted on October 30, 1980, in the United States District Court, Memphis, Tennessee.

Loken, Thomas James, 3616 Livingston Lane, Eau Claire, Wisconsin, convicted on June 4, 1987, in the Eau Claire County Circuit Court, Eau Claire, Wisconsin.

Longo, Daniel J., 100 Byran Ridge Road, Armonk, New York, convicted on April 17, 1981, in the United States District Court, Southern District of New York.

Longo, Joseph Anthony Junior, 17608 North 62nd Drive, Glendale, Arizona, convicted on September 12, 1980, in the Superior Court, Maricopa County, Arizona.

Lopez, Alberto Placido, 21 West 6th Street, Lake Ronkonkoma, New York, convicted on November 28, 1983, in the Supreme Court, County of Suffolk, Hauppauge, New York.

Lord, Robert John, 1702 Arthur Street, Caldwell, Idaho, convicted on October 3, 1977, in the Ada County District Court, Idaho.

Loy, Larry Marshall, Post Office Box 66, Stephens City, Virginia, convicted on April 21, 1978, in the Circuit Court, Warren County, Virginia.

Lundberg, William J., Post Office Box 139, Synanon Foundation, Badger, California, convicted on November 5, 1971, in the Superior Court, Suffolk County, New York.

Lundquist, Curtis Alan, 4105 Birchmont Drive Northeast, Bemidji, Minnesota, convicted on May 6, 1971, in the Traverse County District Court, Wheaton, Minnesota.

Lynch, Frank William, 7851 Riverdale Road, Apartment 303, Lanham, Maryland, convicted on July 21, 1980, in the District Court of Maryland, Prince George's County, Maryland.

Lyndaker, Rodney Joseph, Rural Delivery 1, Box 81, Carthage, New York, convicted on May 18, 1982, in the Jefferson County Court, New York.

Mack, Bruce Allen, 2014 Morninglo Lane, Columbia, South Carolina, convicted on February 19, 1980, in the United States District Court, Columbia, South Carolina.

Mackres, George Panagiotou, 257 Cherokee Trail, Forked River, New Jersey, convicted on November 8, 1984, in the United States District Court, New Jersey.

Macomber, Wayne Payson, 210 Seminole Trail, Wilmington, North Carolina, convicted on July 3, 1980, in the United States District Court, Eastern District of North Carolina, Wilmington, North Carolina.

Maguire, Robert Eugene, 2283 Hillside, Memphis, Tennessee, convicted on November 8, 1973, in the Shelby County Criminal Court, Memphis, Tennessee.

Mahoney, Dean Gross, Route 1, Box 130, Cambellsburg, Kentucky, convicted on May 7, 1979, in the Henry County Circuit Court, New Castle, Kentucky.

Major, Louis Felix, Route 1, Box 460, Newberry, Michigan, convicted on July 12, 1971, in the Luce County Court, Michigan.

Maldonado, Jose R., 1275 Webster Avenue, Apartment 16, Bronx, New York, convicted on July 15, 1963, in the Bronx County, Supreme Court, New York.

Malkow, James H., 327 South Maple Street, Oconomowoc, Wisconsin, convicted on January 30, 1982, in the Waukeska Circuit Court, Waukeska, Wisconsin.

Mallary, Richard Walker Junior, Rural Delivery 2, Box 112, Barton, Vermont, convicted on May 24, 1978, in the District Court of Chittenden County, Vermont.

Malmay, E.B., 103 West Oak, Zwolle, Louisiana, convicted on December 19, 1980, in the United States District Court, Western District of Louisiana, Shreveport Division.

Malone, Steven Ray, 5704 Elizabeth Lake Road, Pontiac, Michigan, convicted on May 27, 1971, Oakland County Circuit Court, Pontiac, Michigan.

Mangialetti, James Mark, 6528 Armfield Road, Richmond, Virginia, convicted on December 17, 1979, in the Circuit Court, Buckingham County, Virginia.

Mann, Gary Bill, 1530 Kenton Street, Bowling Green, Kentucky, convicted on January 19, 1978, in the Warren County Circuit Court, Bowling Green, Kentucky.

Manning, Herbert Eugene, 505 Brown Street, Hopkinsville, Kentucky, convicted on July 28, 1980, in the Christian County Circuit Court, Hopkinsville, Kentucky.

Manupella, Anthony Peter, 20 Poplar Street, Valley Falls, New York, convicted on November 8, 1971, in the Saratoga County Court, Ballston Spa, New York, and on March 26, 1971, in the Rensselear County Court, Troy, New York.

Marando, James Frederick, 3618 34th Street, Moline, Illinois, convicted on December 18, 1975, in the Nineteenth Judicial Circuit, Marion County, Indiana, and on July 11, 1977, in the Fourteenth Judicial Circuit, Rock Island County, Illinois.

Marchant, David Brent, 1027 Plain Street, Peru, Illinois, convicted on January 13, 1975, in Knox County Circuit Court, Galesburg, Illinois.

Marchant, Max Howard, USS Saratoga, V5 Division CV60, FPO, New York, convicted on February 9, 1967, in the Circuit Court, Wright County, Iowa.

Marcum, Charles David, Post Office Box 1, McKee, Kentucky, convicted on August 22, 1980, in the United States District Court, Eastern District of Kentucky.

Markley, Lawrence Doyle, Route 1, Box 146C, Cataldo, Idaho, convicted on April 8, 1972, in the District Court, Benewah County, Idaho.

Marko, Theodore Matthew III, Route 3, Box 158, McNeely Road, Piedmont, South Carolina, convicted on April 1, 1976, July 23, 1976, and October 21, 1976, in the Court of General Sessions.

Marmo, Dominic J., 1320 Lake Way Drive, Apartment 120, Bellingham, Washington, convicted on July 7, 1975, in the Superior Court, Skagit County, Washington.

Marsh, Chester Barry, Route 2, Box 142, Georgetown, South Carolina, convicted on January 11, 1982, in the United States District Court, Judicial District of South Carolina.

Martin, A. J., 17 Kuchle Drive, Walton, Kentucky, convicted on May 22, 1978, in the United States District Court, Covington, Kentucky.

Martin, Alan Wesley, 224 Southwest Second Place, Gainesville, Florida, convicted on December 10, 1971, in the Clay County Circuit Court, Green Cove Springs, Florida.

Martin, Leroy, County Lanes Trailer Court, Space 29–A, Rural Route 4578, Great Falls, Montana, convicted on June 1, 1966, in the District Court, Rosebud County, Montana.

Martin, Lloyd Venton, Post Office Box 213, Hope Mills, North Carolina, convicted on July 20, 1982, in the United States District Office, Eastern District, Wilmington, North Carolina.

Martin, Scipio McClure, 3740 Kendall, Detroit, Michigan, convicted on January 26, 1974, and September 4, 1975, in the Detroit Recorder's Court, Detroit, Michigan.

Mason, John Burton, 4617 East Kathleen Road, Phoenix, Arizona, convicted on November 12, 1987, in the United States District Court, Alexandria, Virginia.

Massey, Frank Edward, Box 122, Kingston, Oklahoma, convicted on November 30, 1982, in the United States Court, Muskogee, Oklahoma.

Massey, Thomas Clinton, 213 Oriole Drive, Lebanon, Tennessee, convicted on March 16, 1979, in the United District Court, Nashville, Tennessee.

Mastelloto, Jerry Robert, 131 Acacia Avenue, Oroville, California, convicted on October 27, 1983, in the United States District Court, Northern District of California.

Matherne, Raymond Anthony, Post Office Box 873761, Wasilla, Alaska convicted on May 25, 1982, in the Superior Court, Pierce County, Washington.

Mathews, Lester Kimberly, 10917 Dineen Drive, Knox, Tennessee, convicted on January 31, 1983, in the United States District Court, Knoxville, Tennessee.

Mathews, Timothy Lawrence, Star Route 1, Road M.S.W., Royal City, Washington, convicted on December 10, 1974, in the Superior Court, Grays Harbor County, Washington.

Mathis, Leroy Preston, Route 2, Box 260, Roaring River, North Carolina, convicted on November 23, 1959, in the United States District Court, Wilkesboro, North Carolina.

Mathisen, Robert Walter, 14224 32nd Avenue, Northwest, Gig Harbor, Washington, convicted on February 24, 1968, in the Superior Court, Chelan County, Washington.

Matlock, Jake D., 4031 Norton, Kansas City, Missouri, convicted on August 24, 1981, in the United States District Court, Kansas City, Kansas.

Matthews, Flossie Carol, Route 10, Box 45, Harris Creek Road, Cleveland, Tennessee, convicted on August 23, 1979, in the Superior Court, Whitfield County, Georgia.

Matthews, Orville Courtney, 1616 Ripon Place, Alexandria, Virginia, convicted on February 19, 1974, in the Circuit Court, Franklin County, Virginia.

Mazzella, Francesco Ralph, East Opal Lake Drive, Gaylord, Michigan, convicted on April 15, 1976, in the United States District Court, Michigan.

McAndrew, Joseph Harrison, 52 Sagamore Road, Bronxville, New York, convicted on April 29, 1982, in the United States District Court, Eastern District of New York.

McBreairty, Donald Junior, Post Office Box 97, St. Francis, Maine, convicted on September 30, 1981, in the Maine Superior Court, County of Aroostook, Caribou, Maine.

McBride, Ivon Charles, 7301 Sanger, #214, Waco, Texas, convicted on February 19, 1982, in the Fifty-fourth District Court, McLennan County, Texas.

McBride, Richard Gene, Senior, 5466 Maple Vista, San Antonio, Texas, on July 1, 1980, in the United States District Court, Middle District, Jacksonville, Florida.

McCarley, Randolph William, 6368 Lincoln, Apartment 103, Oroville, California, convicted on September 13, 1971, in the Superior Court, Marin County, California.

McArter, Richard Dennis, Woodrun Drive, Laurinburg, North Carolina, convicted on February 24, 1984, in the

United States District Court, Wilmington, North Carolina.

McCartin, Hubert E., Rural Route 2, Box 1126, Washington Park Road, Adams, New York, convicted on January 14, 1985, in the Jefferson County Court, Watertown, New York.

McClain, John Patrick, 13309 Wesley, Southgate, Michigan, convicted on November 29, 1982, convicted in the United States District, Miami, Florida.

McClellan, William Clinton, Route 1, Box 236H, Lincoln, Alabama, convicted on March 18, 1985, in the United States District Court, Birmingham, Alabama.

McCombs, Dwight Thomas, Rural Route 1, Box 237, Dry Ridge, Kentucky, convicted on March 14, 1969, in the Palm Beach Circuit Court, West Palm Beach, Florida, and on February 8, 1972, in the Grant County Circuit Court, Grant County, Kentucky.

McConkey, Charles Emerson, Route 1, Box 94E, Waxhaw, North Carolina, convicted on November 16, 1978, in the Wakt County Superior Court, Raleigh, North Carolina.

McConnell, Douglas Ray, 1905 McMurray Road, Mount Vernon, Washington, convicted on September 9, 1982, in the Superior Court, King County, Washington.

McConnell, Eugene, 1710 Roosevelt Street, Prichard, Alabama, convicted on March 17, 1964, in the Mobile County Circuit Court, Mobile, Alabama.

McCormick, James Theodore, Route 1, Box 2A, Monterey, Tennessee, convicted on July 20, 1981, in the Northern Judicial District, Alabama.

McCormick, Terrence James, 2955 South Xanthia County, Denver, Colorado, convicted on January 5, 1979, in the United States District Court, Denver, Colorado.

McCoshum, Vernon Lee, 20785 Scenic Drive, Red Bluff, California, convicted on October 29, 1981, in the United States District Court, Eastern District, Sacramento, California.

McCracken, Coy Talmadge, Space 123, Yakima, Washington, convicted on May 14, 1959, in the Superior Court, Yakima County, Washington.

McCracken, Dennis Dean, 418½ Hayes, Helena, Montana, convicted on April 26, 1979, in the Superior Court, Whatcom County, Washington.

McCracken, Victoria Texmo, 418½ Hayes, Helena, Montana, convicted on April 26, 1979, in the Superior Court, Whatcom County, Washington.

McCrea, James Murray, Rural Route 3, Box 147–A, Kingstree, South Carolina, convicted on June 29, 1984, in the Williamsburg Court, Court of General Sessions, Kingstree, South Carolina.

McDade, Maxwell Fowler, Junior, Magnolia Drive, Fulton, Kentucky, convicted on September 1, 1981, in the United States District Court, Western District of Tennessee.

McDaniel, Merle Thomas, 733 East 24th Place, Yuma, Arizona, convicted on May 27, 1970, in the United States District Court, Phoenix, Arizona.

McDiarmid, Mark Allan, Route 1, Box 92–A, Alden, Michigan, convicted on August 21, 1975, in the United States District Court, Flint, Michigan.

McDonald, Patrick Russell, 7620 Mero Road, Snohomish, Washington, convicted on December 12, 1975, in the Whatcom County Superior Court, Washington; on April 13, 1976, in the King County Superior Court, Washington; and on January 20, 1977, in the Clallam County Superior Court, Washington.

McDougald, Andrew Perry, Quarterdeck 21, New Bern, North Carolina, convicted on February 21, 1975, in the Superior Court of Bladen County, North Carolina.

McFall, Grover Cleveland, Route 1, Box 283B, Clintwood, Virginia, convicted on October 8, 1963, and on February 10, 1960, in the United States District Court, Abingdon, Virginia.

McGhaney, Clarence, 441 Putman Avenue, Brooklyn, New York, convicted on September 17, 1980, in the Supreme Court, Queen City, New York.

McGrow, George Michael, 2004 Tadcaster Road, Baltimore, Maryland, convicted on April 1, 1976, in the Circuit Court, Baltimore County, Maryland.

McIntosh, Julian Roberts, 1002 Cliff Road, Asheboro, North Carolina, convicted on March 3, 1983, in the Randolph County Superior Court, Ashetors, North Carolina.

McIntyre, James Robert, 1130 North Patton Street, Springfield, Illinois, convicted on September 11, 1975, and on March 20, 1978, in the Sangamon County, Springfield, Illinois.

McIntyre, Ray Gordon, Post Office Box 446, Grand Island, Florida, convicted on May 22, 1987, in the United States District Court, Jacksonville, Florida.

McKee, Jack C., 4069 Sheraton Drive, Flint Michigan, convicted on May 20, 1974, and on January 18, 1977, in the United States District Court, Eastern District of Michigan.

McKendrick, Ronald L., 13515 Waterloo Road, Waynesboro, Pennsylvania, convicted on May 5, 1986, in the United States District Court, Middle Judicial District, Harrisburg, Pennsylvania.

McKittrick, Ino Dennis, 8121 East Frederick, Spokane, Washington, convicted on February 1, 1961, in the Superior Court, Yakima County, Washington.

McLeod, Claiborne Lester, 7621 Sambar Road, Chesterfield County, Virginia, convicted on September 12, 1980, in the United States District Court, Eastern, Virginia.

McMillan, Jane Alice, 9 Pioneer Circle, Miles City, Montana, convicted on October 24, 1977, in the Superior Court, Custer County, Montana.

McMurren, Ted Harvey, 290 South F Street, Greeley, Colorado, convicted on September 15, 1983, in the United States District Court, Colorado.

McNeill, Robert Jack, Rural Route 1, Box 128, Johnston City, Illinois, convicted on October 14, 1975, in the First Judicial Circuit, Williamson County, Illinois.

McNussen, S. Hugh, 3801 Caravelle Drive, Anchorage, Alaska, convicted on May 31, 1983, in the United States District Court, Alaska.

Meadows, Roger William, Box 423H, 2nd Avenue, South Shore, Kentucky, convicted on October 4, 1977, in the United States District Court, Cincinnati, Ohio.

Medley, Johnny Trevor, 111 Coolbrook Drive, Frankfort, Kentucky, convicted on September 30, 1980, in the Anderson Circuit Court, Lawrenceburg, Kentucky.

Melina, Richard, 7624 Perry Avenue North, Brooklyn Park, Minnesota, convicted on March 26, 1956, in the Fourth Judicial District Court, Hennephin County, Minneapolis, Minnesota.

Melnick, Raymond B., 992 Westwood Avenue, Staten Island, New York, convicted on October 3, 1973, in the Kings County Superior Court, New York.

Melton, John Edward, 7221 Parkwast Apartments, Building 11, Apartment 308, Fort Worth, Texas, convicted on August 5, 1980, in the One-hundred-fifty-fifth Judicial District Court, Austin County, Texas.

Mendenhall, Randall Thomas, 6297 Pleasant Valley Road, Vacaville, California, convicted on March 10, 1977, in the Superior Court, County of Placer, California and on February 28, 1972, in the Superior Court, Sacramento, California.

Meredith, Thomas Lynn, 6355 Maplecrest Road, Ft. Wayne, Indiana, convicted on December 14, 1983, in the Allen County Superior Court, Ft. Wayne, Indiana.

Merrill, James Alfred, Junior, Post Office Box 68, Cedar Lane, Rescue, Virginia, convicted on October 10, 1979, in the Circuit Court, Surry County, Virginia.

Merrill, Walter Kevin, 340 Haverhill Street, Lawrence, Massachusetts, convicted on December 13, 1968, in the

Lawrence District Court, Lawrence, Massachusetts.

Messer, Donnie Lynn, 15 Deer Lane, North Star Route, Lyons, Colorado, convicted on July 20, 1972, in the Forty-seventh District Court of Potter County, Amarillo, Texas.

Meucci, Timothy M., 68 Elm Street, Bangor, Maine, convicted on October 19, 1971, in the Superior Court, Penobsoet County, Maine.

Meyer, Dennis Alan, 5133 North 106th Street, Milwaukee, Wisconsin, convicted on December 18, 1959, Milwaukee County Circuit Court, Milwaukee, Wisconsin.

Meyer, Robert Louis, 1880 South Arcadia Street, Boise, Idaho, convicted on June 2, 1980, in the Fourth District Court, Idaho.

Michalica, Daniel Joseph, 1008 3rd Avenue, Grafton, Wisconsin, convicted on April 14, 1980, in the Ozaukee County Circuit Court, Port Washington, Wisconsin.

Michaud, Arthur John, Toothaker Road, Box 420, Route 5, Gardiner, Maine, convicted on October 11, 1971, in the Superior Court, Sagadahoc County, Maine.

Mick, Dean Edward, Rural Route 4, Beloit, Kansas, convicted on June 23, 1978, in the District Court, Fourth Judicial District, Idaho.

Middlebrooks, David Leslie, 808 West 39th Court, Lynn Haven, Florida, convicted on March 15, 1979, in the United States District Court, Panama City, Florida.

Milanesi, Eugene Emil, 1056 56th Street, Brooklyn, New York, convicted on November 13, 1980, in the United States District Court, Eastern District of New York.

Miller, Bart, 805 Whitney Drive, Garland, Texas, convicted on June 5, 1978, in the Collin County District Court, McKinney, Texas.

Miller, Dalbert Charles, 207 West Clarendon Avenue, Apartment 22–A, Phoenix, Arizona, convicted on November 15, 1976 in the United States District Court, Los Angeles, California.

Miller, Eugene Massie, Post Office Box 1648, Dublin, Virginia, convicted on May 18, 1972, in the Circuit Court, Tazewell County, Virginia.

Miller, Frank Albert, 2702 Brownfield Road, Urbana, Illinois, convicted on April 8, 1969, and December 8, 1969, in the Sixth Judicial Circuit, Champaign County, Illinois.

Miller, George Bryan, 4817 North 11th Avenue, Phoenix, Arizona, convicted on May 24, 1979, in the United States District Court, Phoenix, Arizona.

Miller, John Lester, Post Office Box 37, Ninilchik, Alaska, convicted on February 9, 1984, in the Rout County District Court, Steamboat Springs, Colorado.

Miller, Joseph Walter, 1311 Delvala Avenue, Baltimore, Maryland, convicted on October 26, 1971, in the Circuit Court of Baltimore, Baltimore, Maryland.

Miller, Mark Henry, 24 Laurel Hill, Austin, Texas, convicted on February 23, 1973, in the Fifty-fourth District Court, McLennan, Texas.

Miller, Stephen Charles, 565 Andrews Avenue, Metairie, Louisiana, convicted on December 12, 1977, in the Twenty-fourth Judicial District Court, Jefferson Parish, Louisiana.

Miller, Thomas Lars, Rural Route 3, Box 267B, Norfolk, Nebraska, convicted on June 21, 1982, in the District Court of Madison County, Madison, Nebraska.

Mills, Robert Hal, Route 1, Gates, Tennessee, convicted on January 14, 1983, in the Western Judicial District of Tennessee of Memphis, Tennessee.

Milner, Kenneth J., 47188 Rohns Court, Utica, Michigan, convicted on June 29, 1951, in the Recorder's Court, City of Detroit, Michigan.

Miskin, Rocky Dean, 978 Bannock 1, Idaho Falls, Idaho, convicted on October 5, 1982, in the District Court, Bonneville County, Idaho.

Miskowski, Raymond Edward, 626 Webb Street, Jackson, Michigan, convicted on June 3, 1970, in the Jackson Circuit Court, Jackson, Michigan.

Mitchell, David Gene, 812 Spencer Drive, Neosho, Missouri, convicted on January 13, 1976, in the Newton County Circuit Court, Neosho, Missouri.

Mock, Randy Winston, 419 Stale Road 224, Doctor's Inlet, Florida, convicted on May 9, 1984, in the Duval County Circuit Court, Jacksonville, Florida.

Moe, Trent Roger, Route 2, Box 74, Springfield, Minnesota, convicted on March 20, 1981, in the Fifth District Court, Redwood Falls, Minnesota.

Mogren, Thomas Gerald, 10188 65th Street North, Stillwater, Minnesota convicted on August 18, 1980, in the United States District Court, Minneapolis, Minnesota.

Mongenroth, Christopher Anderson, 729 First Street, Chester, California, convicted on May 24, 1969, in the Superior Court, Orange County, Califoria.

Monroe, Ernest Edward, Rural Delivery 3, Box 180, convicted on March 19, 1982, in the County Court, St, Lawrence County, Canton, New York.

Montiero, Anthony M., 8361 Northgate Avenue #21, Canoga Park, California, convicted on May 29, 1973, in the United States District Court, South Bend, Indiana.

Moody, Joe Pat, 5907 Leslie Drive, Flint, Michigan, convicted on February 6, 1961, in Douglas County, Michigan, and on November 22, 1968, in Genesee County, Michigan.

Moody, Lee Alan, 1804 Overland Drive, Bridgeport, Texas, convicted on April 27, 1978, in the District Court, Palo Pinto County, Texas.

Moody, Leroy, 2002 Ruxton Avenue, Baltimore, Maryland, convicted on June 18, 1934, in the Baltimore City Criminal Court, Baltimore, Maryland.

Moore, Donald Eugene, Junior, 603 Central, Apartment 62, Yakima, Washington, convicted on November 20, 1980, in the Superior Court, Yakima, Washington.

Moore, Lahnoe Lynn, 1602 West Peninsula Drive, Moses Lake, Washington, convicted on May 2, 1980, in the Superior Court, Grant County, Washington.

Moore, Ralph Eugene, Route 1, Box 42, Woodleaf, North Carolina, convicted on May 21, 1981, Bitburg Air Force Base, Bitburg, Germany.

Moore, Ted William, 1000 3rd Street, Arcadia, Louisiana, convicted on December 8, 1977, in the Fourth Judicial District, Ovachila Parish, Monroe, Louisiana.

Moorehead, Dennis Lamar, 105 Ferree Place, Graniteville, South Carolina, convicted on November 9, 1983, in the United States Court, Rock Hill, South Carolina.

Morales, Daniel, 7926 Rilla Avenue, Dallas, Texas, convicted on Octobert 11, 1976, in the Criminal District Court #2, Dallas, Texas.

Morano, Anthony, 5 Buttonwood Road, Staten Island, New York, convicted on April 5, 1974, in the Kings County Court, New York.

Morgan, Danny R., General Delivery, Hoskinston, Kentucky, convicted on October 29, 1980, in the United States District Court, Loudou, Kentucky.

Morgan, James Edward, Route 3, Box 14M, Murray, Kentucky, convicted on October 18, 1977, in the United States District Court, Paducah, Kentucky.

Morgan, James Robert, 311 9th Avenue, Attalla, Alabama, convicted on June 13, 1984, in the United States District Court, Middle District of Alabama, Montgomery, Alabama.

Morgan, Leonard Elvin, Rural Delivery 1, Box 127AA, Hegins, Pennsylvania, convicted on May 25, 1970, in the Court of Common Pleas, Dauphin County, Pennsylvania.

Morris, Dewey Edward, Route 2, Box 25, Dyke, Virginia, convicted on July 12, 1973, in the Circuit Court, Albemarle County, Virginia.

Morris, Harry Lee, 3672 Ballestero Drive South, Jacksonville, Florida, convicted on May 19, 1976, in the

Eleventh Judicial Circuit of Florida, Dade County, Florida.

Morris, Leslie Daniel, Post Office Box 72, Lovelaceville, Kentucky, convicted on June 7, 1982, in the Monatee County Circuit Court, Bradenton, Florida.

Morse, Ray Allen, Post Office Box 128, Madawaska Road, Palmyra, Maine convicted on October 22, 1975, in the Somerset County Superior Court, Skowhegan, Maine.

Mosley, Willie, Junior, 5930 Huntview Drive, Jackson, Mississippi, convicted on April 26, 1984, in the United States District Court, Jackson, Mississippi.

Moss, Daniel Joseph, 22002 93rd South, Kent, Washington, convicted on April 23, 1975, in the United States District Court, Western District of Washington.

Mueller, Harvey Lee, 3322 29th Street, Columbus, Nebraska, convicted on March 5, 1981, in the United States District Court, District of Nebraska.

Mueller, Ronnie Ray, Rural Route 6, Box 5, Columbus, Nebraska, convicted on March 5, 1981, in the United States District Court, Omaha, Nebraska.

Mueller, Roy Otto, 7500 North Elmhurst Road, Lot #1, Des Plaines, Illinois, convicted on March 6, 1981, in the Northern Judicial District of Illinois.

Mueller, Wayne Elroy, 1728 Woodland Drive, Columbus, Nebraska, convicted March 5, 1981, in the United States District Court, Omaha, Nebraska.

Mullins, Clint Eugene, 4815 9th Avenue South, Apartment M, Birmingham, Alabama, convicted on April 16, 1982, in the Jefferson County Circuit Court, Birmingham, Alabama.

Mulloy, James William, Route 2, Space 58, Travis Street, Levelland, Texas, convicted on August 18, 1982, in the Two-hundred-and-eighty-sixth Judicial Court, Hockley County, Levelland, Texas.

Murray, James Patrick, 204 Woodland Drive Mobile Home Park, Elizabethtown, Kentucky, convicted on April 5, 1966, in the United States District Court, Fayetteville, North Carolina and on June 12, 1975, in the Harden Circuit Court, Elizabethtown, Kentucky.

Murray, John Nathaniel, 2016 Boyd Street, Baltimore, Maryland, convicted February 6, 1974, in the District Court of Maryland, Baltimore City, District One, Baltimore, Maryland.

Murry, Ray, Route 1, Box 110–C8, Jacksonville, Arkansas, convicted on September 9, 1964, in the Circuit Court, Lonoke County, Arkansas.

Musaraca, Cosmo A., 821 Avenue North, Brooklyn, New York, convicted on June 7, 1974, in the United States District Court, Eastern District of New York.

Musselman, Samuel Houston, 102 McCulloch, Tonopah, Nevada, convicted on September 25, 1979, in the Second Judicial District, Washoe County, Nevada.

Myers, Douglas James, 1101 North Walnut, Normal, Illinois, convicted on May 3, 1977, in the Eleventh Judicial Circuit, McLean County, Illinois.

Myrick, Robert Arnold, 3112 Moravia Road, Baltimore, Maryland, convicted in March 1959, in the Baltimore City, Baltimore, Maryland.

Nahabedian, Aramis M.K., 835 Centinela Lane, Santa Barbara, California, convicted on July 19, 1971, in the Superior Court in Kern County, California.

Neal, Ronnie Alton, Route 4, Box 203CC, Bluff City, Tennessee, convicted on February 11, 1977, in the Criminal Court, Blountville, Sullivan County, Tennessee.

Nelligan, Peter Burke, 63 Harmon Drive, Larchmont, New York, convicted on December 12, 1975, in the Westchester County, New York.

Nelson, Douglas Raymond, Star Route 2, San Andreas, California, convicted on March 14, 1969, in the Superior Court for Santa Barbara, Santa Barbara, California.

Nelson, James Monroe, 3089 Richmond Road, Staten Island, New York, convicted on January 29, 1959, in the Supreme Court, Kings County, Brooklyn, New York.

Nelson, Roger Lee, 4225 South 25th Street, Omaha, Nebraska convicted on August 27, 1981, in the United States District Court, Omaha, Nebraska.

Nelson, William Philip, 1344 Grand Avenue, Pacifica, California, convicted on January 21, 1958, in the Superior Court, County of San Francisco, California.

Nesset, John Christian, Post Office Box 214, Port Townsend, Washington, convicted on February 11, 1974, in the Superior Court, Lewis County, Washington.

Newman, Richard Gordon, 1328 Orchard Drive, Brookings, South Dakota, convicted on August 18, 1983, in the United States District Court, Perre, South Dakota.

Nicholson, Arthur James, Route 1, Box 32, Gordo, Alabama, convicted on January 16, 1975, in the United States District Court, Birmingham, Alabama.

Nickson, Ned Tracy, 216 Evergreen Street, Prattville, Alabama, convicted on February 19, 1980, in Cadlo Parish, Louisiana, in the First Judicial District Court, Louisiana.

Nordstrom, James L., 425 Tenth Street, Stambaugh, Michigan, convicted on October 23, 1984, in the United States District Court, Western District of Michigan.

Nordstrom, Joseph Bernard, 102 East Boyington, Iron River, Michigan, convicted on October 23, 1984, in the United States District Court, Western Judicial District of Michigan.

Norris, Merle William, North 2110 Wilbur, Spokane, Washington, convicted on May 31, 1960, in the Superior Court, Spokane County, Washington.

Nunn, John Keith, 1602 Garfield Avenue, Henderson, Kentucky, convicted on March 19, 1979, in the Henderson County Circuit Court, Henderson, Kentucky.

Nussbaum, Dewey K., 9121 Garfield, Raymond, Washington, convicted on June 27, 1980, in the Superior Court, Pacific County, Washington.

Nyberg, Gerald L., 7040 Gartner, Detroit, Michigan, convicted on November 24, 1952, in the District Court, Riley County, Kansas.

Nye, Perry D., Post Office Box 123, Mt. Vernon, Maine, convicted on August 21, 1975, in the Maine Superior Court, Kennebec County, Maine.

Nystrom, Richard D., Route 1, Box 165, Amberg, Wisconsin, convicted on December 13, 1970, in the Wisconsin Circuit Court, Marinette City, Wisconsin.

Oberdorf, Earl Theodore, 2 Green Street, Rushville, New York, convicted on March 27, 1970, in the Ontario County Court, Canadaigua, New York.

O'Halloran, Frank C., Junior, 7220 Thornley Drive, New Orleans Louisiana, convicted on May 14, 1980, in the United States District Court, Eastern District of Louisiana, New Orleans, Louisiana.

Ohnsorg, Joseph William, 21591 Creekside Circle, Lakeville, Minnesota, convicted on December 17, 1980, in the Washington County District Court, Stillwater, Minnesota.

Oldson, Donald Keith, 305 Yeager Avenue, LaGrange, Kentucky, convicted on February 18, 1977, in the Oldham County Circuit Court, LaGrange, Kentucky.

Oliver, Diana D., Post Office Box 541, Rineon Road, Wickenburg, Arizona, convicted on July 22, 1977, in the Superior Court, Phoenix, Arizona.

Olson, Richard Jackson, Southeast 370 Klah Che Min Drive, Shelton, Washington, convicted on December 12, 1977, in the Pierce County Superior Court, Washington.

Ommert, Randy C., 416 Main Street, Funk, Nebraska, convicted on January 10, 1978, in the District Court, Phillips County, Kansas.

O'Neal, William Billy, 2706 5th Street, Phenix City, Alabama, convicted on

February 1, 1956, in the Russell County Circuit Court, Phenix City, Alabama.

Oravetz, William M., 133 Washington Street, Bath, Maine, convicted on January 22, 1970, in the Cumberland County Superior Court, Portland, Maine.

Osborn, Gary Kim, 1712 Lake Avenue, Ft. Wayne, Indiana, convicted on July 15, 1974, in the Superior Court, Allen County, Indiana.

Osborne, Melvin, Junior, Post Office Box 204, Fort Gibson, Oklahoma, convicted on May 29, 1968, in the Fourteenth Judicial District Court, Tulsa County, Oklahoma.

Osgood, Alfred Stanwood, East Boston Road, Vinalhaven, Maine, convicted on June 3, 1977, in the United States District Court, Portland, Maine.

Ostenson, Dean Anthony, 315 Dellwood Square, North Landfall, Minnesota, convicted on June 7, 1982, in the Ramsey County District Court, St. Paul, Minnesota.

Pachnik, Michael Anton, 126 20th Avenue North, Hopkins, Minnesota, convicted on February 21, 1979, in the Fourth Judicial District Court, Hennepin County, Minnesota.

Packard, Milan Alton, 1217 East 180 North, Springville, Utah, convicted on May 14, 1979, in the United States District Court, District of Utah.

Padelsky, Robert Paul, 2601 East 3450 North, Layton, Utah, convicted on September 5, 1980, in the United States District Court, Northern Division of Utah.

Pais, Joseph Lawrence, 575 North Peach Street, Booneville, Arkansas, convicted on December 13, 1950, in the Bernalillo County District Court, New Mexico, and on December 30, 1954, in the Circuit Court, St. Louis, Missouri, and also on June 6, 1960, in the Pulaski County Circuit Court, Arkansas.

Pannkuk, Jim Lee, 18595 Fairlawn Avenue, Prior Lake, Minnesota, convicted on June 13, 1969, in the Fifth Judicial District Court, Farebault County, Minnesota.

Papajohn, Nicholas, 54 Coventry Lane, convicted on August 31, 1938, in the Court of Quarter Sessions of the Peace, Philadelphia, Pennsylvania.

Parish, Alvin, Junior, Route 4, Box 141, Mount Pleasant, Texas, convicted on October 21, 1981, in the Eastern District of Texas, Texarkana, Texas.

Parker, Larry Warren, Box 2, Tyrone, Oklahoma, convicted on January 20, 1974, in the District Court, Seward County, Liberal, Kansas.

Parks, James L., Route 9, Box 39, Pine Creek Mobile Home Park, Roanoke, Texas, convicted on April 3, 1968, in the District Court Number 3, Dallas County, Texas; April 22, 1969, in the Eighty-fifth Judicial District Court, Brazos County, Texas, also convicted on June 14, 1972, in the District Court, Brighton Adams County, Colorado.

Parks, Ricky James, Route 1, Box 88–C, Sugar Grove, Virginia, convicted on December 8, 1981, in the Circuit Court, Smyth County, Virginia.

Parks, Thomas Ray, Appletree Apartments, Apartment 301, Post Office Box 855, Sophia, West Virginia, convicted on June 23, 1982, in the United States District Court, Northern District of West Virginia, Parkersburg, West Virginia.

Parks, Wilfred Newman, Post Office Box 633, Chilhonie, Virginia, convicted on March 19, 1984, in the Circuit Court of Smyth County, Virginia.

Parsons, Kip Allen, 16054 North 48th Drive, Glendale, Arizona, convicted on October 7, 1975, in the Circuit Court, Kirksville, Missouri, also convicted on October 29, 1975, in the Circuit Court, Springfield, Missouri.

Parsons, Robert David, 1215 South Spruce Street, Indianapolis, Indiana, convicted on March 31, 1967, in the Criminal Court of Marion County, Indianapolis, Indiana.

Partin, Anthony Ray, 8182 McGuire Drive, Raleigh, North Carolina, convicted on December 16, 1982, in the Wake County Superior Court, Raleigh, North Carolina.

Partin, Porter Cecil, Route 2, Box 4, Bell County, Kentucky, convicted on November 23, 1966, in the United States District Court, London, Kentucky; on May 19, 1977, in the Circuit Court, Pineville Kentucky; on November 27, 1939, in the United States District Court, London, Kentucky, and also on November 27, 1944, in the United States District Court, London, Kentucky.

Pascal, Warren Dana, 955 Pointer Ridge Drive, Gaithersburg, Maryland, convicted on February 4, 1977, in the United States District Court, Baltimore, Maryland.

Pate, Francis Leroy, 134 East Main Street, Cloverport, Kentucky, convicted on September 13, 1972, in the United States District Court, Louisville, Kentucky.

Patrick, Michael Ray, 2580 Holland Road, Scottsville, Kentucky, convicted on April 21, 1987, in the Allen County Circuit Court, Scottsville, Kentucky.

Patterson, Robert D., 233 North Monastery Street, Baltimore, Maryland, convicted on August 16, 1964, in the Municipal Court of Baltimore, Baltimore, Maryland.

Payment, Donald Ledgiar, 4633 Solway Road, Duluth, Minnesota, convicted on November 20, 1979, in the Sixth Judicial District Court of St. Louis County, Duluth, Minnesota.

Payne, L.B., 709 Hardin Street, Vine Grove, Kentucky, convicted on December 17, 1982, in the United States District Court, Louisville, Kentucky.

Peaco, Daniel Webster, Junior, 1209 Maulsby Court, Baltimore, Maryland, convicted on February 15, 1977, in the United States District Court, Maryland, and on May 19, 1977, in the District Court of Maryland, Baltimore, Maryland.

Pearl, Jacob, 12096 Abby Road, Philadelphia, Pennsylvania, convicted on January 22, 1945, in the Court of Common Pleas, Delaware County, Pennsylvania.

Pec, Edward Anthony, Junior, 10718 Direct River Drive, Coon Rapids, Minnesota, convicted on January 7, 1971, in the Hennepin County District Court, Minneapolis, Minnesota, also convicted on September 29, 1978, in the Anoka County District Court, Coon Rapids, Minnesota.

Peeler, Chester Baron, 1305 South Dekalb Street, Shelby, North Carolina, convicted on May 19, 1981, in the Superior Court of Newton, North Carolina.

Pendergraph, Robert Adolphus, 307 Country Club Drive, Durham, North Carolina, convicted on July 13, 1984, in the Eastern District, Wilmington, North Carolina.

Pendleton, Ray Bennett, Route 2, Box 216, Meadows of Dan, Virginia, convicted on September 5, 1963, in the Circuit Court, Patrick County, Virginia.

Pennington, James Woodrow, HC 88, Box 308, Williamsburg, Kentucky, convicted on May 26, 1976, in the Whitley Circuit Court, Williamsburg, Kentucky.

Perkins, Douglas K., Post Office Box 2, Forest Hill, Louisiana, convicted on August 16, 1974, in the Ninth Judicial District Court, Parish of Rapides, Louisiana.

Perrott, Richard V., South Stream Road, Bennington, Vermont, convicted on June 12, 1978, in the United States District Court, Burlington, Vermont.

Peters, Jonathan Brooks, 21 90th Lane, Northeast, Blaine, Minnesota, convicted on March 9, 1981, in the Ramsey County District Court, Second Judicial District, St. Paul, Minnesota.

Peters, Paul Wayne, Post Office Box 168, Tyner, Jackson Corute, Kentucky, convicted on October 10, 1966, in the Jackson County Circuit Court, McKee, Kentucky.

Peters, William Scott, Rural Route 4, Albion, Indiana, convicted on January 20, 1977, in the Noble Circuit Court, Albion, Indiana.

Peterson, Alfred Martin, 3009 Darbo Drive #1, Madison, Wisconsin,

convicted on July 3, 1969, in the Dane County Circuit Court, Madison, Wisconsin.

Peterson, Gene Alvin, East 2228 Bismark, Spokane, Washington, convicted on April 11, 1983, in the District Court, Idaho.

Peterson, Kenneth Dean, 1109 Southwest 5th Street, Aledo, Illinois, convicted on July 30, 1976, in the Circuit of the Fourteenth Judicial Court, County of Mercer, Illinois.

Peterson, Randy Lee, Post Office Box 469, Eureka, Montana, convicted on April 6, 1981, in the Lincoln County District Court, Montana.

Petrakis, Gregory, 5915 Gloucester Avenue, Springfield, Virginia, convicted on September 25, 1984, in the United States District Court, Alexandria, Virginia.

Pettus, Alvin Hershel, 157 Bynum/Coldwater Road, Eastaboga, Alabama, convicted on March 18, 1985, in the United States District Court, Birmingham, Alabama.

Phelps, William Calvin, Route 6, Box 83, Danville, Virginia, convicted on May 13, 1975, in the City Circuit Court, Danville, Virginia, also convicted on June 1, 1981, in the Pittsylvania County Circuit Court, Chatham, Virginia.

Phenneger, Randy Joe, 8912 W. Deschutes, Kennewick, Washington, convicted on November 30, 1982, in the Yakima County Superior Court, Washington.

Pierce, Michael Keith, Senior, 601 West 7th Street, Jerome, Idaho, convicted on August 3, 1976, in the District Court, Jerome County, Idaho; and on October 1, 1976, in the District Court, Idaho County, Idaho.

Pierce, Robert Leroy, Route 1, Box 1363—1363 Knox Road, Benton City, Washington, convicted on April 20, 1982, in the County Superior Court of Washington, Yakima County, Washington.

Pipes, David Stephen, 315 Cedar Tree Drive, Thibodaux, Louisiana, convicted on May 11, 1983, in the United States District Court, Eastern District of Louisiana.

Pitman, Larry Dale, Route 4, Box 38, Pulaski County, Somerset, Kentucky, convicted on November 16, 1981, in the Superior Court, Liberty County, Hinesville, Georgia.

Pitoniak, Richard Stephen, 135 High Street, Jessup, Pennsylvania, convicted on January 23, 1969, in the Luzerne County Court, Pennsylvania.

Pitts, Stuart Lyman, 4373 South Manorwood Drive, Traverse City, Michigan, convicted on May 14, 1974, in the Michigan Circuit Court of Ingham, and July 7, 1981, in the Brevard County Circuit Court, Melbourne, Florida.

Plyler, Robert Andrew, Route 11, Box 150, Salisbury, North Carolina, convicted on August 11, 1978, in the Jefferson County Court, Birmingham, Alabama.

Podgorny, Russell Anthony, 1150 Midway Drive, El Cajon, California, convicted on September 13, 1978, in the United States District Court, Los Angeles, California.

Poe, Isham, 13145 Stephenson Street, Anchorage, Alaska, convicted on June 29, 1976, in the United States District Court, District of Alaska.

Ponds, Anthony Lloyd, Route 3, Box 335, Idabel, Oklahoma, convicted on January 10, 1978, in the United States District Court, Eastern Oklahoma.

Pope, Wayne Douglas, 6106 Coniston Avenue, Richmond, Virginia, convicted on November 8, 1976, in the Circuit Court, Richmond, Virginia.

Porter, Powell Douglas, 3 Northeast 161st Street, Miami, Florida, convicted on March 9, 1971, in the Court of Records, Ft. Lauderdale, Broward County, Florida; on February 12, 1976, and on February 18, 1976, in the United States District Court, Ft. Lauderdale, Florida.

Potebnya, Walter N., 4522 18th Avenue, Northeast, Seattle, Washington, convicted on August 24, 1981, in the Superior Court, Kittitas County, Washington.

Poulin, Albert Joseph, 52 South Factory Street, Skowhegan, Maine, convicted on July 28, 1978, in the Somerset County Superior Court, Skowhegan, Maine.

Powell, Dwain E., 1850 Waggoners Gap Road, Carlisle, Pennsylvania, convicted on September 9, 1984, in the United States District Court, Middle District of Pennsylvania.

Powell, Jack Arnold, 1412 East Cedar Lane, Madison, Tennessee, convicted in 1949, Atlanta, Georgia; in 1950 in the Federal Court, Atlanta, Georgia; in 1954, in the Federal Court, Oklahoma City, Oklahoma; in 1958, in Wilmington, North Carolina; and in 1971, in Sumner County, Tennessee.

Poynter, Marvin Keith, Route 3, Box 86, Cave City, Kentucky, convicted on April 5, 1982, Barren County Circuit Court, Glasgow, Kentucky.

Pracht, Andrew White, 6 Jacana Road, Hilton Head Island, South Carolina, convicted on May 3, 1983, in the United States District Court, South Carolina.

Preiner, James Gregory, 19221 Keystone Avenue North, Forest Lake, Minnesota, convicted on January 19, 1981, in the United States District Court, St. Paul, Minnesota.

Prestianni, Kenneth William, 3201 Lawnview Avenue, Baltimore, Maryland, convicted in 1968, in the Baltimore City Circuit Court, Baltimore, Maryland.

Price, Larry Neil, Route 2, Box 629, Stoney Point, North Carolina, convicted on December 12, 1978, in the United States District Court, Columbia, South Carolina.

Price, Michael William, 700 East 8th Street, Apartment 1102, Kansas City, Missouri, convicted on May 4, 1976, in the Circuit Court, Clayton, Missouri.

Price, William Eugene, Route 1, Box 540, Appomattox, Virginia, convicted on November 19, 1974, in the Prince Edward County Circuit Court, Prince Edward County, Virginia.

Priddy, Johnie Norman, 721 Pleasant Hill Road, Upton, Kentucky, convicted on April 12, 1977, in the United States District Court, Bowling Green, Kentucky.

Pridemore, Timothy, Box 110, Bob White, West Virginia, convicted on March 11, 1980, in the Circuit Court of Boone County, Madison, West Virginia.

Priesman, Jack Frederick, Post Office Box 202, Narrow Lake Road, Charlotte, Michigan, convicted on June 22, 1976, in Eaton County, Michigan.

Pritchett, Earl Lamar, Route 7 Box 430, Albertville, Alabama, convicted on November 20, 1984, in the United States District Court, Birmingham, Alabama.

Pruett, Robert Oney, 2639 Central Avenue, Apartment D–1, Memphis, Tennessee, convicted on November 25, 1981, in the United States District Court, Memphis, Tennessee.

Pryor, Edward Galan, 207 Lafayette, Gladewater, Texas, convicted on June 29, 1955, in the Bexar County District Court, Texas.

Pryor, Joe, 13342 Holley Park, Houston, Texas, convicted in 1967 and 1970, in the District Court of Cameron County, Texas.

Puchlov, Boris, 6527 24th Avenue Northwest, Apartment 2, Seattle, Washington, convicted on March 16, 1981, in the King County Superior Court, Washington.

Purdy, Larry Wayne, Route 2, Box 2129, Wapato, Washington, convicted on April 14, 1978, in the Superior Court, Yakima County, Washington.

Purnell, Duane E., 1425 Giddings, Southeast Grand Rapids, Kent County, Michigan, convicted on July 12, 1971, in the Circuit Court, Kent County, Michigan.

Puryear, Robert Ancel, Route 1, Kuttawa, Kentucky, convicted on March 28, 1979, in the Livingston Circuit Court, Smithland, Kentucky, April 6, 1979, August 3, 1979, and April 8, 1983, in the Lyon Circuit Court, Eddyville, Kentucky.

Pyatt, Billy Miller, 600 State Street, Marion, North Carolina, convicted on August 4, 1986, in the United States

District Court, Western Judicial District of North Carolina.

Quigley, Patrick James, 8009 Irving Avenue North, Brooklyn Park, Minnesota, convicted on February 17, 1981, in the Hennepin County District Court, Minneapolis, Minnesota.

Quinn, Merle Fred, E16013 Broad Avenue, Spokane, Washington, convicted on June 22, 1981, in the Superior Court, Spokane, Washington.

Rachal, Willie James, 29441 Oakwood, Inkster, Michigan, convicted on April 29, 1985, in the Third Judicial Circuit Court, Wayne County, Michigan.

Radford, Eugene, 1315 South 6th, Apartment B, Springfield, Illinois, convicted on October 2, 1957, in the Ninth Judicial District, Illinois.

Radford, Joel Glen, Route 1, Box 12, Salmon, Idaho, convicted on January 11, 1982, in the First Judicial District Court, Idaho.

Radke, Robert Earl, 13613 Crewe Street, Van Nuys, California, convicted on December 14, 1981, in the United States District Court, Central District of California.

Rakestraw, Jack William, 1304 Case Avenue, Attalla, Alabama, convicted on August 25, 1982, United States District Court, Alabama.

Rand, Matthew Michael, 50300 Highway 245, Badger, California, convicted on January 22, 1968, in the Superior Court, Santa Barbara County, California.

Rangel, Eligio Aquilar, 233 Buena Vista Drive, El Paso, Texas, convicted on September 3, 1976, in the United States District Court, Western District of Texas.

Rapelje, Lawrence Barkley, 6913 Aurelius Road, Lansing, Michigan, convicted on June 30, 1971, in the Ingham County Court, State of Michigan.

Ratcliff, Dana Loa, Route 1, Box 117B, Pulaski, Virginia, convicted on November 20, 1978, in the Circuit Court, Pulaski County, Virginia.

Rathbone, Johnnie Alfred, 7160 Custer Street, Hollywood, Florida, convicted on October 8, 1974, in the State Court of New York, Newburgh, New York.

Ray, Jerry Clyde, 24109 East Huron, River Drive, Rockwood, Michigan, convicted in 1972, in the Scotland County Circuit Court, North Carolina.

Ray, Raymond Glen, 606 Ewing Drive, Nashville, Tennessee, convicted on May 25, 1983, in the United States District Court, Nashville, Tennessee.

Ream, John Melvin, 1719 Black Oak Drive, Plainfield, Indiana, convicted on July 15, 1983, in the United States District Court, Southern Judicial District of Indiana, Indianapolis, Indiana.

Reed, Charles Lee, 1501 Flamingo Drive, Montgomery, Alabama, convicted on December 2, 1975, in the Montgomery County Circuit Court, Montgomery, Alabama.

Reed, Peter Ross, 5224 East 17th Street, Anchorage, Alaska, convicted on October 23, 1979, in the King County Superior Court, Washington.

Reid, Christopher Peter, 803 Apartment D, Englewood Street, Greensboro, North Carolina, convicted on January 31, 1979, in the Superior Court of Rockbridge County, Staunton, Virginia.

Reid, Timothy T., 2615 Idlewild Boulevard, Vinton, Virginia, convicted on September 5, 1975, in the Circuit Court, Bedford County, Virginia, and on February 9, 1976, in the Circuit Court, Franklin County, Virginia.

Reierson, Kevin James, 512 Oak Street, Farmington, Minnesota, convicted on July 27, 1982, in the First District Court, Dakota County, Minnesota.

Reinisch, Joseph Frank, Rural Delivery 1 Box 717, Lenhartsville, Pennsylvania, convicted on September 25, 1968, in the Court of Common Pleas of Lehigh County, Criminal Division, Allentown, Pennsylvania.

Remus, Bradley Alan, 1685 Scully Road, Mount Pleasant, Michigan, convcited on June 27, 1980, in the Circuit Court, Macomb County, Michigan.

Rentfrow, Rodney Byrne, 142 Price Court, Tracy, California, convicted on June 9, 1965, in the Superior Court of King County, Washington.

Ressell, William Harold, 1725½ Lincoln Street, Whitehall Wisconsin, convicted on February 6, 1979, in the Trempeleau County Circuit Court, Whitehall, Wisconsin.

Reynolds, Billy Wayne, Post Office Box 22, Cookville, Texas, convicted on October 20, 1981, in the United States Eastern Court, Eastern Texas.

Reynolds, David Paul, 27 Westbriar Place, Madison Heights, Virginia, convicted on May 14, 1979, in the Campbell County Circuit Court, Rustburg, Virginia.

Reynolds, Jon Roger, 211 Wyntfield Drive, Lewisville, North Carolina, convicted on February 11, 1981, in the United States District Court, Charlotte, North Carolina.

Reynolds, Kevin Douglas, Route 1, White Street, Kendall, Wisconsin, convicted on July 29, 1981, in the Oneida County Court, Rhinelander, Wisconsin.

Reynolds, William Oren, 2000 West 92nd Avenue, Apartment 9, Denver, Colorado, convicted on November 21, 1980, in the Superior Court, Benton County, Washington.

Rhoads, Robert Michael, 1321 Applewood Lane, Newton, Kansas, convicted on January 11, 1982, in the United States District Court, Kansas.

Rhoden, Freddie Randall, Route 1, Box 125, Starke, Florida, convicted on December 10, 1974, in the Bradford County Circuit Court, Bradford County, Florida.

Rhyne, Ralph Richard, Post Office Box 64, Plumtree, North Carolina, convicted on January 25, 1955, in the Western District of Washington, Seattle, Washington, and on March 29, 1982, in the Avery County Superior Court, Newland, North Carolina.

Rice, Richard Allen, 102½ South High Street, Covington, Ohio, convicted on June 15, 1981, in the Common Pleas Court, Miami County, Ohio.

Ricetto, Vittorio, 20938 Whitehall Terrace, Queens Village, New York, convicted on May 9, 1984, in the Eastern District of New York.

Richards, Thomas Allard, Post Office Box 513, A-F Route 1, Chrisney, Indiana, convicted on December 23, 1980, in the United States District Court, Southern District of West Virginia.

Richardson, Clayton, 1246 East Mt. Airy Avenue, Philadelphia, Pennsylvania, convicted on December 31, 1981, in the Common Pleas Court of Philadelphia, Municipal Court, State of Pennsylvania.

Richardson, Leon, 522 10th, Snyder, Oklahoma, convicted on November 29, 1983, in the United States District Court, Western Judicial District of Oklahoma.

Richardson, Ralph Lee, Box 95, Franklin, Missouri, convicted on September 13, 1954, in the Circuit Court of Morgan County, Versailles, Missouri.

Riddle, Edwin Crosby, Route 6, Box 296, Prattville, Alabama, convicted on September 8, 1981, in the United States District Court, Middle District, Montgomery, Alabama.

Riddleberger, Donald Lynn, 3932 Meadow Lark Road, Southwest, Roanoke, Virginia, convicted on June 2, 1976, in the Circuit Court of Roanoke County, Salem, Virginia.

Rideout, Gary Lamont, 3431 West Kilbourn, Milwaukee, Wisconsin, convicted on May 18, 1975, in the Circuit Court One, Milwaukee, Wisconsin.

Rigby Myron K., 2605 Cecil Drive, Salt Lake City, Utah, convicted on May 7, 1979, in the United States District Court, Central Division of Utah.

Riley, William Franklin, Junior, 2808 Roselawn Drive, Natchez, Mississippi, convicted on September 4, 1975, in the State Hospital Whitfield, Mississippi.

Ritchie, Melvin Hensel, Route 2, Box 255, Grottoes, Virginia, convicted on March 6, 1959, in the Circuit Court, Fairfax County, Virginia.

Rivenbark, Charles Leonard, Route 3, Box 48–S, Waxhaw, North Carolina, convicted October 25, 1977, in the United States District Court, Eastern District of North Carolina.

Robbins, Gary Ambrose, 24498 37th Street, Gobles, Michigan, convicted on October 20, 1969, in the Circuit Court, Kalamazoo, Michigan.

Roberts, Larry Dean, 1205 South 10th Avenue, Yakima, Washington, convicted on July 14, 1978, in the Superior Court, Yakima County, Washington.

Robertson, Robert Dale, 4343 East Fifth, Anchorage, Alaska, convicted on December 6, 1978, in the Superior Court, First Judicial District, Alaska.

Rochelle, Robert Erwin, 7165 Riley Street, Apartment 306, Westminister, Colorado, convicted on February 16, 1982, in the Circuit Court, York County, Virginia.

Rocke, Steven Michael, Rural Route 1, Box 100, Canaan, New Hampshire, convicted on March 27, 1971, in the Grafton Superior Court, North Haverhill, New Hampshire.

Rodman, Neil Richard, 28 Allegheny Avenue #2112, Towson, Maryland, convicted on March 14, 1978, in the Baltimore City Circuit Court, Baltimore, Maryland.

Rodriguez, Greg George, 7163 Lincoln Blvd, Polermo, California, convicted on October 9, 1980, in the Superior Court, Butler County, California.

Rodriguez, Hector Reynaldo, Junior, 204 Wedgewood, Laredo, Texas, convicted on October 20, 1983, in the District Court, Bexar County, Texas.

Rogers, Michael Edwin, 305 North 3rd Street, McCall, Idaho, convicted on March 29, 1979, in Gem County, Emmett, Idaho.

Rogers, Walter L. Senior, Route 1, Box 738, Laurinburg, North Carolina, convicted on February 17 1982, in the Scotland County Superior Court, Laurinburg, North Carolina.

Roivas, Kenneth Evald, 796 Harry Paul Drive, Lake Orion, Michigan, convicted in July 1962, in Common Pleas Court, Franklin, Ohio.

Romano, Joseph Louis, 4624 Pike Drive, Metairie, Lousiana, convicted on November 9, 1983, in the United States District Court, Eastern Judicial District of Louisiana.

Rose, Bobby Ralph, 416 South Palisades Drive, Signal Mountain, Tennessee, convicted on June 24, 1980, in the United States District Court, Nashville, Tennessee.

Rosensohn, Charles F., Route 1, Box 9A, Dewitt, Virginia, convicted on January 9, 1978, in the Circuit Court, Louisa County, Virginia.

Rosenstein, Allen A., 11729 Trophy Court, Germantown, Maryland, convicted on August 17, 1966, in the Peoples Court, Montgomery County, Maryland.

Rossetti, James L., 606 Metropolitan Avenue, Brooklyn, New York, convicted on January 6, 1967, in the United States District Court, District of New Jersey.

Ross, Christy Kay, Route 2, Box 2827–B Lechelt, Kennewick, Washington, convicted on December 9, 1983, in the Benton County Superior Court, State of Washington.

Ross, Richard Allen, Route 2, Box 2827–B Lechelt, Kennewick, Washington, convicted on November 9, 1983, in the Benton County Superior Court, State of Washington.

Roth, Frederick J., Junior, 313 Ormond Oaks Drive, Destrehan, Louisiana, convicted on October 17, 1984, in the United States District Court, Eastern District of Louisiana.

Roth, Isadore, 935 Ideal Way, Charlotte, North Carolina, convicted on April 15, 1971, in the United States District Court, Western District of North Carolina.

Rothschild, Ronald Stephen, 4852 Montgomery Road, Ellicott City, Maryland, convicted on December 18, 1968, in the Baltimore County Circuit Court, Baltimore, Maryland.

Rowland, Danny Alison, Route 7, Box 228C, Tupelo, Mississippi, convicted on November 29, 1968, in the Circuit Court, Lee County, Mississippi.

Roy, David Russell, St. Jullen Road, Broussard, Louisiana, convicted on September 6, 1979, in the Thirty-eigth Judicial District Court, Cameron Parish, Louisiana.

Roy, James Ferrier, Route 2, Box 389, Mansura, Louisiana, convicted on May 17, 1982, in the United States Court, Alexandria Division, Western District of Louisiana.

Roy, John Williams, Saint Julian Road, Broussard, Louisiana, convicted on September 6, 1979, in the Thirty-eight Judicial District Court, Cameron Parish, Louisiana.

Roy, Samuel Curtis, 110 Cherokee, Jeffersonville, Indiana, convicted on October 19, 1981, and on March 7, 1984, in the United States District Court, Louisville, Kentucky.

Rubino, Louis J., 70 Admiral Street, Park Jefferson, New York, convicted on September 25, 1958, in the Superior Court, Queens, New York.

Rudeen, Carl William, 13308 184th Avenue Northeast, Woodinville, Washington, convicted on October 26, 1982, in the Superior Court, King County, Washington.

Russell, Hulon C., Route 2, Box 256, Hardyville, Kentucky, convicted on October 5, 1983, in the United States District Court, Bowling Green, Kentucky.

Russell, Leonard E., 55 Lower Main Street, Norway, Maine, convicted on February 20, 1969, in the Superior Court, South Paris, Maine.

Russo, Robert Orest, 124 West 60th Street, Apartment 31L, New York, New York, convicted on January 28, 1977, in the United States District Court, Eastern District of New York.

Rybak, John J., Junior, Route 2, Box 325, Buttermeet, Wisconsin, convicted on May 17, 1981, in the Ashland County District Court, Ashland, Wisconsin.

Ryder, David R., 209 Stratford Avenue, Fredericksburg, Virginia, convicted on September 12, 1963, in the Circuit Court, Fredericksburg, Virginia.

Sakahashi, Clayton Shigechi, Post Office Box M, Hanapepe, Hawaii, convicted on November 26, 1980, in the Circuit Court, Fifth Circuit of Hawaii.

Salmon, Walter Lawrence, Junior, 4711 Edinborough Road, Greensboro, North Carolina, convicted on March 23, 1981, in the Eastern Judicial District, Raleigh, North Carolina.

Samples, Don Terry, Route 2, Horsehoe Bend Road, Maysville, Georgia, convicted on September 11, 1972, in the Superior Court, Jackson County, Georgia.

Samuels, Richard Lee, 45 Trails West, Columbia, Missouri, convicted on March 5, 1973, in the Circuit Court, Boone County, Missouri.

Sandberg, Marvin Theodore, Route 1, Box 219, Ormsby, Minnesota, convicted on August 3, 1981, in the Watoncvan County District Court, Saint James, Minnesota.

Sanders, Kenneth Eugene, Post Office Box 509, Bowling Green, Kentucky convicted on September 22, 1980, in the Edmonson County Circuit Court, Brownsville, Kentucky.

Sanford, John Monroe, 210 North Shelby Street, Wetumpka, Alabama, convicted on September 29, 1984, in the United States District Court, Middle District of Alabama, Montgomery, Alabama.

Sapp, Joseph Daniel, General Delivery, Camp Sherman, Oregon, convicted on June 26, 1969, in the Spokane County Superior Court, Washington.

Sasser, Herlon Kenneth, Route 1, Box 1191, Trenton, Florida, convicted on October 14, 1968, in the Highland County Circuit Court, Sebring, Florida.

Sawyer, Miles George III, 313 Carlton Street, Chapel Hill, North Carolina, convicted on December 30, 1968, in the Burlington Middle Judicial District Court, State of North Carolina.

Saylor, Richard Allen, 10730 Green Valley Road, Union Bridge, Maryland, convicted on September 30, 1975, in the

Frederick County District Court, Frederick County, Maryland.

Schaefer, Albert William, Route 2, Box 145A, Fulton, Missouri, convicted on February 21, 1978, in the Circuit Court of Callaway County, Fulton, Missouri.

Schaeffer, Teral K., 575 3rd South, Ucon, Idaho, convicted on June 21, 1983, in the District Court, Booneville County, Idaho.

Schick, Thomas Wayne, 1212 Dennis Street, Chippewa Falls, Wisconsin, convicted on May 9, 1978, in the Circuit Court, Dunn County, Menomonie, Wisconsin.

Schilling, Kevin Marc, 116 Stephen Place, North Syracuse, New York, convicted on October 29, 1975, in the Onondaga County Court, Syracuse County, New York.

Schmidt, Frederick J., 105 North Golview, Apartment 1, Lake Worth, Florida, convicted on July 8, 1981, in the United States District Court, Middle District of Georgia.

Schneider, Randall Claus, 1295 Dodge Street, Arlington, Nebraska, convicted on November 15, 1982, in the District Court, Blair, Nebraska.

Schoen, Stanton J., Rural Route 2, Cawker City, Kansas, convicted on April 4, 1979, in the District Court, Mitchell County, Kansas.

Schoepf, John A., Junior, 5 Lakewood Drive, Columbus, Nebraska, convicted on March 5, 1981, in the United States District Court, Judicial District of Nebraska.

Schultz, Joseph Carl, 442 Rosendale, Beaver Dam, Wisconsin, convicted on September 11, 1978, in the Circuit Court of Dodge County, Beaver Dam, Wisconsin.

Schultz, Louis John, 3805 Parkside Drive, Baltimore, Maryland, convicted on February 19, 1970, in the Baltimore City Criminal Court, Maryland.

Schulz, Peter Erich, 2135 Michigan Avenue, Detroit, Michigan, convicted on February 3, 1984, in the Circuit Court, County of Marquette, Michigan.

Schutter, Francis Prospect, Post Office Box 1275, Mattawa, Washington, convicted on November 23, 1981, in the Superior Court, Kittitas County, Washington.

Schwartz, Leonard C., 2474 Rue de Cannes, Costa Mesa, California, convicted on February 23, 1981, in the United States District Court, Central District of California.

Schwarz, William James, 501 Main Street, Norwalk, Wisconsin, convicted on February 21, 1983, in the Circuit Court of Monroe County, Sparta, Wisconsin.

Scott, Bobby Ray, 786 Dry Creek Road, Goodlettsville, Tennessee, convicted on June 28, 1978, in the United States District Court, Nashville, Tennessee.

Scott, Claude Virgil, 151 Glenwood, Martin, Tennessee, convicted on August 25, 1982, in the United States District Court, Tennessee.

Scott, Stewart W., 1011 McCormick Street, Greensboro, North Carolina, convicted on November 15, 1982, and on May 5, 1982, in the Guilford County Superior Court, Greensboro, North Carolina.

Scozzari, Charles John, Junior, 1184 Shroyer Circle, Jacksonville, North Carolina, convicted on December 20, 1984, in the General Court Martial, United States Army, Wuerzburg, Germany.

Scully, Robert Timothy, 32191 Albion Ridge Road, Albion, California, convicted on March 8, 1974, in the United States District Court, Northern, California.

Sears, Bryan, Junior, Route 2, Bell Plaine, Kansas, convicted on July 18, 1958, in the Sixteenth Judicial District Court, Ford County, Kansas and on June 5, 1959, in the Twenty-sixth Judicial District, Seward County, Kansas.

Sebree, Wilbert R., Junior, RFD 16, Box 277, Bedford, Indiana, convicted on February 14, 1959, in the Circuit Court, Boone County, Lebanon, Indiana.

Seger, Glenn Frederick, 2244 North 22nd Street, Sheboyean, Wisconsin, convicted on March 5, 1984, in the United States District Court, Eastern District of Milwaukee, Wisconsin.

Segneri, Thomas A., 2039 West Wilson Avenue, Peoria, Illinois, convicted on February 23, 1983, in the Illinois Circuit Court, Peoria, Illinois.

Seibert, Donald Mark, 841 Maryland Avenue, Hagerstown, Maryland, convicted on March 6, 1978, in the District Court of Maryland, Washington County, Maryland.

Seiter, Harry Norman, 532 Perimeter Drive, Erlanger, Kentucky, convicted on November 20, 1978, in the United States District Court, Covington, Kentucky, and on January 24, 1980, in the United States District Court, Covington, Kentucky.

Sellers, William Gordon, Route 1, Box 1989, Laurel, Mississippi, convicted on July 12, 1983, in the United States District Court, Hattiesburg, Mississippi.

Sessler, Phillip Matthew, Route 1, Box 129A, Centralia, Missouri, convicted on September 8, 1977, in the Montgomery County, Circuit Court, Missouri, and on October 4, 1976, in the Callaway County Circuit Court, Missouri.

Seymour, Wayne David, 603–B Broadway, Santa Cruz, California, convicted on July 23, 1976, in the Somerset City Court, New Jersey.

Shaker, Albert Junior, 18132 Bennett Road, North Royalton, Ohio, convicted on January 26, 1979, in the United States District Court, Northern District of Ohio.

Shalley, Carl Eugene, 4770 Northwest Maple Avenue, Redmond, Oregon, convicted on March 29, 1963, in the South Bay Judicial District Court, San Diego, California.

Shannon, Ralph Charles, North 1313 Ruby, Spokane, Washington, convicted on October 31, 1979, in the Superior Court, Spokane, Washington.

Sharits, Richard Dale, 3401 West Lisbon, Phoenix, Arizona, convicted on December 18, 1980, in the Superior Court, Phoenix, Arizona.

Sharits, Sheila Rae, 3401 West Lisbon, Phoenix, Arizona, convicted on December 18, 1980, in the Superior Court, Phoenix, Arizona.

Sharkey, Edward Michael, Junior, 11 Hillside Road, Wilmington, Delaware, convicted on June 27, 1979, in the Court of Common Pleas, New Castle County, Delaware.

Sharpe, Allen Nelson, 3049 Laurel Lane, Blowing Rock, North Carolina, convicted on October 30, 1975, in the United States District Court, Raleigh, North Carolina.

Show, Terry Dennis, 9191 Gerber Road, Sacramento, California, convicted on September 14, 1967, in the Municipal Court of Sacramento, California.

Shearer, William Eugene, 8540 North Central Avenue, Phoenix, Arizona, convicted on May 28, 1956, in the United States District Court, Phoenix, Arizona.

Sheetz, Robert Michael, Rural Delivery 1, Box 575, Washington Boro, Pennsylvania, convicted on May 17, 1976, in the Commonwealth County Court, Lancaster, Pennsylvania.

Sheffield, Richard Rentz, 221 Brownlea Street, Walterboro, South Carolina, convicted on May 14, 1973, in the Calleton County Court, Walterboro, South Carolina.

Sheldon, Leslie Warren, Rural Delivery 1, Box 2772, Fair Haven, Vermont, convicted on September 26, 1985, in the District Court of Rutland County, Vermont.

Shelton, Cathie Jo, Post Office Box 1725, Whitney, Texas, convicted on June 25, 1984, Sixty-sixth Judicial District, Hill County, Texas.

Shelton, Jerry Wayne, Highway 40, Box 1374, Round "O", South Carolina, convicted on October 20, 1978, in the Court of General Sessions, Charleston County, Charleston, South Carolina.

Shepard, Charles Brian, 3120 North 43rd Avenue, Phoenix, Arizona, convicted on August 17, 1979, in the

Superior Court, Maricopa County, Arizona.

Shepp, Carl Richard, 313 South Mineral Street, Keyser, West Virginia, convicted on April 15, 1988, in the United States District Court, Elkins, West Virginia.

Sherman, James Robert, 8772 Cloud Leap Court, Columbia, Maryland, convicted on November 10, 1982, in the United States District Court, Baltimore, Maryland.

Shew, Douglas Eugene, Route 2 Box 545 A, Wilkesboro, North Carolina, convicted on August 17, 1978, in the United States District Court, Wilkesboro, North Carolina.

Shiers, Eddie Guy, Post Office Box 175, Delta, Louisiana, convicted on March 25, 1968, in the Circuit Court, Warren County, Vicksburg, Mississippi.

Shindledecker, Larry Allen, Rural Delivery 1, Falls Creek, Pennsylvania, convicted on June 30, 1981, in the Court of Common Pleas, Clearfield County, Pennsylvania.

Shingler, Fredrick Nelson, Rural Delivery 1, 6197 Stevens Road, Homer, New York, convicted on May 23, 1980, in the Cortland County Court, Cortland, New York.

Shipley, Ray D., Route 4, 4715 Old Glasson Road, Scottsville, Kentucky, convicted on July 23, 1981, in the United States District Court, Bowling Green, Kentucky.

Shiver, Howard Gerald, Route 1, Box 130, Pittsview, Alabama, convicted on August 13, 1968, in the Muscogee County Superior Court, Columbus, Georgia.

Shonkwiler-Martin, Willa Mae, Route 2, Box 352, Hackensack, Minnesota, convicted on May 23, 1984, in the United States District Court, Fourth Division, Minneapolis, Minnesota.

Short, Wayne, Rural Route 3, Box 172, Berea, Kentucky, convicted on November 1, 1976, in the Madison County Circuit Court, Richmond, Kentucky.

Shreckengast, Calvin Lee, Post Office Box 35, Woodward, Pennsylvania, convicted on July 26, 1982, in the County Court, Centre Cocenty, Pennsylvania.

Shupp, Benjamin Franklin, 1112 West Washington Street, Post Office Box 941, Hagerstown, Maryland, convicted September 30, 1976, in the District Court of Maryland, Washington County.

Shurtz, Gregory Lane, 20435 15th Avenue South, Seattle, Washington, convicted on July 29, 1974, in the Superior Court, Thurston, County, Washington.

Siebert, Ronald, 414 Pennsylvania Avenue, Ness City, Kansas, convicted on December 14, 1981, in the United States District Court, Wichita, Kansas.

Sifford, Terry Linwood, Post Office Box 701, Ridgeway, Virginia, convicted on July 27, 1977, in the Circuit Court, Henry County, Virginia, and June 14, 1976, in Glendale, California.

Siggs, Roland William, 10218 Northeast 143rd Place, Bothell, Washington, convicted on June 6, 1983, in the United States District Court, Eastern Judicial District of Washington.

Silver, Melvin Dale, 504 South 15th Street, Yakima, Washington, convicted on December 26, 1974, in the Superior Court, Yakima County, Washington.

Simon, Blondie Rosettler, Route 1, Box 129A, Camden, South Carolina, convicted on December 15, 1983, in the United States District Court, Columbia, South Carolina.

Simms, Marmaduke II, 9 Manistee Lane, East Islip, New York, convicted on December 1, 1977, in the Suffolk County Supreme Court, Hauppauge, New York.

Simpson, Bennette Preston, 3800 Cavalier Drive, Winston-Salem, North Carolina, convicted on May 7, 1975, in the United States District Court, Winston-Salem, North Carolina.

Simpson, James Larry, 374 East Choctaw, Flagstaff, Arizona, convicted on May 26, 1982, United States District Court, Miami, Florida.

Simpson, Phillip Leon, 509 Bunker Road, Mount Airy, North Carolina, convicted on February 25, 1982, in the Surry County Superior Court, Dobson, North Carolina.

Simpson, Timothy King, Route 2, Box 449, Anner Road, Carriere, Mississippi, convicted on March 27, 1974, in the Orleans Parish Criminal Court, Louisiana.

Sineath, Thomas Keith, 11355 Princess Lane, Jacksonville, Florida, convicted on July 18, 1978, in the United States District Court, Middle District of Florida, Jacksonville, Florida.

Singer, Richard Charles, 318 Regent Street, Lansing, Michigan, convicted on October 29, 1965, in the Circuit Court of Ingham County, Michigan.

Sipes, Ronald Lee, Rural Route 1, Box 41, Manter, Kansas, convicted on March 17, 1982, in the United States District Court, Wichita, Kansas.

Siples, William Charles, Lot 85, Southern Pines Mobile Park, 926 U.S. 301, Bradenton, Florida, convicted on September 18, 1981, in the United States District Court, Middle Judicial, District of Florida.

Sisk, Michael David, 115 Yost Street, Manassas Park, Virginia, convicted on December 22, 1978, in the Circuit Court of Fairfax County, Virginia.

Sisk, Paul Herman, 237 Lincoln Street, High Shoals, North Carolina, convicted on June 15, 1979, in the Gaston County Superior Court, Gastonia, North Carolina.

Skipper, Edward Robert, 222 Park Avenue, Reading, Pennsylvania, convicted on August 23, 1962, in the County Court, Reading, Pennsylvania.

Skipper, James Jerry, Route 6, Harrison Road, Dothan, Alabama, convicted on March 23, 1981, in the United States District Court, Middle District of Alabama.

Slater, Jerome Francis, 313 West Kenwood Avenue, Baltimore, Maryland, convicted on October 2, 1959, in the South District Magistrate Court, Baltimore, Maryland; and on March 14, 1960, in the Criminal Court, Baltimore, Maryland.

Slater, John William, 4180 East 800 South, Jonesboro, Indiana, convicted on January 29, 1969, in the Superior Court of Grant County, Marion, Indiana.

Small, Lyle Jay, Box 102, Busby, Montana, convicted on March 9, 1981, in the District Court, Montana.

Smirl, James Richard, 238 Tennyson Street, Upland, California, convicted on March 15, 1968, in the United States District Court, San Diego, California.

Smit, Charles Thomas, 2112 Pleasant Avenue South, Apartment 112, Minneapolis, Minnesota, convicted on October 20, 1969 and on June 12, 1974, in the United States District Court, Minneapolis, Minnesota.

Smith, Bennie Eugene, 411 East Hillcrest Drive Morristown, Tennessee, convicted on July 26, 1972, in the Criminal Court, Hamblen County, Tennessee.

Smith, Blaen Quannah, 937 West Street, Winston-Salem, North Carolina, convicted on January 22, 1972, and on May 7, 1973, in the District Court, Otero County, New Mexico, and on April 19, 1973, in the York County District Court, York, Nebraska.

Smith, Brian Douglas, Rural Route 1, Box 38, Derby, Vermont, convicted on May 23, 1972, in the Circuit Court, Virginia Beach, Virginia.

Smith, Charlie Steve, 919 Waverly Road, Tallahassee, Florida, convicted on April 17, 1981, in the Duval County Circuit Court, Jacksonville, Florida.

Smith, Clifton Dewey, Senior, 265 Fifth Avenue, Chickasaw, Alabama, convicted on February 14, 1982, in the Mobile Police District Court, Mobile, Alabama.

Smith, Donald Eugene, Big Spruce Terrace, Lot 177, Newville, Pennsylvania, convicted on January 23, 1976, in the Superior Court of Long County, Ludowici, Georgia.

Smith, Douglas Lee, 1595 Prairie Drive, Midland, Michigan, convicted on May 30, 1965, in the Midland County

Circuit Court, Midland Michigan; and on February 17, 1966, in the Grand Traverse County Circuit Court, Traverse City, Michigan, and on September 2, 1977, in the Midland County Circuit Court, Midland Michigan.

Smith, Edward D., 2917 Lyndale Drive, Nashville, Tennessee, convicted on November 30, 1978, in the Criminal Court, Davidson County, Tennessee.

Smith, Eric Lee, Rural Route 3, Box 193A, Princeton, Indiana, convicted on April 27, 1977, in the Gibson County, Indiana.

Smith, James Raymond, 8410 North Tahoe Drive, Houston, Texas, convicted on June 13, 1985, in the United States District Court, Houston, Texas.

Smith, Linton Henry, 12792 Captain Cove, Woodbridge, Virginia, convicted on April 9, 1975, in the Circuit Court, Richmond, Virginia.

Smith, Lyle L., Rural Route 2, Box 204, Columbus Junction, Iowa, convicted on November 16, 1984, in the United States District Court, Iowa.

Smith, Matthew, 109 West Saratoga Street, Baltimore, Maryland, convicted on July 2, 1979, in the United States District Court, Baltimore, Maryland.

Smith, Melvin Leroy, 416 South Street, Chetek, Wisconsin, convicted on June 25, 1984, in the Eau Claire County Circuit Court, Branch Three, Eau Claire, Wisconsin.

Smith, Nephi Regan, 1805 Ames Avenue, Cheyenne, Wyoming, convicted May 17, 1977, in the Superior Court, Graham County, Arizona.

Smith, Otis Harvey, Junior, 833 5th Street, Corbin Whitley County, Kentucky, convicted on June 5, 1975, in the Kentucky Circuit Court, Williamsburg, Kentucky.

Smith, Roger Lee, Route 4, Box 453, Bassett, Virginia, convicted on April 7, 1976, in the Circuit Court, Martinsville, Virginia.

Smith, Ronald Eugene, Big Springs Terrace Lot 177, Newville, Pennsylvania, convicted on January 23, 1976, in the Superior Court of Long County, Ludowici, Georgia.

Smith, William Francis, 1222 Grove Avenue, Shadyside, Maryland, convicted on January 8, 1958, in the Arlington County Circuit Court, Virginia, and on January 9, 1959, in the Circuit Court, Richmond, Virginia.

Smith, William Timothy, 121 Valley View, Lander, Wyoming, convicted on May 9, 1984, in the Superior Court, Fremont County, Wyoming.

Snoody, Michael William, Rural Delivery 4, Box 496, Halifax, Pennsylvania, convicted on December 19, 1968, in the County Court, Dauphin County, Pennsylvania.

Snyder, Lovette Duane, 310 South 7th Apartment B, Burbank, California, convicted on July 19, 1952 in the United States District Court, Charleston, South Carolina.

Soltis, William Andrew, 301 Toftrees Avenue, Apartment 146, State College, Pennsylvania, convicted on November 2, 1976, in the United States District Court, Williamsport, Pennsylvania.

Sparks, Perry Joe, Box 216 Hamptonville, North Carolina, convicted on November 16, 1982, in the Wilkes County Court, Wilkesborough, North Carolina.

Sparks, Rex Coy, Route 2, Box 178 Roaring River, North Carolina, convicted on November 20, 1966, in the United States District Court, Middle District of North Carolina.

Spell, Sidney Joseph, Junior, Route 1, Box 89, (House Creek Road) Bush, Louisiana, convicted on June 4, 1980, in the United States District, Eastern District of Louisiana, New Orleans, Louisiana.

Spencer, Isaac Reed, 606 West Viola, Yakima, Washington, convicted on December 22, 1980, in the Yakima County Superior Court, Washington.

Spencley, Joseph Brian, Cherry Square, Timberlee Drive, Apartment 13, Traverse City, Michigan, convicted on June 1, 1977; October 4, 1977, in the Mason County Court, Michigan; and on June 31, 1979, in Kent County, Michigan.

Spivey, Delmar Cisroe, Village Green, Apartment A28, Russellville, Kentucky, convicted on June 17, 1975, in the Logan County Circuit Court, Russellville, Kentucky.

Spivey, James Alvin, 110 Venable Court, Wetumpka, Alabama convicted on January 26, 1982, in the Circuit Court Montgomery City, Montgomery, Alabama, and on August 27, 1984, in the United States District Court, Middle District, Montgomery, Alabama.

Springs, Robert Edmund, 801 Maple Avenue, Brooklyn, New York, convicted on February 25, 1966, in the Criminal Court, Riverhead, New York.

St. Germain, Lynn Joseph, 245 Lake of Pines, Jackson, Mississippi, convicted on June 27, 1979, in the United States District Court, Western District of Louisiana, Lafayette, Louisiana.

Staats, Wayne Raymond, 1312 West Seventh Street, Fulton, Missouri, convicted on March 15, 1976, in the Circuit Court, Callaway County, Missouri.

Stadlberger, Chris Duane, 2109 Moore, Plano, Texas, convicted on January 21, 1981, in the United States District Court, Charleston, South Carolina.

Stallard, Rebecca F., 603 Long Street Avenue, Winchester, Virginia, convicted on January 9, 1979, in the City Circuit Court, Winchester, Virginia.

Stanfill, John Earnest, 36 Iroquois Drive, Jackson, Tennessee, convicted on June 10, 1983, in the United States District Court, Jackson, Tennessee.

Stasko, Walter Michael, Box 6875D, Palmer, Alaska, convicted on September 4, 1969, in the Superior Court, Broome County, New York.

Stasney, Arthur Jordan, 2271 Pinecrest Drive, Altadena, California, convicted on December 17, 1969, in the Superior Court, Orange County, California.

Staton, Arnold Charles, North Sabine Street, Post Office Box 470, Zwolle, Louisiana, convicted on March 5, 1980, in the District Court, Western District, Louisiana.

Steele, John E., 519 Oak Street, Bemidji, Minnesota, convicted on July 8, 1976, in the Ninth Judicial District Court, Bemidji, Minnesota.

Steinmaus, Joseph Erwin, 3971 Hadley Avenue West, Oakdale, Minnesota, convicted on June 3, 1977, in the United States District Court, Minneapolis, Minnesota.

Stimpson, Curtis Gail, 1432 Ridgeway Drive, Twin Falls, Idaho, convicted on May 2, 1979, in the Twin Falls County District Court, Idaho.

Stone, Donald Robert, 2 West Elizabeth Street, Plattsburgh, New York, convicted April 27, 1971, in the Court-Martial, Fort Meade, Maryland.

Stone, Dwight Howard, Junior, 1701 Bryn-Mahr, Atlantic, Iowa, convicted on July 30, 1984, in the United States District Court, Southern District of Iowa.

Stone, Jamie Jay, 1910 North 22nd Avenue, Buckeye, Arizona, convicted on May 24, 1982, in the United States District Court, Phoenix, Arizona.

Stone, Joe Martin, Box 1221, Old Rustburg Road, Lynchburg, Virginia, convicted on October 18, 1978, in the Lynchburg Circuit Court, Lynchburg, Virginia.

Stone, Walter F., Junior, East 11904 30th, Spokane, Washington, convicted on July 12, 1979, in the Superior Court, State of Washington.

Stoskopf, Daniel Arthur, Post Office Box 465, Highway 11, Warroad, Minnesota, convicted on March 19, 1979, and on September 24, 1981, in the Roseau County District Court, Roseau, Minnesota.

Stratton, Charles Daniel, 5760 Pembrooke Road, Hopkinsville, Kentucky, convicted on September 8, 1980, in the Circuit Court, Christian County, Hopkinsville, Kentucky.

Strawn, Jeffrey Allen, Star Route, Box 202, Moses Lake, Washington, convicted on June 29, 1979, in the Superior Court, Grant County, Washington.

Streeter, Thomas, 12709 Forest Avenue, Cleveland, Ohio, convicted on December 22, 1955, in the Court of Common Pleas, Cleveland, Ohio.

Strickland, Oren Murphy, 573 Beach Mark Motel, Room 604, Fort Walton Beach, Florida, convicted on November 19, 1973, in the Circuit Court, Lee County, Florida.

Stricklin, E.J., 1524 Woodhaven Drive, Humbolt, Tennessee, convicted on September 2, 1981, in the Western District of Tennessee.

Strout, Everett Lincoln, Box 3 (Oxford Pines Trailer Park) Oxford, Maine, convicted on January 1943, in the Superior Court, Cumberland County, Maine.

Strutt, Gail Gene, 218 North Hendrick, Stockton, Kansas, convicted on October 17, 1984, in the Rooks County District Court, Stockton, Kansas.

Stuart, Michael Roy, Junior, 613 Rockaway Beach Avenue, Baltimore, Maryland, convicted on June 24, 1981, in the Baltimore District Court, Baltimore, Maryland.

Sullivan, David Charles, 5102 East Fort Lowell Road, Tucson, Arizona, convicted on March 8, 1978, in the United States District Court, Northern District of State of Georgia.

Sullivan, Randall Eugene, 915 East Military, Fremont, Nebraska, convicted on December 5, 1974, in the District Court, Dodge County, Nebraska.

Sund, Richard Carl, Post Office Box 770509, Eagle River, Alaska, convicted on November 15, 1978, in the Superior Court, Third Judicial District of Alaska.

Swalley, Mark Harold, 9823 Willowood, Tacoma, Washington, convicted on March 15, 1983, in the Superior Court, King County, Washington.

Swilley, Byron Foster, 8149 Morrow Circle, Detroit, Michigan, convicted on July 13, 1983, in the United States District Court, Eastern District of Michigan, Detroit, Michigan.

Tabaczynski, Gregory Leo, 7206 Balfour Avenue, Allen Park, Michigan, convicted on May 27, 1982, in the Detroit Recorders Court, Detroit, Michigan.

Taber, Ray Polenz, HC 62, Box 240, Camp Verde, Arizona, convicted on June 8, 1976, in the District Court, Denver County, Colorado.

Tabor, Aubrey Charles, 3924 Baltimore Street, Baltimore, Maryland, convicted on June 16, 1958, in the Baltimore Criminal Court, Baltimore, Maryland.

Tacey, Earl Henry, 1316 North Callahan Road, Essexville, Michigan, convicted on April 24, 1984, in the United States District Court, Eastern District of Michigan.

Tackett, Gary Lynn, 20 Foxboro, Searcy, Arkansas, convicted on October 27, 1982, in the United States District Court, Eastern District of Arkansas.

Tait, William Robert, North 1511 Lincoln 2, Spokane, Washington convicted on May 16, 1978, in the Superior Court, Spokane, Washington.

Taylor, James Frederick, 92 Clapp Road, Rochester, Massachusetts, convicted on October 21, 1948, in the Superior Court, Suffolks County, Boston, Massachusetts.

Teague, Rex Lee, Route 1, Box 246, C–1, Hays, North Carolina, convicted on October 7, 1977, in the Federal Court, Winston-Salem, North Carolina.

Teel, Marvin James, 203 Hwy East, Golden Arrow Motel, Wolfpoint, Utah, convicted on August 22, 1980, United States District Court, Great Falls, Montana.

Templeton, Robert Ray, 322 South Mountain Road, Kaysville, Utah, convicted on January 28, 1981, in the United States District Court, Salt Lake City, Utah.

Terry, Vermal Edward, Post Office Box 499, Greenup, Kentucky, convicted on April 22, 1975, in the Delaware County Court.

Tharp, Daniel Floyd, 1219 Koontz Road, Chehalis, Washington, convicted on July 13, 1981, in the Superior Court, Lewis County, Washington.

Tharp, James Morris, 1104 South Edgewood Drive, Dothan, Alabama, convicted on September 19, 1957, in the Houston County Circuit Court, Dothan, Alabama.

Theuringer, Mark Steven, Rural Route 4, Box 44A, Hutchinson, Minnesota, convicted on January 27, 1981, in the Stasca County District Court, Grand Rapids, Minnesota.

Thomas, Calvin Lee, Route 777, Pembroke, Virginia, convicted on October 30, 1978, in the United States District Court, Charleston, West Virginia.

Thomas, Earnest Ray, 200 Cottonwood Lane, Prince George, Virginia, convicted on November 27, 1974, in the Superior Court, Green County, North Carolina.

Thomas, George Howard, 3109 Westgate Parkway, Dothan, Alabama, convicted March 23, 1981, in the United States District Court, Middle District of Alabama, Montgomery, Alabama.

Thomas, James Giles, 331 F. Street, Carlisle, Pennsylvania, convicted on September 15, 1981, in the United States District Court, Erie, Pennsylvania.

Thomas, Nicholas Joachim, 5523 Calvary Road, Finley, Kentucky, convicted on July 30, 1984, in the United States District Court, Louisville, Kentucky.

Thompson, Alvin Curtis, Post Office Box 472, Norlina, North Carolina, convicted on December 2, 1985, in the Eastern District Court, North Carolina.

Thompson, Clark Stuart, Post Office Box 922, Loxahatchee, West Palm Beach, Florida, convicted on April 4, 1981, in the Broward County Circuit Court, Fort Lauderdale, Florida.

Thompson, David Allen, Route 7, Box 63, Shipley Ferry Road, Blountville, Tennessee, convicted on April 11, 1983, in the Sullivan County Criminal Court, Blountville, Tennessee.

Thompson, Gary Lee, Post Office Box 901, South Shore, Kentucky, convicted on September 7, 1962 in the Common Pleas Court, Pickaway, Ohio and May 29, 1970, in the Circuit Court, Greenup, Kentucky.

Thompson, John Walter, Junior, 2809 Saint Regis Road, Greensboro, North Carolina, convicted on March 23, 1981, in the United States District Court, Raleigh, North Carolina.

Thompson, Marlin Alfred, Junior, 2403 North 15th Street, Springfield, Oregon convicted on July 17, 1981, in the Lane County Superior Court, Oregon.

Thompson, Monroe Alfred, Rural Route 1, Box 71, Aline, Oklahoma, convicted on October 8, 1982, in the United States District Court, Oklahoma City, Oklahoma.

Thompson, Richard Ames, 4726 North 58th Drive, Phoenix, Arizona, convicted on December 22, 1982, in the Superior Court, Phoenix, Arizona.

Thompson, Ronald Eugene, 427 West League, Coolidge, Arizona, convicted on March 29, 1968, in the United States District Court, Northern District of Alabama.

Thompson, Wayne R., Route 1, Box 123A, Versailles, Missouri, convicted on July 1, 1982, in the Circuit Court, Morgan County, Versailles, Missouri.

Thorpe, Jesse James, HC 80, Box 137, Jackson, Kentucky, convicted on April 5, 1983, in the United States District Court, Eastern District of Michigan.

Threet, Gary Lee, 1989 North Dixie Avenue, Cookeville, Tennessee, convicted on September 26, 1977, in the Criminal Court, Cookeville, Tennessee.

Thyfault, David A., 5011 West Wagon Trail Drive, Littleton, Colorado, convicted on November 3, 1970, in the Weld County Court, Greely, Colorado.

Tilton, William Leo, 226 South Grotto Avenue, St. Paul, Minnesota, convicted on November 5, 1970, in the United States District Court, St. Paul, Minnesota.

Tindall, Harry Thomas, Junior, Route 9, Toadville Road, Salisbury, Maryland, convicted on December 10, 1980, in the

District Court, Wieomico County, Salisbury, Maryland.

Tinsley, James Thomas, Route 3, Box 356, Bowling Green, Kentucky, convicted on October 10, 1978, in the Warren County Circuit Court, Bowling Green, Kentucky.

Todd, Larry Weldon, 5020 Moss Road, Route 6, Box 1350, Odessa, Texas, convicted on October 6, 1983, in the United States District Court, Western Judicial District of Texas, Midland, Texas.

Tomlin, Jack Braton, 1100 West Vine, Tooele, Utah, convicted on June 29, 1970, in the United States District Court, State of California.

Torgerson, Jerald Allen, 5908 Thrust Place, Sioux Falls, South Dakota, convicted on September 12, 1983, in the United States District Court, Pierre, South Dakota.

Torick, John Marion, 3127 East Madison Street, Fresno, California, convicted on April 19, 1965, and in 1964 in the Superior Court, Fresno County, California.

Toro, Jesse James, 719 North Eight-Second Street, Seattle, Washington, convicted on December 30, 1971, and January 14, 1974 in the Superior Court, King County, Washington.

Towe, John Lewis, Post Office Box 74, Cana, Virginia, convicted on June 17, 1980, in the Superior Court of Forsyth County, Winston-Salem, North Carolina.

Towers, Stewart Roland, Post Office Box 284, Bruce, Wisconsin, convicted on June 10, 1981, in the Rusk County Circuit Court, Ladysmith, Wisconsin.

Townsley, Robert Samuel, Rural Delivery 1, Box 21–B, Shirleysburg, Pennsylvania, convicted on September 27, 1977, in the United States District Court, Western Judicial District of Pennsylvania.

Trautsch, David Louis, Route 1, Box 56, Bangor, Wisconsin, convicted on August 27, 1984, in the Circuit Court for Lacrosse County, Wisconsin.

Trinkaus, Brad Ellisworth, 9515 Ramsey Road, Box 129, Hayden Lake, Idaho, convicted on May 14, 1973, in the Superior Court, Bernalillo County, New Mexico.

Truelove, Roger Dale, Post Office Box 68, Shoals, Indiana, convicted on December 1, 1981, in the Circuit Court of Martin County, Shoals, Indiana.

Tucker, Richard Thomas, 6 Ellery Street, Gloucester, Massachusetts, convicted on March 16, 1981, in the United States District Court, Massachusetts.

Tumminello, John Bernard, 3008 Brendan Avenue, Baltimore, Maryland, convicted on April 14, 1968, in the Criminal Court, Baltimore, Maryland.

Tummons, Gerald Edgar, Route 2, Box 7, Lamar, Missouri, convicted on April 30, 1963, and April 8, 1974, in the Circuit Court, Barton County, Missouri.

Turner, Charles Robert, Route 23, Box 2108, Tyler, Texas, convicted on December 12, 1980, in the Eastern District of Texas, Tyler, Texas.

Turner, David M., Junior, Route 1, Box 75, Ammons Drive, Waleska, Georgia convicted on April 10, 1978, in the United States District Court, Rochester, New York.

Turner, Kurt Allen, Route 1, Box 446, Jeffersonville, Vermont, convicted on February 8, 1983, in the District Court, Douglas County, Minnesota.

Turner, Lon D., Route 7, Box 83, Benton, Kentucky, convicted on February 2, 1968, and on May 2, 1970, in the McCracken Circuit Court, Paducah, Kentucky.

Turner, Theodore Isacc, Junior, 914 Ashbridge Drive, Apartment F, Baltimore, Maryland, convicted on December 18, 1975, in the Circuit Court, Baltimore, Maryland.

Tuttle, Michael Owen, 701 South 118th Street, Tacoma, Washington, convicted on September 19, 1980, in the Pierce County Superior Court, Washington.

Tuttolomondo, Joseph Angelo, 9230 East Altadena Avenue, Scottsdale, Arizona, convicted on December 15, 1976, in the Superior Court, New York.

Turnbrough, Jess David, 418 QLL Hollows, Wichita, Kansas, convicted on July 17, 1961, in the District Court of Reno County, Hutchinson, Kansas.

Tyson, Kay Tee, Junior, 4321 Cedargarden Road, Baltimore, Maryland, convicted on November 10, 1971, in the State District Court, Baltimore, Maryland.

Umphlett, Clyde, Senior, Post Office Box 152, River Road, Moncks Corner, South Carolina, convicted on June 6, 1984, in the United States District Court, Columbia, South Carolina.

Underwood, Jeffrey Lee, Route 2, Box 61, Dublin, Virginia, convicted on December 7, 1979, in the Giles County Circuit Court, Pearisburg, Virginia.

Ungolo, Joseph P., 3952 NW 36 Way, Lauderdale Lakes, Florida convicted on December 31, 1979, in the Eastern District of New York.

Urie, Leonn U., Box 346, Hagerman, Idaho, convicted on October 19, 1966, in the District Court, Twin Falls, Idaho.

Vail, Carl Wayne, Rural Route 1, Box 380, McCordsville, Indiana, convicted on January 28, 1985, in the United States District Court, Indianapolis, Indiana.

Valley, John Alvin, Senior, 12356 South Keyport Road Northeast, Poulsbo, Washington, convicted on October 8, 1982, in the United States District Court, Western District of Washington.

Vallie, Jim Robert, Post Office Box 2591, Elko, Alaska, convicted on October 28, 1981, in the Superior Court, Brown County, South Dakota; and on February 26, 1975, in the Superior Court, Brown County, South Dakota.

Van Heuvelen, Richard Alan, 824 Fairview Avenue, Rapid City, South Dakota, convicted on June 7, 1980, in the State District Court, Pennington County, Rapid City, South Dakota.

Van Horne, Fred Charles, 1131 Texas Avenue, Danville, Illinois, convicted on December 30, 1980, in the United States District Court, Danville, Illinois.

Vance, David Alston, 205 West Street, Batesville, Mississippi, convicted on May 21, 1981, in the United States District Court, Northern District of Mississippi.

Vanness, Charles Richard, 625 Greenwave Drive, Apartment E1, Gallatin, Tennessee, convicted on September 13, 1971, in the Criminal Court of Davidson County, Tennessee.

Vanranken, Steven Raymond, 108 Northeast 93rd Avenue, Vancouver, Washington, convicted on January 21, 1977, in the Superior Court, Clark County, Washington.

Varboncoeur, Paul Steven, 6201 Staple Road, Twin Lake, Michigan, convicted on June 13, 1977, in the Circuit Court of Muskegon County, Michigan.

Vaughn, Phillip Dean, 4629 Rochambeau Drive, Williamsburg, Virginia, convicted on March 28, 1980, in the United States District Court, Richmond, Virginia.

Verciuc, George C., 4480 Kennsington Road, Milford, Michigan, convicted on September 12, 1969, in the Federal Court, Birmingham, Alabama.

Vernon, Richard Elwood, Post Office Box 511, Raven, Virginia, convicted on July 17, 1964, in the United States District Court, Bluefield, West Virginia.

Verrette, Ronald Lee, 3890 East Bennington Road, Durand, Michigan, convicted on May 3, 1965, in the Genesee County Circuit Court, Flint, Michigan.

Viars, Victor, Post Office Box 52, Hyden, Kentucky, convicted on January 2, 1980, in the United States District Court, London, Kentucky.

Vienna, Frank Joseph, 1309 Bethlehem Avenue, Baltimore, Maryland, convicted on January 24, 1977, in the Baltimore City District Court, Baltimore, Maryland.

Vincze, Paul David, 3027 Pearl Avenue, Apartment 2, San Jose, California, convicted on July 6, 1982, in the Municipal Court, Santa Clara County, California.

Wagner, Randolph Mark, 2332 Montana Avenue, Sun Prairie, Wisconsin convicted on November 29,

1982, in the Dane County Circuit Court, Madison, Wisconsin.

Wagner, William Anton, 681 Ely Street, Northeast Fridley, Minnesota, convicted on September 12, 1975, in the Second Judicial District Court, Denver, Colorado, and on October 17, 1977, in the Second Judicial Circuit Court, Sioux Falls, South Dakota.

Wagoner, Houston Logan, Junior, 208 South Elmarch Avenue, Cynthiana, Kentucky, convicted on January 7, 1980, in the Mason County Circuit Court, Maysville, Kentucky.

Walk, Eugene Dwayne, 328 Union Street, Millersburg, Pennsylvania, convicted on April 1, 1982, in the Court of Common Pleas, Northumberland County, Sunbury, Pennsylvania.

Walker, Jack D., 700 Coates Drive, Fort Worth, Texas, convicted on June 13, 1983, in the Tarrant County Court, Tarrant County, Texas.

Wallace, Alden Charles, 613 Studley Road, Mechanicsville, Virginia, convicted on May 23, 1962, in the Circuit Court, Chesterfield, Virginia.

Waller, Bennie George, 3340 Ives Road, Virginia Beach, Virginia, convicted on January 29, 1974, Superior Court, Virginia Beach, Virginia.

Walters, Dannie Stephen, Route 1, Box 35–B, Orrum, North Carolina, convicted on September 13, 1982, in the Eastern District of Kentucky, Catlettsburg, Kentucky.

Walton, Bruce Edward, 9859 East 18 Road, Argos, Indiana, convicted on January 9, 1957, in Superior Court of Indiana, St. Joseph County, Indiana.

Walton, Robert Lewis, 1314 South 25th Street, Louisville, Kentucky, convicted on March 1, 1958, in the Logan County Circuit Court, Russellville, Kentucky.

Wang, Kevin John, Rural Route 1, Box 77 C, Webster, South Dakota, convicted on December 5, 1975, in the Fifth Judicial District Court, Aberdeen, South Dakota.

Ward, John Henry, 1035 East Moses, Cushing, Oklahoma, convicted on October 18, 1978, in the Seventh Judicial District of Oklahoma.

Warford, Karl Patrick, Route 1, Box 136, Payette, Idaho, convicted on March 17, 1970, in the United States District Court, Eastern District of Virginia, Richmond, Virginia, and on January 22, 1970, in the Circuit Court, Oakland County, Michigan.

Warner, Jeffrey James, 1515 ½ 15th Avenue, Scottsdale, Nebraska, convicted on December 17, 1982, in the District Court for Scottsbluff County, Scottsbluff, Nebraska.

Washburn, Howard Thayer, Junior, 90 Whipple Street, Lewiston, Maine, convicted on June 30, 1972, in the Superior Court, Maine.

Washington, Benjamin, 95 Baruch Drive, New York, New York, convicted on December 12, 1974, in the Circuit Court, Hampton, Virginia.

Waters, William Craig, 5237 Virginia Road, Marysville, California, convicted on October 27, 1972, in the Superior Court of the State of California.

Waterfield, Elvin Ray, 2805 Queen Anne Road, Virginia Beach, Virginia, convicted on October 17, 1980, in the United States District Court, Eastern District, Virginia.

Watson, Austin Theodore, 2608 Hoyte Drive, Shreveport, Louisiana, convicted on May 5, 1970, in the Twenty-sixth Judicial District Court, Minden, Louisiana.

Watson, Terry Ray, Route 7, Box 295, Mt. Airy, North Carolina, convicted on March 28, 1982, in the Surry County Superior Court, Dobson, North Carolina.

Watts, John Chester, 7809 Brophy Road, Howell, Michigan, convicted on February 2, 1984, in the United States District Court, Eastern District of Michigan, and on January 17, 1967, in the United States District Court, Eastern District of Michigan.

Weaver, Clyde L., 303 Euclid, Rusk, Texas, convicted on August 30, 1984, United States District Court, Tyler, Texas.

Weaver, Fred Ralph, 4086 Oak Street, Wheatridge, Colorado, convicted on February 23, 1972, in the Colorado District Court, Denver, Colorado, and on October 12, 1984, in the United States District Court, Denver, Colorado.

Webb, Marc Wayne, Route 4, Box 343, Galax, Virginia, convicted on December 1, 1975, and December 28, 1977 in the Circuit Court, Carroll County, Hillsville, Virginia.

Webb, Mary Alice Lineberry, Route 4, Box 343, Galax, Virginia, convicted on December 28, 1977, in the Circuit Court of Carroll County, Hillsville, Virginia.

Webster, James Tyree, 185 Bellevue Street, Timberville, Virginia, convicted on April 16, 1982, in the Rockingham County Circuit Court, Harrisonburg, Virginia.

Weed, Milton Jay, 3575 Lexington, Apartment 223, Egan, Minnesota, convicted on August 29, 1979, in the Washington County Court, Stillwater, Minnesota.

Weeks, Jack Winford, Junior, 402 North 9th, Box 146, Sinclair, Wyoming, convicted on January 20, 1983, in the United States District Court, District of Wyoming.

Wegner, James Louis, 3101 Cleveland Street, Northeast Minneapolis, Minnesota, convicted March 19, 1979, in the United States District Court, Minneapolis, Minnesota.

Weinkam, John David, Junior, 403 Celeste Avenue, Baltimore, Maryland, convicted on February 2, 1982, in the District Court One, Baltimore, Maryland.

Weistart, Jerome Leon, 910 Husaw, Chillicothe, Illinois, convicted on February 22, 1980, in the United States District Court, Central District of Illinois.

Wellons, Charles Stewart, Route 2, Box 365, Creedmoor, North Carolina, convicted on November 4, 1976, in the Granville County Superior Court, Oxford, North Carolina.

Wells, Wilbur Wayne, 8 Crown Street, Asheville, North Carolina, convicted on May 8, 1967, in the United States District Court, Asheville, North Carolina.

Wemmette, William R., 1345 North Wells Street, Chicago, Illinois, convicted on January 12, 1968, in the United States District Court, Chicago, Illinois.

West, Gregory Tyson, Route 10, Marion, Kentucky, convicted on November 23, 1982, in the Marshall County Circuit Court, Benton, Kentucky.

Westbo, William Daniel, Senior, 9127 Rangely, Houston, Texas, convicted on January 12, 1984, in the United States District Court, Northern District of Dallas, Texas.

Wetherholt, Jon Walter, 603 Jean Street, Charleston, West Virginia, convicted on July 16, 1980, in the Circuit Court of Kanawha County, West Virginia.

Wheeler, Roger Allen, 3724 Garfield South, Minneapolis, Minnesota, convicted on August 15, 1963, in the Superior Court, Los Angeles, California.

Wheeler, Theodore Edward III, Route 5, Box 354, Seneca, South Carolina, convicted on December 3, 1980, in the United States District Court, Southern Judicial District of Florida.

Wheeler, William Perry, Junior, Route 2, Box 20A, Rural Retreat, Virginia, convicted on April 26, 1976, in the Wythe County Court, Virginia.

Whelan, Charles E., Route 1, Brandenburg, Kentucky, convicted on April 28, 1982, in the United States District Court, Western District of Kentucky.

Whitaker, Waylan, HC 63, Box 1590, Hallie, Kentucky, convicted on February 5, 1981, in the Letcher Circuit Court, Whitesburg, Kentucky.

White, Carl Manar, HC 67, Box 665, Indianola, Oklahoma, convicted on July 27, 1983, in Eastern District of Oklahoma.

White, Jessie D., 611 West First Street, Hilliard, Florida, convicted on May 4, 1961, in the Fourth Judicial District, Duval County, Jacksonville, Florida.

White, Larry Ray, 1009 Santa Fe, Scott City, Kansas, convicted on

February 10, 1983, in the United States District Court, Wichita, Kansas.

Whitehead, Randy Keith, Route 2, Box 634, Hampton Tennessee, convicted on September 12, 1975, in the Criminal Court, Greene County, Tennessee.

Whitehurst, Aubrey Donald, 1305 Cincinnati Avenue, Panama City, Florida, convicted on December 3, 1979, in the United States District Court, Northern District of Florida.

Whitesell, Richard Leroy, 1344 Mesa Avenue, Grand Junction, Colorado, convicted on April 5, 1955, in the Court of Oyer and Terminer, Butler County of Pennsylvania.

Whitman, Ronald Brown, 32 Linda Vista, Benicia, California, convicted on November 5, 1973, in the Superior Court, California, and on November 23, 1979, in the United States District Court of Wyoming.

Whitson, Ben Ted, 1617 East Frontier, Stillwater, Oklahoma, convicted on January 18, 1974, in the Payne County District Court, Oklahoma.

Whitten, Raymond Bruce, 3575 2nd Street, Gadsen, Alabama, convicted on November 8, 1978, in the Etowah County Circuit Court, Gadsen, Alabama.

Whorley, Charles William, Senior, 19 Crestwood Drive, Madison Heights, Virginia, convicted on January 25, 1974, in the Campbell County Circuit Court, Rustburg, Virginia.

Whybark, Scott Howard, 705 College Street, Joseph, Oregon, convicted on November 9, 1982, in the Circuit Court, County of Wallowa, Oregon.

Wiemers, Lesley Lavern, Route 3, Lakin Acres, Kearney, Nebraska, convicted on October 30, 1958, in the District Court of Buffalo County, Kearney, Nebraska.

Weisner, Joseph Michael, 1247 North Century, Maplewood, Minnesota, convicted on March 16, 1978, in the Seventh Judicial Circuit Court, Springfield, Illinois.

Wilcox, Darrel Eugene, Rural Delivery 1, Box 84, Cambridge Springs, Pennsylvania, convicted on March 2, 1981, in the Court of Common Pleas, Crawford County, Pennsylvania.

Wilkerson, Deanna Louise, 3068 65th Way Southwest, Tumwater, Washington, convicted on September 29, 1982, in the Superior Court, Thurston County, Washington.

Williams, Aubrey Jennings, 8 Sara Avenue, Lake City, Florida, convicted on January 19, 1982, in the Columbia County Circuit Court, Lake City, Florida.

Williams, Bernard Ansley, Jr., 15 Center Street, Waterville, Maine, convicted on July 9, 1979, in the Kennebec County Grand Jury, State of Maine.

Williams, Clifford Gene, 1758 Wind River Road, El Cajon, California, convicted on July 18, 1977, in the United States District Court, San Diego, California.

Williams, Floyd Douglas, 73 Baggett Drive, Montgomery, Alabama, convicted on January 20, 1981 in the Federal Court, Northern District of Birmingham, Alabama.

Williams, Kenneth Vernon, 1308 North Walnut, Apartment E, Oklahoma City, Oklahoma, convicted on February 1, 1971, in the Jackson County District Court, Missouri, and on June 15, 1971, in the Johnson County District Court, Kansas.

Williams, Raymond Eugene, 4817 Balboa Drive, Orlando, Florida, convicted on October 31, 1975, in the United States District Court, Northern Ohio.

Williams, Robert Denis, 507 Fourth Street, Northeast, Auburn, Washington, convicted on March 9, 1977, in the Superior Court, King County, Washington.

Williams, Robert Frank, 10069 East Atherton Road, Davison, Michigan, convicted on August 12, 1981, in the United States District Court, Eastern District of Michigan.

Williamson, Samual, Junior, Route 2, Box 333, Siren, Wisconsin, convicted on July 29, 1985, in the Burnett County District Court, Grantsburg, Wisconsin.

Willis, Charles Henry, 2209 Ashton Street, Baltimore, Maryland, convicted on March 9, 1971, May 5, 1971, and January 14, 1974, in the Baltimore County District Court, Baltimore, Maryland.

Willis, Fred Spencer, 812 Nettles Lane, Coushatta, Louisiana, convicted on November 23, 1982, in the United States District Court, Shreveport, Louisiana.

Wilson, Charles Loyd, Post Office Box 404, Morristown, Arizona convicted on June 25, 1958, in the United States District Court, Tucson, Arizona.

Wilson, Louis Alfred, 1424 Southeast 27th Street, Gainesville, Florida, convicted on February 23, 1978, in the Eighth Judicial Circuit Court, Alacheca, Florida.

Wilson, Robert Douglas, 110 Herbert, Quilcene, Washington, convicted on March 12, 1982, in the Superior Court, Jefferson County, Washington.

Wilson, Ronald Schuyler, 640 Devonshire Drive, Dixon, California, convicted on September 2, 1959 and October 2, 1962, in the Superior Court of the State of California.

Wilson, William Burl, Route 1, Box 423K, Anniston, Alabama, convicted On January 24, 1961, in the United States District Court, Middle District of Alabama.

Wilstead, Robert Henry, 8600 Hidden Oaks Circle, Salt Lake City, Utah, convicted on August 24, 1978, in United States District Court, District of Utah.

Wimberley, Wallace Newton, Route 1, Box 372, Phil Campbell, Alabama, convicted in 1957, in the Circuit Court of Cook County, Chicago, Illinois, and on November 3, 1972, in the Northern District of Alabama, Birmingham, Alabama.

Wimmer, Leonard Joseph, Route 3, Piers, Minnesota, convicted May 4, 1981, in the District Court, County of Morrison, Seventh Judicial District Court, Little Falls, Minnesota.

Winbun, Joseph Allen, Box 16, Highway 1606, Sulphur, Kentucky, convicted on June 15, 1982, in the Bullitt Circuit Court, Sheperdsville, Kentucky.

Winger, Kathleen Mills, 1707 Essex Street, 35, San Diego, California, convicted on February 27, 1982, in the San Diego Superior Court, San Diego, California.

Winins, James, 7001 Lawrence Road, Apartment 159, New Orleans, Louisiana, convicted on October 27, 1976, in the United States District Court, Eastern District of Louisiana.

Winsor, Joseph T., 311 North 200 East, Kanab, Utah, convicted on July 26, 1974, and on April 20, 1981, in the Superior Court, Maricopa County, Arizona.

Wobig, Douglas Edward, Route 1, Box 93A, Minnesota City, Minnesota, convicted on January 24, 1983, in the Third Judicial District Court, Winona, Minnesota.

Wolf, Peter Richard, 1418 Ridgecrest Drive, Lexington, Kentucky, convicted on January 10, 1983, in the Clark County Circuit Court, Winchester, Kentucky.

Wolfe, William Henry, Junior, 7007 Coachman Lane, Apartment 101, Richmond, Virginia, convicted on November 10, 1981, in the United States District Court, Eastern District of Virginia, Richmond, Virginia.

Wood, William Leonard, 57 North Boxwood Street, Hampton, Virginia, convicted on November 17, 1983, in the Federal District Court, Norfolk, Virginia.

Woodard, Clarence Lamar, 1476 Orange Grove Road, Apartment C-81, Charleston, South Carolina, convicted on April 8, 1975, in the Court of General Sessions, Charleston, South Carolina, and on December 7, 1976, in the United States District Court, Brownsville, Texas.

Woods, Eddie Lee, 157 Charteroak Drive, Louisville, Kentucky, convicted on April 6, 1973, and February 17, 1977, in the Jefferson Circuit Court, Louisville, Kentucky.

Woods, Gary Lee, 2250 Springs View Drive, Chambersburg, Pennsylvania, convicted on October 17, 1983, in the United States District Court, Middle District of Pennsylvania.

Wooldbridge, Ricky Lee, Route 3, Box 107, Russell Springs, Kentucky convicted on February 15, 1978, in the Casey County Circuit Court, Liberty, Kentucky.

Worth, Edward Wayne, 620 Wisconsin, Wisconsin Rapids, Wisconsin, convicted on January 15, 1981, in the Adams County Circuit Court, Friendship, Wisconsin.

Worthington, John Randall, Post Office Box 31, Sandia, Texas, convicted on May 16, 1975, in the Twenty-fourth Judicial District, Victoria County, Texas.

Worthington, Winston Hall, 4272 Walnut Grove Road, Memphis, Tennessee, convicted on September 26, 1980, in the United States District Court, Western Division, Memphis, Tennessee.

Wright, Carl Merlin, 1619 Gay Lane, Lansing, Michigan, convicted on March 18, 1985, in the United States District Court, Eastern District of Michigan.

Wright, Frank E., Junior, Rural Route 1, Box 508, Westville, Illinois, convicted on April 14, 1977, in the United States District Court for the Central Judicial District of Illinois, Danville, Illinois.

Wuttke, Richard Ernest, 1025 Southridge Road, New Ulm, Minnesota, convicted on March 23, 1984, in the United States District Court, Cedar Rapids, Iowa.

Wyatt, Daniel K., 847 New Salem Road, Glasgow, Kentucky, convicted on June 27, 1980, in the Barren Circuit Court, Glasgow, Kentucky.

Yalmokas, Edward Ronald, 849 East Broadway, South Boston, Massachusetts, convicted on March 10, 1965, in the Suffolk Superior Court, Suffolk, Massachusetts.

Yamry, Gerald Joseph, 2504 13th Street South, Saint Cloud, Minnesota, convicted on November 13, 1981, in the Seventh Judicial District Court, Stearns County, Saint Cloud, Minnesota.

Yanez, Santiago, 908 East 8th, Rotan, Texas, convicted on December 2, 1974, in the Forty-Second Judicial District Court, Taylor County, Texas.

Yarbrough, Fred Manson, 6819 Rivers Avenue, Apartment 105, North Charleston, South Carolina, convicted on January 16, 1981, in the United States District Court, Charleston, South Carolina.

Yaritz, Bradley Keith, 1571 East Highway 96, White Bear Lake, Minnesota, convicted on May 24, 1978, in the Ramsey County District Court, Second Judicial District, Saint Paul, Minnesota.

Yates, Timothy Coleman, Route 3 Woodsdale Road, Shepardsville, Kentucky, convicted on March 25, 1980, in the Jefferson County Circuit Court, Louisville, Kentucky.

Young, Alan Ward, 2017 Schaeffer Place, St. Louis, Missouri, convicted on May 12, 1978, in the Kansas District Court, Franklin County.

Young, Dale Richard, 132 South Sherwood Village Drive, Tucson, Arizona, convicted on January 7, 1980, in the Superior Court, Pima County, Arizona.

Young, John Myron, 1400 Lakeview Drive, Virginia Beach, Virginia, convicted on March 6, 1979, in the Circuit Court, Norfolk, Virginia.

Young, Jon Wayne, 1551 Madison Avenue #D–33, Mankota, Minnesota, convicted on December 8, 1975, and January 26, 1978, in the Fifth Judicial District Court, Blue Earth County, Mankota, Minnesota.

Young, Raymond Eugene, Route 7, Box 268, Mobile, Alabama, convicted on January 4, 1977, in the United States District Court, Mobile, Alabama.

Zamansky, David Robert, 227 Kings Row, Carbondale, Colorado, convicted on November 1, 1984, in the United States District Court, Western Oklahoma.

Zapuchlak, George B., 910 Dells Parkway, Wisconsin Dells, Wisconsin, convicted on September 30, 1982, in the Columbia County Circuit Court, Branch II, Portage, Wisconsin.

Zarello, David Michael, Rural Route 4, Norfolk, Nebraska, convicted on August 17, 1979, in the District Court, Madison County, Nebraska and June 15, 1979, in the District Court, Platte County, Nebraska.

Zarske, Steven Robert, 1101 Ashland Avenue, St. Paul, Minnesota, convicted on July 12, 1979, in the District Court of Washington County, Minnesota.

Zeigler, William E., Junior, 424 New Street, Lebanon, Pennsylvania, convicted on June 14, 1976, in the Court of Common Pleas, Lebanon County, Pennsylvania.

Zeimentz, James Joseph, 4438 State Road, Lot 50, LaCrosse, Wisconsin, convicted on February 14, 1980, in the United States District Court, Madison, Wisconsin.

Ziegler, Larry Dean, 2515 Fremont Avenue South, Minneapolis, Minnesota, convicted on February 2, 1982, and May 22, 1961, in the Martin County District Court, Fairmont, Minnesota.

Zieno, Dominic Joseph, 14 Avery Street, Sidney, New York, convicted on October 24, 1986, in the United States District Court, Northern District of New York.

Zingre, Stephen Decatur, Route 2, Box 540–H, Warrensburg, Missouri, convicted on December 15, 1980, in the Circuit Court for the Sixth Judicial Circuit of Florida, Pinnellas County, St. Petersburg, Florida.

Zink, Nancy May, Post Office Box 28, Oak Hill, West Virginia, convicted on May 13, 1981, in the United States District Court, Southern District of West Virginia, Charleston, West Virginia.

Zirbes, Randy James, 35 First Avenue Southwest, Elgin, Minnesota, convicted on November 14, 1969, and December 16, 1974, in the Olmstead County District Court, Rochester, Minnesota.

Zuch, Martin C., 315 Hitchcock Street, Barabor, Wisconsin, convicted on November 10, 1959, October 2, 1967, and July 2, 1971, in the Sauk County Court, Barabor, Wisconsin.

Zupan, George Charles, 58 Plumtree Lane, #17I, MidVale, Utah, convicted on August 24, 1981, in the Third Judicial Court, Salt Lake City, Utah.

Zwicker, Kelly Dean, 4404 Chelan Drive, Richland, Washington, convicted on January 28, 1983, in the Superior Court, Benton County, Washington.

Compliance With Executive Order 12291

It has been determined that this notice is not a "major rule" within the meaning of Executive Order 12291, because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Signed: August 2, 1989.

Stephen E. Higgins,

Director.

[FR Doc. 89–18659 Filed 8–10–89; 8:45 am]

BILLING CODE 4310–31–M

Internal Revenue Service

[Delegation Order No. 23 (Rev. 12)]

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of Authority.

SUMMARY: The Assistant Commissioner (International), District Directors and Service Center Directors are authorized to make determinations on claims for reimbursement of bank charges for stopping payment on a check, which the Service lost or misplaced and requested

the taxpayer to replace. The text of the Delegation Order appears below.

EFFECTIVE DATE: July 26, 1989.

FOR FURTHER INFORMATION CONTACT: Howard Boyd, C:PRP, Room 1027, 1111 Constitution Avenue, NW., Washington, DC 20224 (202) 377-9104 (Not a Toll-Free Telephone Call).

Settlement of Tort Claims, Claims under the Small Claims Act, and Claims Made by an Employee of the Internal Revenue Service for Damage to or Loss of Personal Property Incident to Service

1. Pursuant to Treasury Orders 101-06 and 101-15 there is hereby delegated to the officials listed below the authority to handle the claims and amounts of claims as specified:

(a) Claims Manager, National Office;

(1) The authority, under 28 U.S.C. 2672 to consider, ascertain, adjust, determine, compromise, settle, and pay or transmit for payment claims for money damages for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Internal Revenue Service;

(2) The authority to consider, ascertain, adjust, and determine claims under 31 U.S.C. 3723;

(3) The authority under the Military Personnel and Civilian Employees' Claims Act of 1964, as amended, to settle and pay claims made by an employee of the Internal Revenue Service for damage to or loss of personal property incident to his/her service.

(b) Chief, Facilities Management Branch and Chief, Human Resources/ Personnel Branch, as appropriate, each Regional Office, the authority under the Military Personnel and Civilian Employees' Claims Act of 1964, as amended, to settle and pay claims made by an employee within the respective regions in any amount of $500 and less, for damage to or loss of personal property incident to his/her service.

(c) Assistant Commissioner (International), District Directors and Service Center Directors, the authority to consider, ascertain, adjust and determine under 31 U.S.C. 3723 claims for reimbursement of bank charges arising out of erroneous Service levies or bank charges for stopping payment on a check, which the Service lost or misplaced and requested the taxpayer to replace.

2. The authority delegated herein may not be redelegated except as provided in paragraph 3, below.

3. The authority in 1(c) above, to consider, ascertain, adjust and determine claims for reimbursement of bank charges for stopping payment on a check may be redelegated but not lower than to first line supervisors.

4. To the extent that the authority previously exercised consistent with this order may require ratification, it is hereby approved and ratified.

5. Delegation Order No. 23 (Rev. 11) effective July 11, 1988, is superseded.

Dated: July 26, 1989.

John L. Wedick, Jr.,

Deputy Commissioner (Planning and Resources).

[FR Doc. 89-18759 Filed 8-10-89; 8:45 am]

BILLING CODE 4830-01-M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination; Frans Hals

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85-5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, "Frans Hals" (see list [1]) imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to loan agreements with the foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at the National Gallery of Art in Washington, DC, beginning on or about October 1, 1989, to on or about December 31, 1989, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register**.

[1] A copy of this list may be obtained by contacting Mr. Alberto J. Mora of the Office of the General Counsel of USIA. The telephone number is 202/485-7979, and the address is Room 70, U.S. Information Agency, 301 Fourth Street SW., Washington, DC 20547.

Dated: August 3, 1989.

Albert J. Mora,

General Counsel.

[FR Doc. 89-18821 Filed 8-10-89; 8:45 am]

BILLING CODE 8230-01-M

DEPARTMENT OF VETERANS AFFAIRS

Availability of Report; Program Evaluation

Notice is hereby given that the Evaluation of the Chapter 30 Program for the Department of Veterans Affairs has been completed.

Single copies of the Evaluation of the Chapter 30 Program for the Department of Veterans Affairs report are available free. Reproduction of multiple copies can be arranged at the user's expense.

Direct inquiries specifying the name of the program evaluation desired to Mr. H. Raymond Wilburn, Director, Program Evaluation, Department of Veterans Affairs (07), 810 Vermont Avenue NW., Washington, DC 20420.

Dated: July 24, 1989.

By Direction of the Secretary.

H. Raymond Wilburn,

Director, Program Evaluation.

[FR Doc. 89-18802 Filed 8-10-89; 8:45 am]

BILLING CODE 8320-01-M

Availability of Report; Program Evaluation

Notice is hereby given that the Evaluation of the Department of Veterans Affairs' Restored Entitlement Program for Survivors has been completed.

Single copies of the Evaluation of the Department of Veterans Affairs' Restored Entitlement Program for Survivors report are available free. Reproduction of multiple copies can be arranged at the user's expense.

Direct inquiries specifying the name of the program evaluation desired to Mr. H. Raymond Wilburn, Director, Program Evaluation, Department of Vetrans Affairs (07), 810 Vermont Avenue NW., Washington, DC 20420.

Dated: July 24, 1989.

By Direction of the Secretary.

H. Raymond Wilburn,

Director, Program Evaluation.

[FR Doc. 89-18803 Filed 8-10-89; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 54, No. 154
Friday, August 11, 1989

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 DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:05 a.m. on Tuesday, August 8, 1989, the Board of Directors of the Federal Deposit Insurance Corporation met in open session to consider a memorandum regarding regulations establishing savings association insurance logo and prescribing its use by banks and savings associations.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Chairman L. William Seidman, that Corporation business required its consideration of the matter on less than seven days' notice to the public and that no earlier notice of the meeting was practicable.

The meeting was held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street NW., Washington, DC.

Dated: August 8, 1989.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 89-18949 Filed 8-9-89; 1:31 pm]

BILLING CODE 6714-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:22 a.m. on Tuesday, August 8, 1989, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following matters:

A. Administrative enforcement proceedings.

B. Reports of the Acting Inspector General:

Audit Report re: Minneapolis Consolidated Office, Cost Center—204 (Memo dated July 20, 1989);

Audit Report re: Chicago Region Processing Center, Cost Center—200 (Memo dated July 5, 1989);

Audit Report re: Audit of the Estimated Cash Recovery System and Related Applications (Memo dated July 24, 1989).

C. Matters relating to assistance agreements pursuant to section 13(c) of the Federal Deposit Insurance Act.

D. Matters relating to the Corporation's corporate activities.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(6), (c)(8), (c)(9)(A)(i), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(6), (c)(8), (c)(9)(A)(i), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, DC.

Dated: August 8, 1989.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 89-18950 Filed 8-9-89; 1:31 pm]

BILLING CODE 6714-01-M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 54 FR 32160 August 4, 1989.

STATUS: Closed meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Tuesday, August 1, 1989.

CHANGES IN THE MEETING: Addition.

The following item will be considered at a closed meeting on Tuesday, August 8, 1989, at 2:30 p.m.

Litigation matter.

Commissioner Cox, as duty officer, determined that Commission business required the above change.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Barbara Green at (202) 272-2000.

Dated: August 8, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-18964 Filed 8-9-89; 1:32 pm]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

Agency Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of August 14, 1989.

Closed meetings will be held on Monday, August 14, 1989, at 3:30 p.m. and on Tuesday, August 15, 1989, at 2:30 p.m. An open meeting will be held on Wednesday, August 16, 1989, at 10:00 a.m., in Room 1C30.

The Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at closed meetings.

Commissioner Cox, as duty officer, voted to consider the items listed for the closed meetings in closed session.

The subject matter of the closed meeting scheduled for Monday, August 14, 1989, at 3:30 p.m., will be:

Opinions.

The subject matter of the closed meeting scheduled for Tuesday, August 15, 1989, at 2:30 p.m., will be:

Settlement of injunctive actions.

Institution of administrative proceedings of an enforcement nature.

Institution of injuctive actions.

Settlement of administrative proceedings of an enforcement nature.

Regulatory matter regarding financial institution.

The subject matter of the open meeting scheduled for Wednesday, August 16, 1989, at 10:00 a.m., will be:

1. Consideration of whether to issue a release proposing amendments to the Net Capital Rule. The absolute minimum net capital required of registered broker-dealers pursuant to Securities Exchange Act Rule 15c3–1 would be raised. In addition, the deductions ("haircuts") applied to broker-dealers' equity securities positions in calculating net capital would be standardized under the proposal. Last, the amendments would establish a uniform haircut for stripped and zero coupon bonds and relieve certain aggregate indebtedness charges. For further information, please contract David I.A. Abramovitz at (202) 272–2398.

2. Consideration of whether to adopt Rule 15c2–6 (the "Penny Stock Fraud Rule"), which would impose sales practice requirements on broker-dealers who recommend purchases of certain low-priced, non-NASDAQ over-the-counter securities to persons other than established customers. Such broker-dealers would be required to make a documented suitability determination for the purchaser, and to obtain the purchaser's written agreement to the first three purchases of these securities. For further information, please contract Dan Gray at (202) 272–2848.

3. Consideration of whether to publish for comment a release revising proposals to amend the Commission's rules and forms regarding the filing of ownership reports by officers, directors, and principal shareholders and the exemption of certain transactions by those persons from the short-swing profit recovery provisions of section 16 of the Securities Exchange Act of 1934. For further information, please contact Brain J. Lane or Brain J. Lynch at (202) 272–2589.

4. Consideration of whether to issue a release for comment proposing amendments to transactional disclosure requirments to enhance shareholder analysis of corporate control transactions recommended or approved by the board of directors. Proposed amendments to Rule 13e–3 and Schedule 13E–3 would ensure that the purposes of the rule are met in all going private transactions in which management has a significant interest. The proposals also would impose a new disclosure requirement, modeled on the structure and interpretive positions of Rule 13e–3, for issuers engaged in extraordinary corporate transactions. Recommendations to reject a tender offer also would be subject to new disclosure requirements under certain circumstances. These additional disclosure requirements would be implemented by adding a new Item 703 to Regulation S–K. The Commission also will consider whether to propose amendments to Rule 14e–2 regarding the obligation of the issuer to respond promptly to revised tender offers. In addition, the Commission will consider whether to propose a procedure by which exhibits would be filed in connection with preliminary and definitive proxy materials. For further information, please contact Richard E. Baltz or Gregg Corso at (202) 272–3097.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contract: John Kincaid at (202) 272–2300.

Dated: August 8, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–18965 Filed 8–9–89; 1:32 p.m.]

BILLING CODE 8010–01–M

Corrections

Federal Register
Vol. 54, No. 154
Friday, August 11, 1989

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

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 796 and 797

[OPTS—46020; FRL-3615-1]

Toxic Substances Control Act Test Guidelines; Technical Amendments

Correction

In rule document 89-16537 beginning on page 29715 in the issue of Friday, July 14, 1989, make the following corrections:

1. On page 29715, in the second column, in the third complete paragraph, in the fifth line, "5/o mg/l" and "5.0 mg/l" should read "5/o mg/1" and "5.0 mg/1" respectively.

2. On the same page, in the same column, in the fourth complete paragraph, in the eighth line, "l2" should read "12".

§ 796.3400 [Corrected]

3. On the same page, in the third column, in § 796.3400(b)(2)(i)(B)(3)(*ii*), in the third line, "<" should read "≤".

§ 797.1400 [Corrected]

4. On the same page, in the same column, in § 797.1400(d)(2)(vii)(B), in the fifth line, "80 mg/l" should read "80 mg/1", and in the last line, "5.0 mg/l" should read "5.0 mg/1".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 799

[OPTS-42113; FRL-3609-2]

Technical Amendments to Test Rules and Consent Orders

Correction

In rule document 89-15271 beginning on page 27352 in the issue of Thursday, June 29, 1989, make the following corrections:

On page 27352, in the second column, in the table, in the second column, third entry should read "[OPTS42113/47002I]".

§ 799.1700 [Corrected]

On page 27357, in the third column, in § 799.1700c(2)(i)(A)(*2*)(*iii*), in the last line, "29" should read "20".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

[OPP-180812;FRL-3605-6]

Emergency Exemptions; Glyphosate

Correction

In notice document 89-14692 beginning on page 26085 in the issue of Wednesday, June 21, 1989, make the following corrections:

On page 26086, in the first column, in designated paragraph 13, in the 10th line, "(54 FR 5474)" should read "(54 FR 5674)".

On the same page, in the second column, in designated paragraph 15, in the second line, "penimethalin" should read "pendimethalin".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM-940-09-4214-11;NM 11643]

Proposed Continuation of Withdrawal; New Mexico

Correction

In notice document 89-17548 beginning on page 31261 in the issue of Thursday, July 27, 1989, make the following correction:

1. On page 31261, in the second column, under "New Mexico Principal Meridian", the fifth line should read, "NE¼ NE¼, SW¼ NW¼ NE¼ NE¼".

BILLING CODE 1505-01-D

NUCLEAR REGULATORY COMMISSION

10 CFR Part 26

RIN 3150-AC81

Fitness-for-Duty Programs

Correction

In the correction to rule document 89-12806 appearing on page 29139 in the issue of Tuesday, July 11, 1989, a portion of the text was inaccurate and should have appeared as follows:

§ 26.2 [Corrected]

In the third column, in item 1, in the last line, "December 4, 1989" should read "January 3, 1990".

BILLING CODE 1505-01-D

federal register

Friday
August 11, 1989

Part II

The President's Outer Continental Shelf Leasing and Development Task Force

Staff Summary of Environmental Concerns and Options; Notice

THE PRESIDENT'S OUTER CONTINENTAL SHELF LEASING AND DEVELOPMENT TASK FORCE

Staff Summary of Environmental Concerns and Options

AGENCY: The President's Outer Continental Shelf Leasing and Development Task Force.

ACTION: Notice.

SUMMARY: In his February 9, 1989, budget address to Congress, President Bush announced the establishment of a cabinet level Task Force to review environmental concerns in three Outer Continental Shelf (OCS) oil and gas lease sales that were scheduled for Fiscal Year 1990: Sale 91, Northern California, Sale 95 Southern California, and Sale 116, Part II, Eastern Gulf of Mexico. The President ordered that preparations for the three lease sales by the Minerals Management Service (MMS) be postponed.

Since its formation, the Task Force has held a number of public meetings and workshops to obtain technical information and public views on these proposals.

The purpose of this Notice is twofold:

1. To provide a summary of the environmental concerns presented to date to the Task Force, including possible ways of addressing these concerns, and

2. To solicit any additional concerns not yet identified and any new ideas on how to resolve them.

This information will be used by the Task Force in developing recommendations to be sent to the President by January 1, 1990.

DATE: Comments must be submitted on or before September 11, 1989.

ADDRESS: OCS Task Force, 18th and C Streets NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Robert E. Kallman, Executive Director, OCS Task Force 18th and C Streets NW., Washington, DC 20240, (202) 343-4869.

SUPPLEMENTARY INFORMATION: Additional copies of the Federal Register Notice may be obtained by contacting the OCS Task Force or visiting one of the following organizations:

California Governor's Office, Office of Offshore Development, Secretary of Environmental Affairs, 1102 Q Street, Sacramento, CA 95814

Santa Barbara County (CA), Energy Division, 1226 Anacapa Street, 2nd Floor, Santa Barbara, CA 93101

City of Carlsbad (CA), Carlsbad City Library, 1250 Elm Avenue, Carlsbad, CA 92008

San Luis Obispo County (CA), County Administration Office, County Government Center, 1035 Palm Street, San Luis Obispo, CA 93408, (805) 549-5450 or 5011

Mendocino County (CA), Mendocino County Courthouse, Board of Supervisors, Ukiah, CA 95482, (707) 463-4221

Humboldt County (CA), Humboldt County Planning Dept., 3015 H Street, Eureka, CA 95501, (707) 445-7541

Los Angeles County (CA), U.S. Government Book Store, Arco Plaza, Level C, Fifth and Flower Streets Entrance, Los Angeles, CA 90071, (213) 894-5841

San Diego County (CA), Clerk of the Board of Supervisors, County Administration Center, 1600 Pacific Highway, San Diego, CA 92101, (619) 531-5600

Orange County (CA), Hall of Administration, Public Information Office, 10 Civic Center Plaza, Santa Ana, CA 92701

Ventura County (CA), Supervisor Susan Lacey's Office, 800 S. Victoria Avenue, Ventura, CA 93009, (805) 654-2703

Florida Office of the Governor, Office of Environmental Affairs, Debbie Tucker, Carleton Bldg. Room 404, 501 South Gadsden Street, Tallahassee, Florida 32399-0001, (904) 488-5551

Dade County (FL), Metro Dade Center, 111 Northwest First Street, 29th Floor, Miami, Florida 33128, (305) 375-5311

Lee County (FL), Information Desk, Courthouse Building Lobby, 2115 2nd Street, Fort Myers, Florida 33901, (813) 335-2260

Hillsborough County (FL), Environmental Protection Commission of Hillsborough County, 1900 Ninth Avenue, Tampa, Florida 33605

Monroe County (FL), Reference Librarian, Monroe County Public Library, 700 Fleming Street, Key West, Florida 33040

Collier County (FL), County Communications and Public Affairs, Collier County Government Center, 3301 East Tamiami Trail, Naples, Florida 33962, (813) 774-8483

Richard J. Glynn,

Acting Executive Director, OCS Leasing and Development Task Force.

STAFF SUMMARY OF ENVIRONMENTAL CONCERNS AND OPTIONS

I. Purpose and Background

In his February 9, 1989, budget address to Congress, President Bush announced the establishment of a cabinet level Task Force to review environmental concerns in three Outer Continental Shelf (OCS) oil and gas lease sales that were scheduled for Fiscal Year 1990: Sale 91, Northern California, Sale 95 Southern California, and Sale 116, Part II, Eastern Gulf of Mexico. The President ordered that preparations for the three lease sales by the Minerals Management Service (MMS) be postponed.

Since its formation, the Task Force has held a number of public meetings and workshops to obtain technical information and public views on these sales.

Purpose of this Notice

The purpose of this Notice is twofold:

1. To provide a summary of the environmental concerns presented to date to the Task Force, including possible ways of addressing these concerns, and

2. To solicit any additional concerns not yet identified and any new ideas on how to resolve them.

This information will be used by the Task Force in developing recommendations to be sent to the President by January 1, 1990.

Background

On March 21, 1989, the White House announced the structure of the President's OCS Leasing and Development Task Force (Task Force). The members of the Task Force include: the Secretary of the Interior, who serves as Chairman; the Secretary of Energy; the Administrator of the National Oceanic and Atmospheric Administration (NOAA); the Director of the Office of Management and Budget (OMB); and the Administrator of the Environmental Protection Agency (EPA). In addition, the National Academy of Sciences is providing the Task Force with a technical review of the information about environmental concerns and petroleum resources.

The general location of the three lease sales under review is shown on Figure 1:

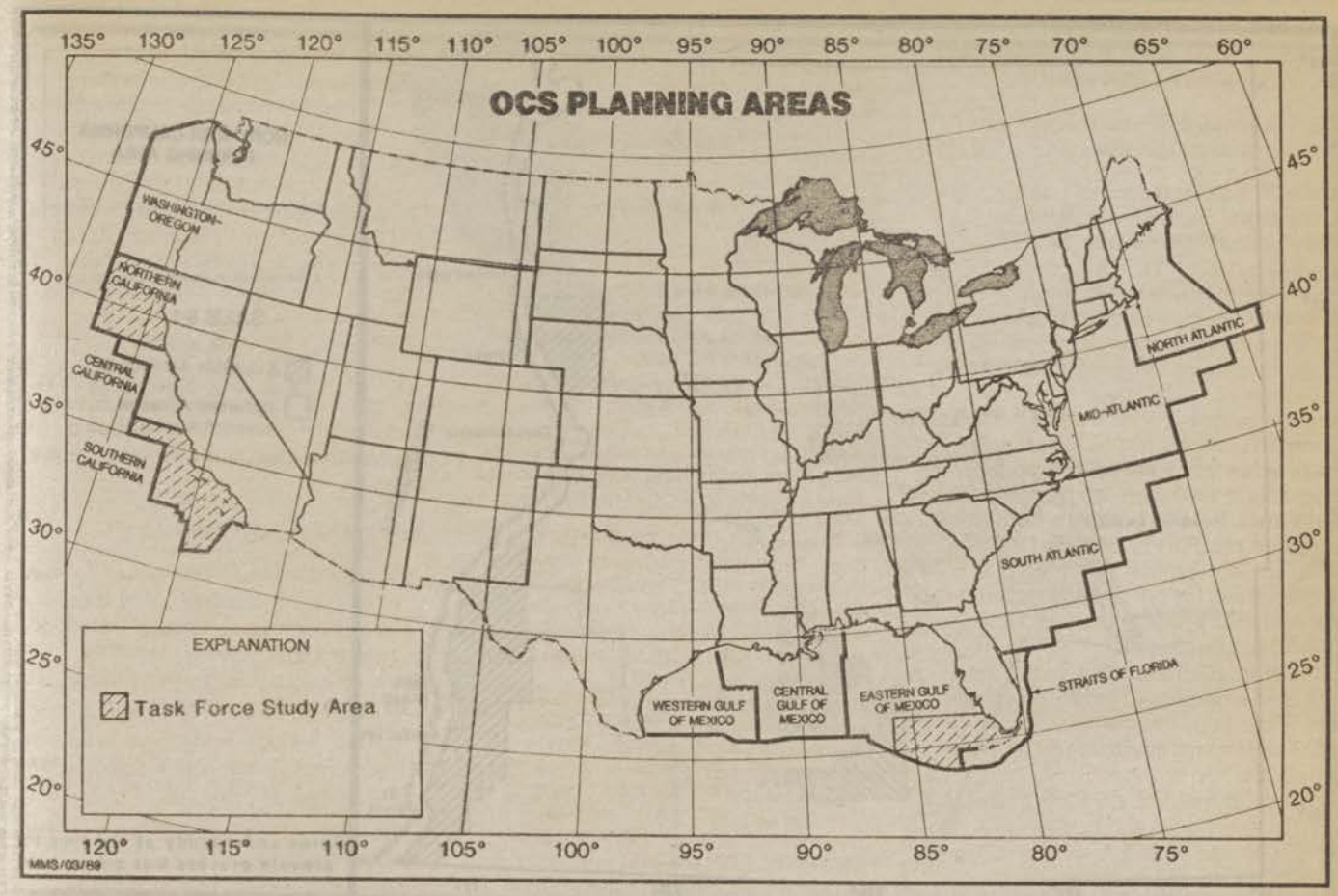

Figure 1.

Sale 91, Northern California (Figure 2)—Approximately 1.1 million acres located offshore portions of Mendocino and Humboldt Counties in the Northern California Planning Area. The proposal is in two segments: centering off Eureka in the north and from north of Point Arena to Point Delgada in the south.

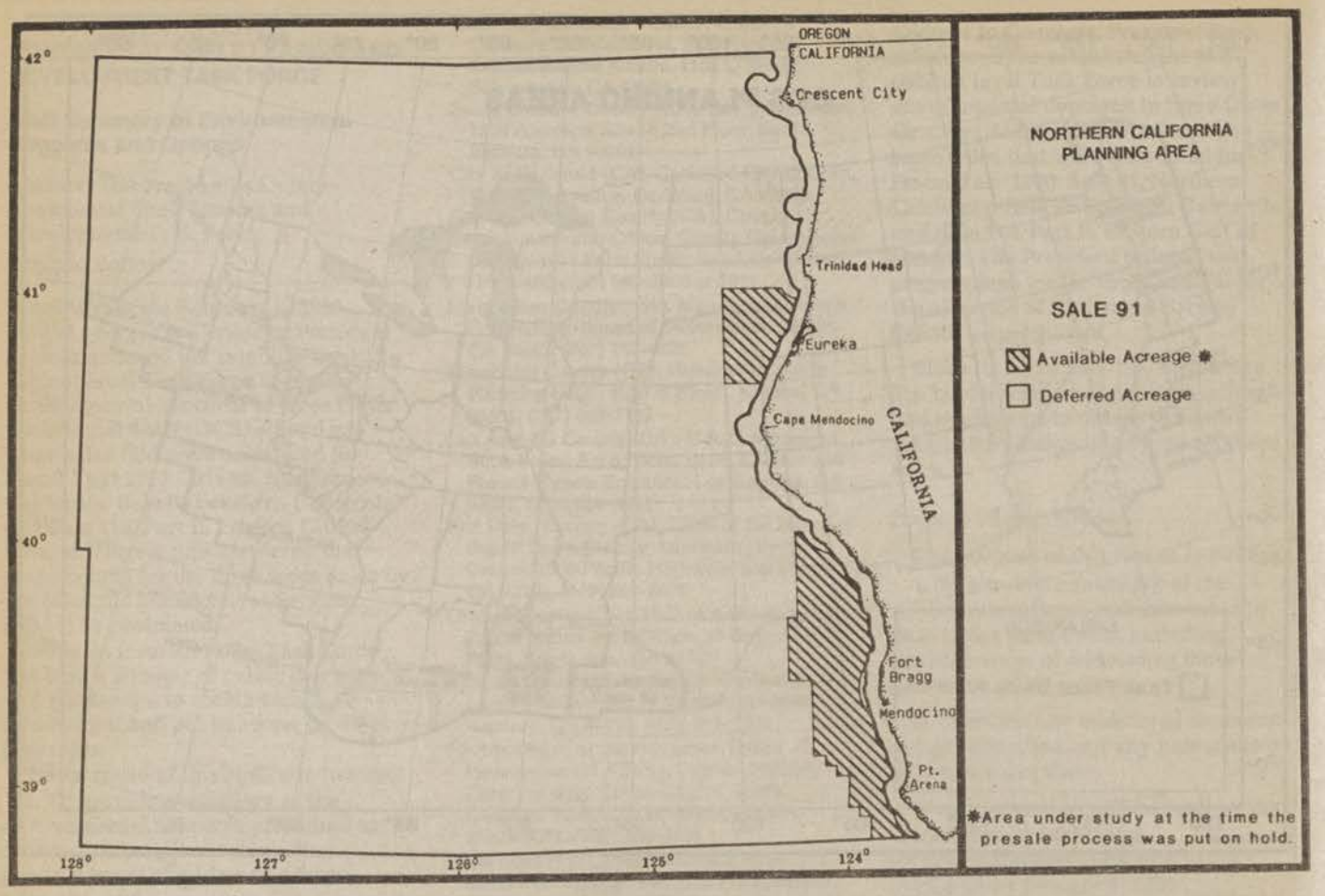

Figure 2.

Sale 95, Southern California (Figure 3)—Approximately 6.7 million acres located offshore southern California from the northern border of San Luis Obispo County to the U.S./Mexico provisional boundary.

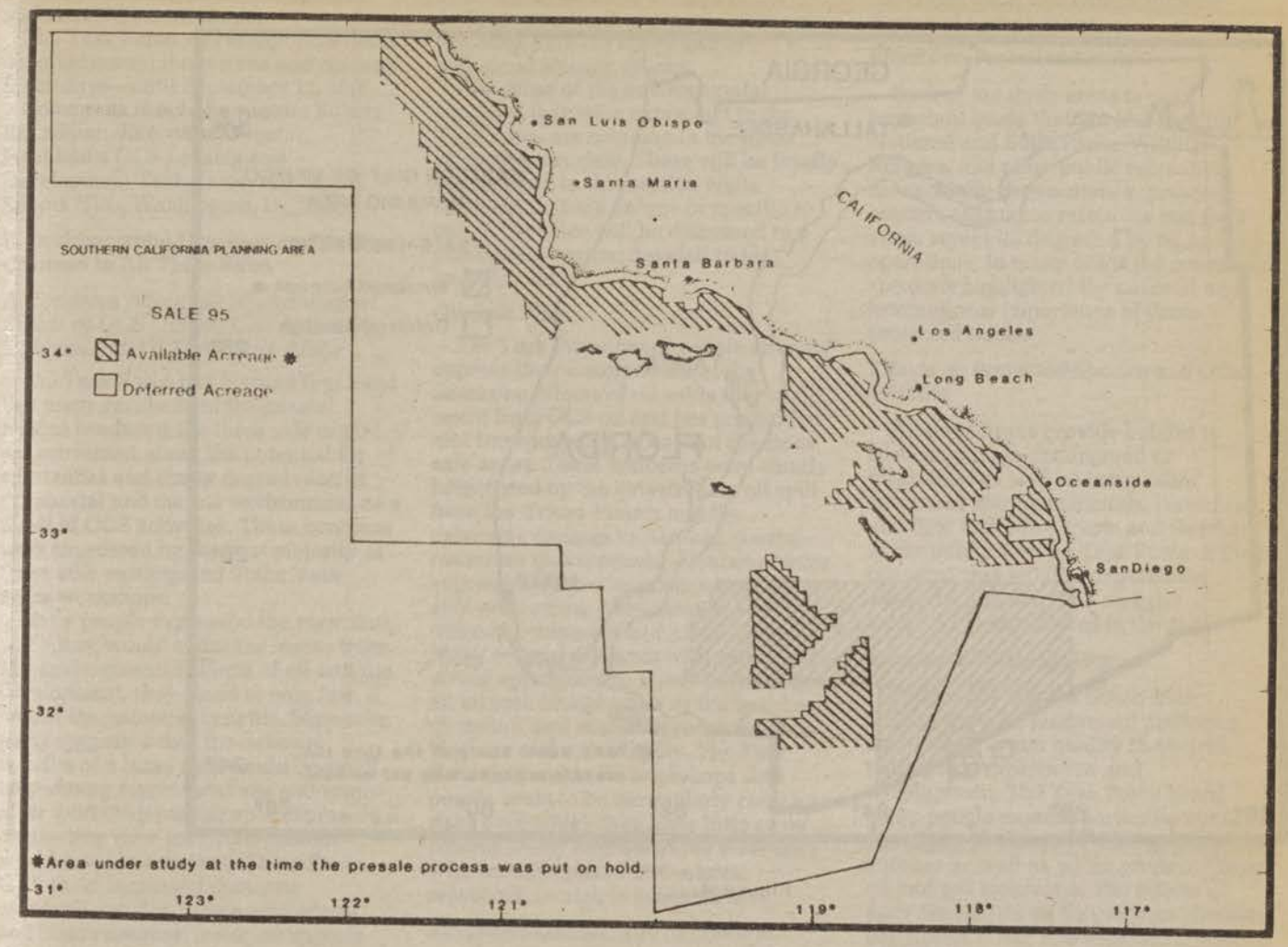

Figure 3.

Sale 116, Part II, Eastern Gulf of Mexico (Figure 4)— Approximately 14 million acres located between 26° and 24° North latitude offshore southwestern Florida (from Naples to the southern limits of the Eastern Gulf of Mexico Planning Area). The area is about 25 miles from the Dry Tortugas at its closest point to land.

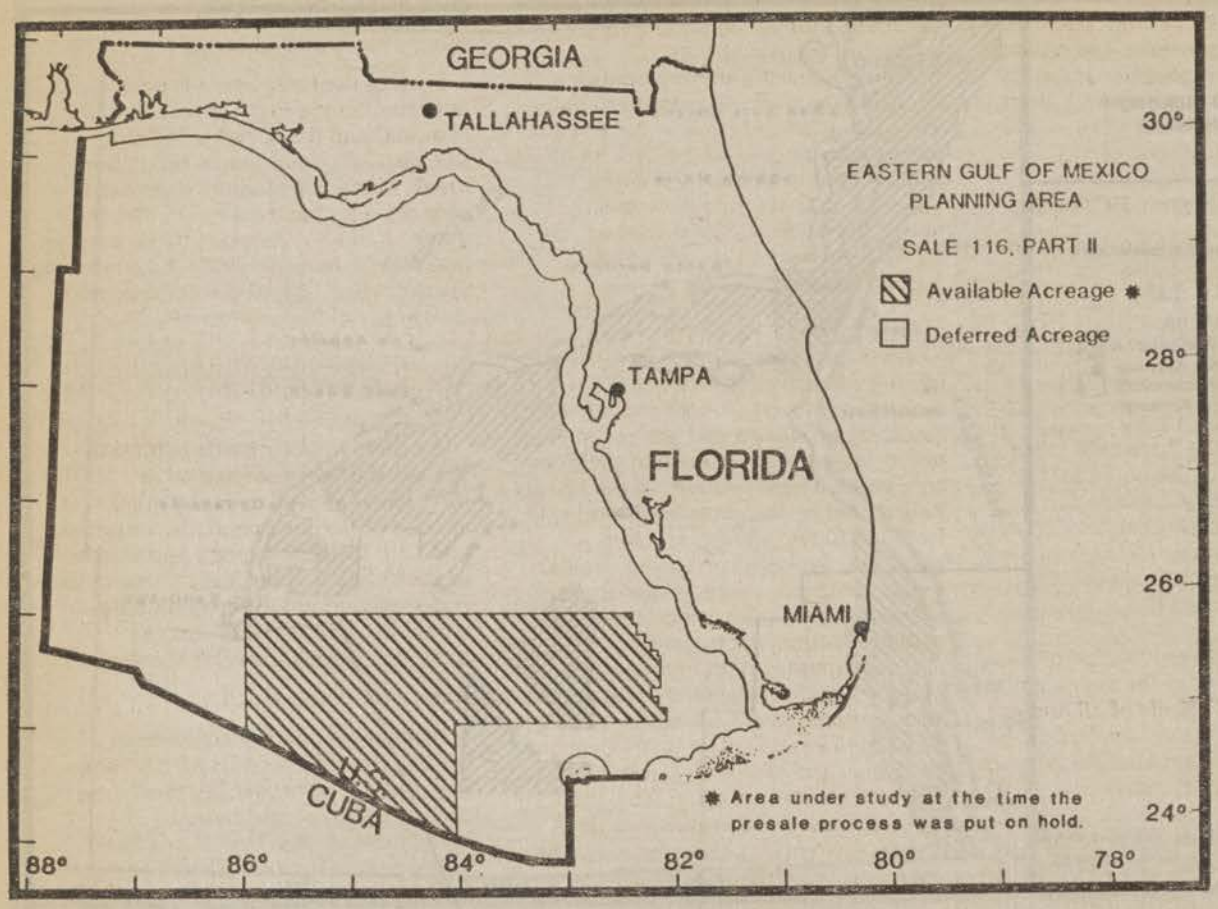

Figure 4.

Based on the President's direction, the Task Force decided to pursue the following six objectives:

1. Review environmental concerns over adverse environmental impacts in each of the three sale areas.

2. Identify and investigate environmental concerns.

3. Explore leasing proposals (including no leasing) for the three sale areas that might resolve environmental concerns.

4. Review the Administration's energy goals, environmental goals, and ocean management goals as they relate to OCS leasing.

5. Review the question of leasing and operations in the three sale areas and make recommendations to the President.

6. Review and monitor information available about the *Exxon Valdez* oil spill and cleanup effort which may aid the Task Force in accomplishing the five previous objectives.

Since May 9, 1989, nine public workshops have been held. In California, they were held in Carlsbad, Los Angeles, Arcata, Santa Barbara, and Sacramento. In Florida, they were held in Tallahassee, Fort Myers, Miami, and Key West. The Task Force heard from over 650 experts, elected officials, and members of the general public during the workshops and received approximately 11,000 written comments. The Task Force also met twice with Members of Congress who wished to express their views. The Task Force conducted field trips to examine directly some of the resources that could be affected as a result of oil and gas leasing in the proposed sale areas. It also visited a variety of oil and gas facilities.

This Notice summarizes environmental concerns, and options to resolve those concerns, which the Task Force has heard over the course of its briefings, workshops, field trips, and meetings with Members of Congress. The Task Force has not, at this point, developed any judgments on the validity of conflicting claims about environmental and economic effects or environmental protection capabilities. Nor has the Task Force attempted to evaluate the environmental or economic consequences of options or screen out any options. In fact, options are included in this Notice even if they have already been implemented. In the interests of brevity, this summary of environmental concerns and options does not attempt to cover the full technical detail which was presented to the Task Force.

This Notice is a continuation of the Task Force's information gathering process. All of the Task Force's workshops and meetings with Members of Congress have been transcribed and all written comments and materials submitted to the Task Force have been retained. Because the Task Force will continue to review and analyze these materials, there is no need for workshop participants and those who have already corresponded with the Task Force to repeat comments or proposals already made to the Task Force. Comments in response to this Notice should identify additional

environmental concerns and options that should be considered.

The Task Force will accept comments on environmental concerns and options for 30 days—until September 11, 1989.

Comments should be sent to: Robert E. Kallman, Executive Director, President's OCS Leasing and Development Task Force, 18th and C Streets NW., Washington, DC 20240.

II. Environmental Concerns and Options Common to All Three Sales

A. Concerns About the Environmental Effects of OCS Oil and Gas Activities Expressed in All Three Sale Areas

The Task Force has learned first hand that many residents of the coastal regions bordering the three sale areas are concerned about the potential for substantial and costly degradation of the coastal and marine environment as a result of OCS activities. These concerns were expressed by the vast majority of those who participated in the Task Force workshops.

Many people expressed the view that, while they would suffer the losses from any environmental effects of oil and gas development, they stand to gain few, if any, of the potential benefits. Moreover, many suggested that the national benefits of a lease sale would be small. Oil industry representatives and some other workshop participants expressed a contrasting view that development would provide substantial benefits in the form of increased domestic economic activity, increased Federal and State revenues, lower oil imports, and enhanced national security.

The Task Force has been told by local officials and residents that the environmental effects that can result from OCS exploration and development, followed by the production and transportation of oil and gas, are real and concrete. Air and water can be polluted; plants, fish, birds, and marine mammals can be hurt; beaches can be fouled; access to fishing grounds may be reduced; local land use patterns may change; and ocean vistas can be marred by industrial facilities.

Several representatives of the oil and gas industry participated on panels during the workshops in Florida and California. Their comments addressed the safety and environmental record of offshore development and contradicted many of the environmental concerns raised by other panelists. For example, they repeatedly stated that oil spill risks from offshore oil and gas exploration and development are significantly lower than risks from tanker traffic. Industry representatives also described the technology that has been developed and used to prevent blow-outs, to allow drilling operations to proceed with zero discharge into the water and to withstand seismic shocks.

A number of the environmental concerns that were expressed to the Task Force are common to the three sales under review. These will be briefly summarized in this section while concerns that are unique or specific to one of the sales will be discussed in a subsequent section devoted to that specific sale.

Oil Spill Risk

The Task Force heard people strongly express their concerns about the damaging effects of oil spills that could result from OCS oil and gas production and transportation in each of the three sale areas. These concerns were clearly heightened by the catastrophic oil spill from the *Exxon Valdez* and the extensive damage to Alaskan coastal resources that it caused. Concerns were expressed about the adequacy of oil spill prevention, containment, and cleanup equipment and procedures. Many coastal residents also expressed strong apprehension about the damages an oil spill would cause to the beaches, shoreline, and marine resources which they use and value highly. The Task Force learned in its workshops that people seem to be particularly averse to risks over which they have little or no control. Many expressed the view that, with certain coastal and marine resources, no risk is acceptable.

Effects on Tourism and Recreation

In all three areas, people expressed the concern that recreation and the tourism industry, which are important parts of their local economy, would be harmed by the conduct of oil and gas operations offshore. They believe that many tourists will choose other areas to visit because of the risk of an oil spill, the esthetic effects of seeing oil rigs and platforms on the ocean, the reduction in the quality of marine resources which support coastal tourism, and the construction and operation of industrial support facilities onshore.

Effects on Commercial Fishing

Members of the fishing industry in all three areas told the Task Force that they believed their livelihood could be diminished or threatened by oil and gas activities. The causes of such interference include the effects on fish eggs, larvae, and the dispersion of fish schools from the percussion used in seismic surveys; the exclusion of fishing from areas near rigs and platforms; damage to fishing gear from seismic arrays, anchor scars, and debris left on the ocean floor; and competition for dock and harbor space.

Effects on Protected Lands

Each of the three areas is near important lands that are included in National and State Parks, Wildlife Refuges, and other public recreation areas. Many commenters expressed concern that these resources and their value would be degraded by oil and gas operations. In many cases the concerned speakers highlighted the national and international importance of these protected lands.

Effects on Protected Species and Other Wildlife

All three areas provide habitat to species that are endangered or threatened as well as many other species of marine mammals, waterfowl, and fish. Wildlife experts and members of the public told the Task Force of their concerns that wildlife populations would be reduced if oil and gas activities were allowed in the area.

Effects on Water Quality

Discharges into the ocean from drilling rigs and production platforms could affect water quality in an area undergoing exploration and development. The Task Force heard many people express particular concern about the discharge of drilling muds and cuttings as well as water produced from oil and gas reservoirs. The effects of such discharges on fish, bottom dwelling organisms, coral, and vegetation were of concern.

Changes in Onshore Infrastructure and Land Use

At workshops in all three sale areas, participants expressed concern about the additional demands for public facilities and services onshore that would be needed to support oil and gas activities and the resulting population growth. Concern was also expressed about the location of onshore oil and gas support areas, processing facilities, and transportation systems. These industrial facilities were frequently viewed as incompatible with existing or planned land use patterns. Many commenters feared that oil and gas activities could affect coastal property values.

B. Options Applicable to All Three Sale Areas

The Task Force has organized the options and recommendations it has received into those that apply to all three sale areas and those that apply to only one or two of the three. For the options that apply to all three sales, the

Task Force recognizes that the most fundamental choice is between leasing and not leasing in one, two, or all three of the areas.

Options for Not Leasing

The Task Force has grouped the options for not leasing in each of the three sale areas into categories as follows:

1. Establish a permanent ban on oil and gas activities within the sale area, as has been proposed by advocates of Ocean Sanctuaries.

2. Cancel the lease sale and all subsequent sales scheduled for the same area in the 1987–1992 5-Year Leasing Program.

3. Cancel the lease sale and proceed with the next sale in the same area only after selected additional control and mitigation measures have been developed and adopted to resolve environmental concerns.

Options for Leasing

The Task Force has grouped the options it has identified for moving forward with leasing in one or more of the lease sale areas into the following two categories:

1. Continue the status quo, in which the Department of the Interior (DOI) would resume its normal preparations for the lease sale, make decisions on sale configuration and stipulations for protection of the environment using existing procedures and policies, and apply existing regulations and procedures in overseeing oil and gas activities.

2. Proceed with leasing after deleting selected areas and/or adopting further environmental controls and mitigation measures to resolve environmental concerns.

Options for Resolving Environmental Concerns Common to the Three Sale Areas

In order to make the fundamental choice between leasing and not leasing, it is necessary first to develop various alternatives for leasing subject to additional restrictions designed to reduce the environmental impacts of oil and gas development. These alternatives can then be compared against the no leasing option.

This section is intended to present an array of alternatives or options which have been suggested as ways to address environmental concerns. The order in which these options are addressed below does not necessarily reflect either the public's or the Task Force's view on the merits of the alternatives presented. From the briefings, workshops, and written comments, the Task Force has heard a wide variety of options for avoiding, postponing, controlling, or mitigating the effects of offshore oil and gas activities. It is clear that many of the options could be implemented concurrently while others are mutually exclusive. The options common to all three sale areas are summarized below.

Sale Configuration Options

Exclude tracts near certain marine or land resources in order to protect them from the effects of oil and gas activity.

Offer a limited number of tracts to reduce the overall level of exploration and development activity in one or more of the sale areas.

Options for Controlling the Timing of OCS Activities

Defer the lease sale until certain conditions are met such as the completion of environmental studies, the development of a needed environmental protection technology, or the completion of exploration and development on existing leases in the area.

Proceed with leasing and exploration in the area, but allow development to be deferred until certain conditions are met such as demonstration of improved environmental protection measures or substantial increase in oil prices.

Proceed with exploratory drilling under Federal management, but postpone leasing and development until environmental concerns have been resolved and energy production benefits are higher.

Environmental Control and Mitigation Options

Oil Spill Risk

At the Task Force briefings and workshops a number of possibilities were suggested for reducing the risk of damages from oil spills. Many of these could apply to all sources of oil spills affecting the marine environment or all OCS operations. Such options are summarized in Section VI addressing programmatic changes.

The following options for reducing the risk of oil spill damages in one or more of the three sale areas reflect the fact that tanker transportation is a primary source of oil spill risk and that systems for the prevention, containment, and cleanup of oil spills from tankers and from OCS facilities can be coordinated to achieve efficient reductions in the risk of damaging oil spills from both sources:

Improve oil spill prevention, contingency planning, trajectory analysis, containment, and cleanup drills and capability in the sale area. This could be required of industry through several possible mechanisms including lease stipulations.

Adopt and make mandatory the use of U.S. Coast Guard (USCG) designated vessel traffic lanes in the sale area.

Allow State and local governments a greater role in establishment of vessel traffic lanes in the sale area.

Install a USCG radar or Global Positioning System traffic-control system to monitor vessels in areas near the coast in the sale area.

Require more frequent, realistic exercises to test OCS lessees' contingency plans for spills from rigs, platforms, and tankers carrying OCS oil.

Require pipelines instead of tankers for transportation of OCS oil to shore and subsequently to refining areas. This might be required as a stipulation for all leases in the sale or for leases where the oil discovery on the tract or in nearby tracts exceeds a level determined according to a formula which takes into account the economics of producing and transporting oil under specific oil prices.

Limit the total size of tankers used to transport oil from leases in the sale area; require them to be double-bottomed; limit the size of individual tanks; require tankers to have special maneuverability-enhancing features (e.g., bow thrusters).

Encourage or require lessees in the sale area to relocate non-OCS tanker traffic generally away from stationary OCS rigs and platforms.

Require lessees to permanently staff pre-positioned equipment with trained personnel, and require that the equipment be maintained always at full readiness.

Require OCS development plans in the sale area to include oil spill risk offset measures such as capturing oil from natural seeps, increasing oil spill containment capability in the area, or reducing the volume of oil tanker transport in the area. (Oil spill risk offsets could be reviewed by reference to a National Oil Spill Risk Assessment discussed in Section VI.)

Pre-approve acceptable dispersants to allow their immediate use in the event of a spill involving pre-specified oils, locations, and conditions in the sale area, thereby avoiding delays that could result while tests are being conducted to determine the acceptability of the dispersants.

Include a stipulation in the leases in the sale area requiring a special bond or certification of financial responsibility for mitigation and compensation for oil spill damages.

Increase MMS capability to monitor and enforce compliance with existing oil spill prevention regulations on rigs and platforms in the sale area, and increase

frequency of regular and surprise inspections.

Require lessees to conduct oil spill prevention training for new workers on platforms and rigs in the sale area, and require periodic refresher training of employees.

Fund additional research and development on cleanup and preservation of oiled wildlife species present in the sale area.

Effects on Tourism

Require industry to mitigate economic losses from any foregone tourism caused by the environmental effects of or by the mere presence of OCS development in the sale area. Some suggested that a mitigation fee could be paid to a local organization for developing tourist attractions and promoting tourism.

Effects on Commercial Fishing

The following options have been suggested to the Task Force for reducing effects on commercial fishing in each of the sale areas:

Establish liaison offices with the fishing industry, to provide a communications, mediation, or clearinghouse function, to be staffed by personnel regarded as "neutral."

Impose appropriate seasonal or areal limits on geological and geophysical survey (G & G) work and OCS drilling in or near sensitive spawning or larvae production zones.

Require drilling rigs and platforms to be placed on the tract in a location which minimizes interference with any active fishery over that tract.

Revise or reinterpret MMS regulations on "diligence" of a lessee to explore and develop a tract, to provide flexibility to temporarily delay G & G or other work until the end of an important fish spawning season.

Require specified traffic corridors for crew and supply vessels servicing OCS operations, located to avoid fixed-gear fishing areas.

Effects on Protected Lands and Marine Resources

The following options have been suggested to the Task Force for reducing effects on protected lands in each of the sale areas:

Require consideration of resource values of protected areas when determining which tracts to offer for lease.

Require special oil spill contingency plans, trajectory analysis, containment drills, and capability (e.g., pre-positioning extra equipment) for leases issued near protected areas.

Effects on Protected Species and Other Wildlife

The following options have been suggested to the Task Force for reducing effects on protected species in each of the sale areas:

Impose seasonal or areal limits on seismic data collection and other OCS-related activity during times or in areas of particular importance to marine mammals, e.g., near major seasonal haul-out areas and during whale migration times.

Require vessels conducting seismic data collection to stop immediately if they observe marine mammals in the vicinity.

Effects on Water Quality

The following options have been suggested to the Task Force for reducing effects on water quality in each of the sale areas:

Require zero-discharge drilling rigs and platforms, through lease stipulations or EPA National Pollutant Discharge Elimination Systems (NPDES) permits under the Clean Water Act.

Require lessees to monitor for long-term impacts of drilling muds and cuttings and chronic operational discharges.

Require further government or industry research on environmental impacts of drilling muds and cuttings and chronic operational discharges.

Changes in Onshore Infrastructure and Land Use

The following options have been suggested to the Task Force for reducing effects on infrastructure and land use in each of the sale areas:

Consolidate facilities at onshore locations.

Establish a mechanism for the Federal Government to provide coordination or mediation if OCS-related onshore development causes a serious conflict with other existing or planned land uses.

Increase efforts to anticipate necessary onshore development, and require lessees to finance a larger part of the State and local planning process relating to such development.

Establish a mitigation fee program in which OCS companies contribute to a fund which finances projects that would mitigate OCS development effects on infrastructure and land use. Examples include: construction of additional infrastructure (sewage and water treatment, schools), funding social welfare programs, provision of new recreation areas.

Prohibit OCS-related onshore development in areas where it does not now exist.

Phase OCS activities with the goal of achieving a relatively constant level of loads on environmental resources and demands for onshore support facilities. In general, new oil and gas activities would be delayed until existing projects have been completed or have at least begun to phase down their environmental loads and demands for onshore support.

Phase development activities to also reduce the peak loads resulting from oil and gas production by delaying the startup of new production capacity until production from existing platforms and wells has begun its natural decline. In areas with no existing development, phasing OCS activities can slow the buildups in environmental loads and onshore support demands, providing more time for the preparation of onshore responses and facilities. Options for achieving such phasing include controls over the number and location of tracts offered for lease, of leases actually issued, over the timing of exploratory drilling permit approvals, or over development plan approvals.

Require the consolidated use of pipelines by lessees of tracts near each other.

Allow lessees in the sale areas a longer time to develop a tract either by issuing longer lease terms or by relaxing diligence requirements at the development stage.

III. Concerns and Options Specific to Sale 91

A. Environmental Concerns

The Task Force conducted a two-day public workshop in Arcata, California. The following concerns were expressed during the panel presentations, discussions, and the public comment period:

Oil Spill Risk

The Task Force heard that the oil spill risk in northern California is high due to Alaska North Slope tanker traffic bound for San Francisco, Long Beach, and the Panama Canal. OCS activity would add to these risks. The Task Force was told not to "add new risks on top of the risks we already face from Alaska tankers."

Effects on Tourism

Many speakers stated that heavy industry is incompatible with the image local communities want to project in order to encourage tourism.

Many also said that visible offshore rigs and platforms would alter the image of the spectacular, rugged, and undeveloped coast and would reduce the number of tourists attracted to the coastal area.

Speakers expressed fears that an oil spill would kill marine life, which is a

primary attraction for people who visit the northern California coast.

Effects on Commercial Fishing

The commercial fishing contributions to the northern California economy (ex-vessel value $32 million in 1985) could be adversely affected by OCS development, according to representatives of local governments and fishing concerns.

The Task Force was told that exploration and development of the OCS would eliminate significant portions of the narrow continental shelf from access by trawl. Trawling, the fishing method most susceptible to displacement by offshore oil and gas activities, accounts for 45 percent of the catch.

Some speakers said the oil and gas industry was responsive to fishermen's reports of debris left on the ocean floor by removing the debris.

Effects on Protected Lands

Concerns were expressed that air emissions from OCS development could degrade the air quality in Redwoods National Park, an area having Class I status which prohibits degradation.

Workshop participants expressed concern that oil spills would pose threats to national conservation system units (Redwoods National Park, Point Reyes National Seashore, and Golden Gate National Recreation Area; Castle Rock, Humboldt Bay, San Pablo Bay, Farallon, Point Reyes, and San Francisco Bay National Wildlife Refuges; King Range National Conservation Area; Cordell Bank and Gulf of the Farallones National Marine Sancturaries) and State parks.

Effects on Protected Species

Speakers stated that several species, including gray and humpback whales, which reside in and migrate through the proposed sale areas would be adversely affected by chronic pollutants, oil spills, seismic surveys, and increased marine vessel traffic.

Changes in Onshore Infrastructure and Land Use

Some local government representatives stated that the infrastructure of the coast adjacent to the proposed sale area may not be able to absorb the influx of workers and their families. Population increases that typically accompany oil and gas development may overload existing schools, housing, and water and sanitary systems. The area may become subject to cycles of economic boom and bust which have accompanied oil and gas development in other regions.

Rough Seas

Generally rough seas and frequent storms may affect the industry's ability to operate platforms and facilities safely and to effectively contain and clean up oil spills, according to many workshop speakers.

Operations in a Seismically Active Area

Workshop participants expressed concern that earthquakes, underwater landslides, and tsunamis pose potential threats to offshore exploration and development equipment and facilities. The seismic risk in the Eel River Basin is as high or higher than any part of the continental margin with the possible exception of the south coast of Alaska. The Eel River Basin is located at the junction of three tectonic plates: Gorda Plate, North American Plate, and the Pacific Plate. The Task Force was told that the associated seismic activity does not necessarily preclude eventual offshore development, but it does require that seismic engineering be incorporated explicitly into the OCS development process.

B. Sale 91 Options

The following options have been presented to the Task Force in its briefings or workshops:

Current Sale 91 Proposal

The area studied for potential leasing in the Sale 91 draft environmental impact statement (EIS) included 52 blocks in the Eel River Basin offshore Humboldt County (more specifically, offshore Eureka and Arcata) and 103 blocks in the Point Arena Basin offshore Mendocino County. The study area encompasses 1.1 million acres, or 4 percent of the planning area. The available acreage generally ranges from 3 to 27 miles from shore. The exceptions are buffers adjacent to Trinidad Head, Fort Bragg, Point Arena, and Point Delgada Areas of Special Biological Significance (ASBS's). Deferred at the 5-year program stage were blocks in greater than 900 meters of water, acreage off Punta Gorda, and the buffers for the ASBS's noted above.

In addition to specific block deferrals instituted in the 5-Year Program, the Secretary of the Interior committed to include similar levels of protection as were provided in the lease sale stipulations for Sales 73 and 80, offshore southern California. The Sale 91 proposal includes these special protections, which are intended to address sensitive biological resources, archaeological resources, military use areas, transportation of hydrocarbon products, conflicts with commercial fisheries, personnel training programs, oil spill response requirements, onshore facilities, disposal of drilling discharges, and air quality.

The prelease process for Sale 91 was suspended in June 1988 after the publication of the draft EIS (October 1987) and completion of the EIS hearings (February 1988). Proceeding with the sale process as originally planned would entail the development of a final EIS (or an environmental assessment or new draft or supplemental EIS, if new information warrants).

Under the existing prelease process, the environmental analyses in the final EIS will be synthesized and incorporated into a Secretarial Issue Document (SID), which provides additional economic and qualitative analyses for the Secretary. Upon completion of decision materials, decisions on the configuration, terms, and conditions of the proposed Notice of Sale would be made. Comments from the Governor or executives of affected local governments on the size, timing, and location of the proposal are sought pursuant to the consultation requirements of the OCS Lands Act. The Secretary is required to accept the recommendations of the Governor [and may accept the recommendations of the executives of affected local governments] if they provide for a reasonable balance between the national interest and the well-being of the citizens of the affected State. Based on these consultations and the balancing consideration, the final sale could be substantially different in configuration and special protection than originally studied as the proposal. The acreage offered for lease and the conditions applying to the leases are announced publicly in a Notice of Sale.

Sale Configuration Options

Proceed with the usual sale process beginning with the area studied in the EIS.

Governor Deukmejian's Proposal: In addition to the areas deferred from Sale 91 thus far in the prelease process, Governor Deukmejian's comments on the draft EIS requested extension of the ASBS buffers to a full 6 miles from the seaward boundary of the ASBS's. (The buffers currently extend 6 miles from the shoreline; some of the ASBS's are located entirely on land while others extend into the State tidelands.)

Congressman Panetta's Proposal: In addition to the areas deferred from Sale 91 thus far in the prelease process, Congressman Panetta's proposal submitted during the development of the current 5-year program would create a

coastal buffer of about 6 miles from shore in the northern group of available blocks and over about 15 miles from shore in the southern group. In addition, Congressman Panetta's proposal limits the offering of selected blocks throughout the California OCS to 50 blocks total within the current 5-year program.

Offer "gas only" leases in the northern portion of the Sale 91 area. Leases would convey no rights to produce oil should it be discovered; however, condensate could be produced.

Offer only blocks in Eel River Basin.

Offer only blocks in Point Arena Basin.

Defer areas subject to geologic hazards.

Reconfigure sale to avoid commercial fishing conflicts. The Task Force heard options which included:

- Defer blocks to avoid conflicts with Dover and Petrale sole spawning and fishing grounds;
- Defer areas near the mouths of important estuaries to protect fish and shellfish resources;
- Defer blocks in the southern portion of the Point Arena basin to reduce potential oil spill risk to the Farallon Islands/Point Reyes areas.
- Defer all tracts with annual commercial fishing catches exceeding one million pounds.

Environmental Control and Mitigation Options

Oil Spill Risk

Require additional protection for Point Reyes National Seashore, Redwoods National Park, and Gulf of the Farallones National Marine Sanctuary through increased spill containment capability and buffer zones.

Effects on Commercial Fishing

Limit the timing of seismic surveys to avoid conflicts with fishing seasons and to protect Dover and Petrale Sole spawning and nursery areas.

Air Quality

Require mechanisms to insure air quality is not degraded.

Lease stipulations would require that offshore facilities meet onshore air quality standards. Residual emissions could be mitigated by onshore offsets. Special measures should be undertaken to prevent degradation of Class I air quality areas (e.g. Redwoods National Park).

IV. Concerns and Options Specific to Sale 95

A. Environmental Concerns

The Task Force conducted public workshops in Carlsbad, Los Angeles, and Santa Barbara. In addition to the general concerns summarized above, the following specific concerns were expressed during the panel presentations, discussions, and the public comment period:

Reductions in Air Quality

Workshop participants were of the opinion that increasing emissions from OCS exploration and development would exacerbate the air quality problem in southern California, which suffers from the worst air quality in the Nation. The majority of the onshore area adjoining Lease Sale 95 is designated as nonattainment for the ozone standard set by EPA. These onshore areas already implement stringent emission control standards and are in the process of adopting measures which would cause dramatic lifestyle changes for southern California residents.

Oil Spill Risk

Potential effects of a large oil spill on the heavily used beaches in southern California, tourism, fisheries, and quality of life were major concerns. Another major concern was the adequacy of present oil spill containment and cleanup techniques in adverse sea conditions.

Effects on Tourism

Speakers expressed concern that changes in recreation and tourism patterns and expenditures may occur as a result of OCS development (for example, according to some witnesses, the mere sight of OCS rigs may deter tourists) or accidents. Along the southern California coast, recreation is primarily water-oriented, from the standpoint of both active participation and aesthetic, passive aspects.

Effects on Commercial Fishing

The Task Force heard that loss of fishing gear such as crab pots could occur due to entanglement with seismic boat cables. Competition for berthing space and support services and potential economic ramifications could occur. Other concerns included reduction in harvestable fish (albacore tuna, rockfishes, Pacific ocean shrimp, California halibut, rock crab, and several species of sole) and invertebrate stocks due to oil spills, man-made structures blocking trawl areas, debris, anchor scars, and vessel traffic.

Effects on Protected Lands

Speakers stated that there is a need to place certain areas of the OCS permanently off-limits to oil and gas development in order to protect certain environmentally sensitive areas of the OCS or the coast. Areas that they said should be considered for such protection include: Channel Islands National Park and Santa Monica Mountains National Recreation Area, Channel Islands National Marine Sanctuary, State parks, State Areas of Special Biological Significance, fishery spawning or nursery areas, and the mouths of estuaries and rivers.

Effects on Protected Species

Workshop speakers said that the effects of noise from OCS oil and gas exploration and development may affect behavior of marine mammals and seabirds. In particular, this could cause abandonment of rookeries and changes in migration routes. Physical disruption of haulout areas and rookeries by pipeline construction and oil spill cleanup operations might occur. Seven endangered whale species inhabit the lease sale area including the gray, humpback, fin, sperm, blue, sei, and right whales. Two threatened marine mammals, the southern sea otter and the Guadalupe fur seal, inhabit the area. There are three endangered turtles (leatherback, green and olive ridley) and one threatened species of turtle (loggerhead) in the area. The five endangered species of birds are: California least terns, American peregrine falcon, bald eagle, California brown pelican, and the light-footed clapper rail.

Effects on Water Quality

Some witnesses expressed concern about degradation of water quality near platforms due to acute and chronic discharges (oil spills, dispersants, drilling fluids, formation water, and trace metals). The water quality of Santa Monica Bay has been seriously degraded by local municipal discharges. Discharges from OCS development could impair the recovery of the Bay.

Geological Hazards

Southern California is a seismically active area. Some witnesses expressed concern about failure of OCS oil and gas related structures due to potential earthquakes which could result in release of hydrocarbons or loss of life.

Changes in Onshore Infrastructure and Land Use

Some workshop participants were concerned that further development in the areas could result in increased traffic on roads that already are heavily used, could result in construction of pipelines and other onshore facilities that would interfere with existing land uses; and would result in increased

production of hazardous and non-hazardous wastes that would be difficult to handle in existing disposal facilities.

Visual Impacts

Some witnesses were concerned about degradation of the visual environment caused by platform placement offshore scenic and pristine areas in the Sale 95 area.

Marine Transportation

Witnesses expressed concern about increased risk of vessel accidents, due to additional crew and supply boat and shuttle tanker transits, and risk of collision with additional platforms offshore. Southern California waters are heavily used by recreational and commercial vessels. Long Beach harbor is an important terminal for tankers carrying crude oil from Alaska and other areas as well as petroleum products.

B. Options for Sale 95

The following options have been presented to the Task Force in its briefings or workshops:

Current Status of Sale 95 Planning

The area identified in October 1987 for study for potential leasing included approximately 6.7 million acres offshore southern California from the northern boundary of San Luis Obispo County to the U.S. Mexico provisional boundary. This represents 22 percent of the planning area. Deferred from consideration at the 5-year program stage were the following areas: blocks in greater than 900 meters of water; Santa Barbara Channel Federal Ecological Preserve and Buffer Zone; blocks within 6 miles of the Santa Barbara Channel Islands National Marine Sanctuary; blocks offshore Santa Monica from Point Dume to Long Beach; blocks within a coastal buffer offshore Newport Beach and the Irvine Coast Marine Life Refuges and Heisler Park ASBS; blocks within a coastal buffer offshore San Diego Marine Life Refuge and San Diego-La Jolla Ecological Reserve ASBS; the area offshore San Diego; and the San Nicolas Basin Navy Operating Area. Additionally, at the initial stages of Sale 95, the Call for Information and Area Identification, extensive military use areas south of the Channel Islands were deferred from consideration.

As with Sale 91, as part of the decisions on the 5-Year Program, the Secretary of the Interior committed to a similar level of protection for the area resources as was provided in the Sale 73 and 80 decisions.

The prelease process for Sale 95 was suspended in February 1989. The acreage offshore Camp Pendleton and Oceanside was the subject of a supplemental Call for Information issued in November 1988. Proceeding with the sale process would entail completing the second Area Identification and continuing therefrom with the development of a draft EIS, distribution of the EIS for public review and comment, and conduct of public hearings. The other steps of the leasing process would follow as described above for Sale 91.

Sale Configuration Options

Proceed with the usual sale process beginning with the area studied in the EIS.

Governor Deukmejian's proposal. In addition to the areas deferred to date in the prelease process for Sale 95, Governor Deukmejian, in comments on the Sale 95 Call for Information, requested deferral of the following areas (The Governor did note the opportunity for directional drilling into some of these areas.):

- Additional 1-mile buffer zone around the following ASBS's: San Miguel, Santa Rosa, and Santa Cruz Islands; Santa Barbara Island and Anacapa Island; San Clemente Island; Santa Clara Island, Subareas 1–4; San Diego-La Jolla Ecological Reserve; Heisler Park Ecological Reserve; and San Diego Marine Life Refuge;
- Tracts in the 6-mile buffer from the seaward boundary of the ASBS from Mugu Lagoon to Latigo Point at the border of Ventura and Los Angeles Counties;
- Tracts in the 3-mile buffer from the seaward boundary of the California oil and gas sanctuaries including portions of areas off San Luis Obispo, Orange, and San Diego Counties, as well as part of Santa Catalina Island;
- Blocks offshore Dana Point, Santa Catalina Island, San Diego County, San Luis Obispo County, and Santa Monica Bay area, and the beaches from Point Mugu to Point Fermin which had been deleted from past lease sales;
- Blocks within 12 miles of shore within the range of the southern sea otter;
- Blocks in the vessel precautionary area off the Ports of Long Beach and Los Angeles; and
- Blocks offshore San Diego.

Congressman Panetta's proposal: In addition to the areas deferred from Sale 95 thus far, Congressman Panetta, during the development of the current 5-Year Program, identified for deferral all blocks seaward of the southern extension of the southern sea otter range from San Simeon Point to the northern boundary of the planning area, blocks seaward of the Santa Monica Bay deferral, blocks in the Los Angeles-Long Beach Harbor area, and blocks within a coastal buffer running south from Huntington Beach.

In addition, Congressman Panetta would limit the offering of specified blocks throughout the California OCS areas to 50 blocks total within the current 5-year program. Included in this category are blocks adjacent to the buffer at the southern portion of the southern sea otter range, three blocks at the southwestern tip of his suggested Santa Monica Bay area deferral, and blocks beyond his suggested buffers offshore Dana Point and from San Clemente to La Jolla.

Congressman Regula's proposal: In addition to the areas deferred from Sale 95 to date, Congressman Regula's proposal submitted during the development of the current 5-Year Program includes the six northernmost rows of blocks in the planning area.

Split the sale in order to offer separately (or in some combination) blocks in the Morro Bay area, blocks near existing leases in the Santa Maria Basin, blocks in the Santa Barbara Basin, blocks near existing leases offshore Los Angeles County, and blocks south of the Los Angeles/Orange County boundary. Because of differences in the levels of existing development and varying environmental concerns, different timing, deferrals, and mitigation measures could be applied to these separate areas.

Environmental Control and Mitigation Options

Air Quality Options

Have DOI issue final regulations based on the January 1989 Notice of Proposed Rulemaking, which expanded regulatory controls and mitigation to all exploration and development activities on the California OCS and established more stringent compliance requirements for California OCS activities.

Have DOI issue regulations that assure equivalence in the requirements applicable to OCS facilities/activities, as compared to facilities/activities onshore or in State waters, but do not require OCS facilities to meet exactly the same standards as for onshore. For example, the regulations might use a "sliding scale" system to impose less stringent restrictions on OCS facilities which are relatively further offshore.

Have DOI issue regulations which would require OCS facilities and related activities to meet the same emission requirements as well as procedural and enforcement requirements as apply to similar facilities onshore. This approach might include a requirement for DOI to consult with EPA or a requirement that DOI obtain EPA certification that the OCS facility/activity meets appropriate

standards applicable to onshore and State-waters facilities/activities.

Transfer legal jurisdiction over OCS air emissions out of the OCS Lands Act (administered by DOI) and put OCS facilities and related activities under jurisdiction of the Clean Air Act (administered by EPA, the State, and local Air Quality Management Districts (AQMD)).

Establish one or more AQMDs on the Federal OCS, with an implementation plan to be developed by MMS or EPA. The OCS AQMDs would negotiate with the adjacent onshore AQMDs to allocate allowable emissions within the same air basin (or emissions which affect more than one air basin). The allocation among the various AQMDs would be subject to approval by EPA.

Extend control requirements to crew and supply boats, which witnesses stated may account for as much as 50 percent of the OCS-related air emissions. There are two types of controls. One involves physical changes, such as engine modifications and fuel switching. The second type of control is operational, such as a speed limit, or a boat-pooling requirement.

Require new sources within 25 miles of shore to apply Lowest Achievable Emission Rate (LAER) or Best Available Control Technology (BACT), when offshore of a nonattainment or attainment area, respectively. The preceding requirements could apply to both stationary and mobile offshore sources.

Require new stationary and mobile sources locating offshore of a nonattainment area to offset emissions in the same manner as required for onshore sources.

Require new emission sources locating offshore of a nonattainment area to offset emissions at a ratio of 1:1 to prevent an increase in emissions, or to offset emissions at a ratio of greater than 1:1 to assure a net reduction of emissions. The preceding requirement could apply to both stationary and mobile offshore sources. New sources located offshore of an attainment area would be required to offset emissions only when a threshold emissions limit is surpassed.

Encourage the use of non-traditional offsets, for example, reduction of mobile source emissions through fleet conversion and carpool programs. Carpool programs are an example of an offset that also could have energy conservation benefits.

Establish a mitigation fee program to provide an alternative method for new sources to acquire offsets. The new source would pay a fee to a designated agency, such as the AQMD. The Agency would be responsible to identify, develop, and certify the offsets. This program would emphasize the development of non-traditional offsets.

Require the adoption of an inspection and maintenance plan to reduce fugitive emissions from OCS facilities.

Require crew and supply vessels to operate from ports nearer to rigs and platforms.

Require all non-emergency pumps, compressors, and other equipment on OCS platforms and rigs to be powered by electricity. This option assumes that stringent air pollution control equipment would be installed at the power plant (whether onshore or offshore) generating the electricity.

Require DOI to participate in the onshore evaluation and planning process. Onshore air quality agencies must periodically evaluate their air quality program to determine whether projected emission reductions are in fact occurring and whether the reductions are having the desired effect. Additional OCS measures would be adopted if necessary in light of the review.

Require DOI to issue air quality permits for all existing and new OCS sources. The permits would be analogous to onshore permits issued by local air pollution control districts and would specify enforceable emission limits. These permits would also facilitate the use of offsets from OCS sources because the offsets from other OCS sources would be more easily verifiable.

Oil Spill Risk

Encourage or require industry to relocate non-OCS tanker traffic outside the Santa Barbara Channel, and generally away from stationary oil/gas platforms.

Install a USCG radar or Global Positioning System traffic-control system to direct vessels in the Santa Barbara Channel.

Move the USCG vessel traffic lanes entirely out of the Santa Barbara Channel.

Move the southbound USCG vessel traffic lane out of the Santa Barbara Channel, because that is the lane used most often by laden oil tankers in this area (i.e., Alaska oil tankers heading for Long Beach).

V. Concerns and Options Specific to Sale 116, Part II

A. Environmental Concerns

The Task Force held Workshops in Tallahassee, Fort Myers, Miami, and Key West, Florida. The following concerns were expressed during the panel presentations, discussion, and public comment period:

Oil Spill Risk

Citizens and elected officials raised a number of concerns about the risk of oil spills and the ability of industry or Government to clean up after a major spill. Nearly every speaker indicated that any increased risk of an oil spill is too great to accept in mangrove-seagrass-coral ecosystems. Speakers said that the oil spill response to the *Exxon Valdez* spill shows the oil industry is not really prepared to clean up spills.

Speakers noted that current oil spill risks are already high in southwest Florida due to existing oil tanker traffic to the south of the area and through the area. The cumulative effect of oil drilling and associated development would increase those risks.

Speakers pointed out that if oil is developed, it will probably be brought ashore via tankers. Tankers pose far more significant risks of oil spills than pipelines.

Workshop participants expressed concern that attempting to remove oil from mangroves, corals, and sandy- or mud-bottom estuaries would exacerbate ecological damage caused by the spilled oil.

The mangrove forests, coral reefs, and seagrass communities contacted by an oil spill in Panama have suffered extensively and shown little sign of recovery in 2 years since the spill. The same could happen in southwestern Florida according to workshop participants.

Oil and gas industry representatives stated that drilling and producing operations offshore Florida are expected to pose relatively low environmental risk due to shallow water and low pressure and high viscosity oil likely to be found in oil and gas reservoirs.

Effects on Tourism and Recreation

Many commenters stated that tourists would avoid Florida's west coast and Keys if offshore oil and gas were developed there, which could substantially damage the State's largest industry.

Speakers were concerned that corals, which are a major tourist attraction, are extremely sensitive to pollutants and turbidity from drilling mud discharges.

The Task Force was told that recreational and pleasure craft would have to compete for limited dock space with oil and gas equipment and supply vessels.

Effects on Commercial Fishing

Workshop participants raised the following concerns:

The commercial and recreational fisheries in Florida, which generate a combined economic impact of over $1.6 billion annually, could be adversely affected by OCS development.

Eggs, larvae, and juvenile fish are susceptible to chronic pollutants and acute oil spills.

Development would disrupt productive marine resource habitats such as estuaries, seagrass beds, and coral reefs.

Effects on Protected Lands

Federal, State, and local governments as well as private organizations have invested millions of dollars to purchase much of the coastal lands in southwest Florida for nature preserves, public recreation, and shoreline protection. The United Nations has designated Everglades National Park and Fort Jefferson National Monument (Dry Tortugas) ecosystem as an "International Biosphere Reserve." If an oil spill or chronic pollution from oil and gas drilling operations were to occur and foul these areas, the reason for their designation (i.e., the protection of the Florida Everglades) would be irreparably damaged, according to workshop participants.

Numerous citizens and elected officials voiced their concerns over the importance of assuring that public and private natural areas be protected from increased risks of oil spills. They raised issues over acute and chronic pollution that would result from oil and gas development.

The Task Force heard that designated national parks and sanctuaries contain many endangered and threatened species that could be affected by an oil spill.

Participants highlighted that Everglades and Biscayne National Parks, Ft. Jefferson National Monument, and Looe Key and Key Largo National Marine Sanctuaries are likely to be contaminated if an oil spill occurs from OCS leases.

Beaches and parks in Florida are one of the State's primary tourist attractions. There is no proven environmentally sound way to remove oil from sandy beaches or mangrove roots.

Effects on Protected Species

Workshop participants stated that increased marine vessel traffic could pose threats to sea turtles and manatees. Five species of endangered and threatened sea turtles inhabit the area. The endangered West Indian manatee inhabits coastal mangroves and rivers in the area.

The Task Force was told that drilling muds and other pollutants would reduce viability of sea grasses. Manatees and sea turtles forage on sea grasses and organisms which inhabit them.

Concerns were expressed that an oil spill contacting Ft. Jefferson National Monument could have devastating effects on seabird colonies. The islands contain one of the two largest seabird nesting colonies along the U.S. Gulf of Mexico coast.

Changes in Onshore Infrastructure and Land Use

Local officials and citizens expressed concern over onshore impacts associated with oil and gas development. Florida has one of the highest rates of population increase in the country. The rapidly rising population places demands on natural resources and public services—roads, water, schools, hospitals—which are currently at capacity.

Citizens and officials voiced the following concerns to the Task Force:

Solid waste disposal opportunities are extremely limited throughout the area. If Government requires companies to use "zero discharge drilling rigs," companies would have to bring drilling muds and other pollutants, some of which are toxic, to land. Southwest Florida has no place to put additional solid wastes.

Harbor space currently used by commercial fishing and recreational marinas is likely to be most affected by demands from OCS activity. Since creation of new ports is undesirable in most areas shortages and conflicts could result.

Demands for fresh water from onshore facilities supporting OCS activity will exacerbate existing shortages and saltwater intrusion, which are characteristic of the area.

The Florida Keys are not capable of supporting onshore staging and support facilities for oil and gas development.

Hurricanes and Emergency Preparedness

The Task Force heard that regular occurrence of hurricanes increases the potential for oil spills from platforms and tankers. The Dry Tortugas is a major hurricane entry point into the Gulf of Mexico. Over 150 hurricanes swept through the area between 1871 and 1986.

Furthermore, participants pointed out that hurricanes and tropical storms could rapidly spread any spilled oil.

The emergency response capabilities of local governments are already strained during and after hurricanes. This would make it difficult for them to deal with an oil spill at same time.

Submerged Habitats

The numerous corals in the south Florida area are very sensitive to pollutants and sediment accumulation.

The Task Force was told that drilling mud discharges can affect coral reefs, sea grasses, and hard bottom areas, especially in shallow, clear water. Recent studies in the Big Bend areas off Florida have shown that sea grasses within 300 meters of a drill platform were completely buried and killed. Biomass and productivity were affected out to 3.7 kilometers from the drilling facilities.

B. Options for Sale 116, Part II

The following options have been presented to the Task Force in its briefings or workshops:

Current Sale 116, Part II Proposal

The area identified as Sale 116, Part II includes about 14 million acres between 26° and 24° North latitude offshore southwest Florida. The northern boundary of the area is just south of Naples. The eastern boundary of the area under consideration for lease is about 30 miles from the mainland coast at its closest point. The southern boundary is about 25 miles north of the Dry Tortugas.

Unlike Sales 91 and 95, a final EIS for Sale 116 was published and distributed. Sale 116 was split at the proposed notice of sale stage in June 1988. Part II was postponed and later, in February 1989, included in the Task Force effort. While two special State/Federal task forces conducted reviews of oil spill trajectories and potential effects of exploration, the prelease process did not continue.

Sale Configuration Options

Proceed with the usual sale process beginning with the area studied in the EIS.

Allow no leasing or drilling within 30 miles of shore south of 26 degrees north.

Lease no areas containing coral reef or other environmentally sensitive lands.

Delete tracts in any known upwelling areas, submarine canyons, and ridges.

Establish larger buffer zones around the Fort Jefferson National Monument (Dry Tortugas).

Permit leasing only in the blocks in the Pulley Ridge and/or Howell Hook areas.

Timing of Leasing, Exploration and Development Options

Cancel Lease Sale 116, Part II and all future lease sales in the area. This is essentially the only option expressed by

the vast majority of individuals at the four workshops in Florida and through written comments. In addition to canceling Lease Sale 116, Part II, many expressed the view that all existing permits for exploration from previous lease sales in those areas south of 26 degrees North be revoked and leases repurchased so as to exclude any oil and gas development activities.

Many expressed a view that there should be no oil and gas development in the entire Florida OCS.

Delay leasing and exploration in the Part II area until exploration and development is complete north of 26° North latitude.

Delay leasing until additional environmental analysis is conducted to reflect new information emerging from hydrocarbon resource evaluation and other task force efforts and studies in Florida. The additional analysis would be made available to the public. Subsequent steps of the leasing process would follow as described above from the point of publishing the final EIS for Sale 91.

Allow one (or a few) test wells on existing leases to improve resource estimates.

Require that all existing leases be explored before leasing additional tracts.

Industry representatives stated that exploration and development of already leased tracts should proceed according the lessee's schedule.

Environmental Control and Mitigation Options

Require zero discharge drilling and production equipment.

Require pipelines for transport of oil and gas to processing facilities on shore (less risk of spill).

Require tankers/barges instead of pipelines to transport oil and gas to processing facilities (less damage to bottom environments).

Prohibit drilling or platform placement within a specified distance of coral reefs, live bottoms, or seagrass beds.

Prohibit drilling mud discharges within a specified distance of coral reefs, live bottoms, or seagrass beds.

Seasonally restrict seismic data collection and drilling activities to avoid primary concentrations of ecologically and commercially valuable species.

Require industry to mitigate damage to highly productive areas such as seagrass beds and coral reefs.

Improve oil spill response capabilities by conducting further testing of dispersants and their effects on ecosystems of south Florida.

Changes in Onshore Infrastructure and Land Use

Increase Federal funds to local communities and the State of Florida to defray costs of planning and providing services needed to accommodate increased population and industry needs resulting from OCS development.

Require consolidation of shore-based support facilities at existing industrial port facilities, e.g., Tampa.

VI. Programmatic Changes Raised by Workshop Participants

The Task Force heard a wide range of options recommending fundamental changes to the OCS leasing program through amendment of the OCS Lands Act and other statutes, preparation of integrated national plans relating to energy and oil spill risk management, and general practices used by the Minerals Management Service (MMS) in leasing and supervision of lessees.

A. Changes to the OCS Leasing Program

Development of Next 5-Year Oil and Gas Leasing Program

Many comments addressed the 5-Year Leasing Program. Section 18 of the OCS Lands Act requires the Department of the Interior to prepare and maintain a 5-Year OCS Oil and Gas Leasing Program designed to set out the size, timing and location of OCS leasing activities in such a way as to meet national energy needs and obtain a proper balance between the potential environmental damage, the potential for the discovery of oil and gas, and the potential for adverse impact on the coastal zone. On July 14, 1989, the Interior Department initiated the public consultation process required for the development of a new program to supersede the current 5-Year Program which covers the period from July 1987 to July 1992. The program development process takes over two years and is projected to result in final approval of a new program by the fall of 1991, covering OCS leasing activity over the period from that time until the fall of 1996. The process will include participation by the public, State and local governments, environmental organizations, and Members of Congress. Any decisions which the President may make on recommendations of the OCS Leasing and Development Task Force which would affect the next 5-Year Program can be incorporated as a part of this process.

Exclude Frontier Areas From the 5-Year Plan

It was recommended that frontier areas should be set on a separate schedule which reflects greater demand for research and public involvement. Analysis and research required to accurately document resources and potential effects is more complex in frontier areas, where leasing has not previously occurred, than in those areas with a leasing history. It was suggested that more study is needed before the decision is made to include such areas in the 5-Year Leasing Program.

Expand Revenue Sharing with Coastal States

Under Section 8(g) of the OCS Land Act the Federal Government shares revenues from OCS leasing with the coastal States. At present, coastal States receive 27 percent of the bonus bids, rents, and royalties from OCS leases in the first 3 miles of the OCS. The Task Force heard suggestions to increase both the areas subject to sharing OCS receipts and the percentage. The Task Force was told that the OCS Lands Act should be amended to provide for payments of shared revenues directly to coastal communities affected by OCS activity, in addition to States. A variant of this option was presented to institute revenue sharing within the 12-mile territorial sea with States or to institute a graduated revenue sharing system that would encompass the entire OCS but would reduce the percentage of revenue shared as the distance from shore increases.

Increase States' Involvement in Leasing Decisions

The Task Force was asked to consider ways to increase affected coastal States' participation in OCS decisions including whether to lease and the timing, extent, and conditions of leasing. For example, the OCS Lands Act could be amended to require that the Governors of affected States approve lease sales, plans of exploration, and development and production plans.

Amend CZMA to Include Consistency Review of OCS Lease Sales

The Coastal Zone Management Act (CZMA) provides for State review of activities in plans of OCS exploration, development, and production for consistency with State coastal zone management programs. The CZMA does not, however, authorize State consistency review of lease sales. The Task Force heard suggestions that subjecting sales to consistency review would assure leasing that is compatible with approved State and local coastal management plans.

Improve Other Federal Agency Involvement in OCS Decisions

In addition to the MMS, several Federal Agencies participate in the OCS process through consultations relating to effects on endangered and protected species, air and water quality permits, effects on conservation system units, transportation, and oil spill prevention and containment planning and response. Concern was expressed that participation of these agencies, which include, the U.S. Fish and Wildlife Service, the National Park Service, the National Oceanic and Atmospheric Administration, the U.S. Coast Guard, and the Department of Energy, in the decisions affecting leasing and development in the OCS is not always clearly defined along established processes. The Task Force was encouraged to recommend processes through which other Federal Agencies may formally participate in decisions.

Increase Public Involvement in OCS Decisions

It was recommended that MMS increase the level of public and State agency involvement in analysis and decisions affecting the OCS.

B. Integrated Planning

National Oil Spill Risk Assessment and Management

The Task Force heard many comments on the threat of oil spills. Sources of oil spill risk in addition to OCS production and transport include foreign tankers in U.S. waters, U.S.-flagged tankers and barges carrying Alaskan oil and refined products, and offshore production in State waters. The Task Force has been encouraged to recommend that a national oil spill risk assessment be conducted. Such an assessment would identify the sources of oil spill risk nationally and provide a systematic basis for reducing oil spill risks. Reductions in the risks from existing sources could offset the additional risk from a new source such as additional OCS development. Furthermore, additional oil spill response capabilities established in an area could be used to contain and clean-up oil spills from both OCS and non-OCS sources. One approach in areas of high oil spill risk (such as the areas near major oil tanker ports) is to allow no additional source of risk (such as OCS development) unless the added risk is offset by other reductions. Limitations on oil tanker routes could reduce oil spill risk in an area where OCS development could occur. A national assessment of oil spill risk could be used to identify those areas that would benefit from additional oil spill prevention, containment and cleanup capability.

In addition to the potential for large oil spills, significant amounts of oil constantly enter the marine environment from surface run-off, municipal wastes, normal vessel operations, and natural seeps. As with the assessment of oil spill risk, the Task Force was encouraged to recommend conduct of an inventory of sources of oil in coastal environments. This inventory could serve as an additional basis for offsets. For example, to offset the additional risk of oil spills from OCS development, oil/water separators could be installed in storm sewer outfalls.

The following options have been suggested to reduce oil spill risk from tankers, the primary source of large spills:

Improve oil spill prevention, contingency planning, trajectory analysis, containment, and cleanup drills and capability for tanker spills. This could be required through several possible mechanisms, many of which are addressed in bills now before the Congress. Coordination with the American Petroleum Institute's recently-announced "Petroleum Industry Response Organization" may also prove beneficial.

Increase Government funding for the U.S. Coast Guard's (USCG) oil spill prevention, response, and cleanup functions. This could include funding for additional pre-positioning of current equipment and for R&D to improve containment and cleanup technology. Include more frequent training exercises for Government personnel, at all levels, to heighten readiness and to improve integration of the various responsibilities carried out by the different levels of Government in responding to an oil spill.

Eliminate or increase limits on liability for damages from oil spills.

Review (and if necessary, revise) the National Contingency Plan to determine its adequacy to address major spills, with special regard to Government-industry and inter- and intragovernmental aspects.

Develop deepwater ports for the unloading of tankers to reduce nearshore tanker operations.

Revise Federal statutes governing design, construction, operation, manning and piloting of oil tankers.

A number of suggestions were made to the Task Force that would address oil spill risk on the entire OCS:

Amend the OCS Lands Act to eliminate or increase limits on liability for damages from OCS oil spills.

Provide greater assurance of availability of funds for prompt response to an OCS oil spill and for full compensation of injured parties.

Require special bonds or certification of financial responsibility for mitigation and compensation for damages.

Integrated Environmental Offsets

The Task Force has identified an opportunity to reduce several different types of environmental loads to which OCS activities contribute through a program in which OCS lessees would conduct or finance projects that would reduce several different existing environmental loads. A good example of such a project is the development and operation of a commuter transportation system using alternative fuels. A vanpooling system using alternative fueled vehicles could reduce onshore air emissions, reduce the risk of oil spills from tankers by reducing crude oil demand, and could also reduce congestion on the highways. In southern California for example, many projects that achieve savings in oil consumption will have the advantage of reducing both air emissions and oil spill risks.

By contributing to such a project, oil companies seeking approval for a major development project offshore could reduce existing air emissions and oil spill risk by more than the increases caused by the offshore development. Options for implementing this approach include expanding the existing air emission offsets program to include non-traditional sources, generalizing it to include oil spill risk and other environmental loads, and establishing a fund to finance public projects and programs through mitigation fees paid for uncontrolled and unmitigated emissions.

VII. National Energy Policy Options

Development of the National Energy Strategy

The President has directed the Department of Energy to begin development of a comprehensive "National Energy Strategy." This new policy is intended to guide the Nation in achieving ample supplies of competitively priced energy in a manner that recognizes the environmental, economic, health, and safety needs of the American public. The National Energy Strategy will be an integrated plan that emphasizes conservation as a key component.

Beginning in August, public hearings on the National Energy Strategy will be held in locations throughout the country. Comments will be solicited from public

officials, industry leaders, environmental groups, and concerned citizens on a wide range of energy issues and recommended solutions. The results of the hearings will be compiled, and the information will be made available to the public. A preliminary draft of the National Energy Strategy is scheduled for release in April 1990.

Energy Policy Recommendations Received by the Task Force

At each workshop, the OCS Task Force was told repeatedly that the proposed lease sales should not be conducted because the Nation does not have a comprehensive national energy policy. Numerous witnesses stated that if such an energy policy were developed and implemented, there would be no need for oil production from environmentally sensitive offshore areas. Alternatively, many suggested leasing only if the national energy policy clearly showed the need for additional offshore oil and gas production.

In general, the contention was made that the Federal Government should take an aggressive leadership role in establishing a comprehensive energy policy with strong emphasis on energy conservation. Greater reliance on alternative energy sources, together with a renewed national commitment to the development of renewable energy resources, was also recommended. Specific suggestions for new federal initiatives included the following:

- Increase fuel efficiency standards for new motor vehicles
- Improve energy conservation in buildings by installing more efficient lighting and appliances
- Reduce heat loss in buildings by improving wall insulation and installing windows with better heat retention properties
- Reestablish tax credits for investments in energy conservation measures
- Lower gasoline demand by encouraging the use of alternative fuels, such as methanol, ethanol, electricity, and compressed natural gas
- Promote educational programs to create a national consciousness about energy conservation in daily living
- Increase Federal funding for renewable energy R&D programs, including solar, wind, and ocean energy
- Promote increased use of mass transit in urban areas
- Encourage changes in urban land use planning to reduce commuting distances

In addition to policies designed to limit oil consumption, the Task Force was provided a number of specific policy recommendations relating to the OCS areas under consideration. These suggestions included:

- Preserve OCS oil resources in their natural state as a reserve to be produced in the event of a future energy emergency
- Instead of seeking new OCS production, revitalize the domestic oil production industry in well-developed oil producing areas where exploration and production have been reduced and existing wells have been plugged or abandoned
- Develop fully oil resources in OCS areas that currently have onshore support facilities and can accommodate further development without undue environmental risks

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Part III

Nuclear Regulatory Commission

10 CFR Part 2

Rules of Practice for Domestic Licensing Proceedings; Procedural Changes in the Hearing Process; Final Rule

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

RIN 3150-AC22, 3150-AA05

Rules of Practice for Domestic Licensing Proceedings—Procedural Changes in the Hearing Process

AGENCY: Nuclear Regulatory Commission.
ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its Rules of Practice to improve the hearing process with due regard for the rights of the parties. The amendments require a person seeking to participate as a party in an NRC proceeding to file a list of contentions with the presiding officer together with a brief explanation of the bases for each contention, a concise statement of the alleged facts or expert opinion that support the contention and which, at the time of the filing, the person intends to rely upon in proving the contention at the hearing, and references to the specific sources and documents of which the person is aware and upon which he or she intends to rely to establish such facts or expert opinions. The information submitted by a potential intervenor must be sufficient to show that a genuine dispute exists between it and the applicant or licensee on an issue of law or fact. If the person fails to satisfy these requirements the presiding officer shall not admit the contention. Other amendments are made to reduce unnecessary discovery, to describe procedures by which a presiding officer may require parties to file a description of the purpose and nature of questions which they intend to ask witnesses during cross-examination, to expand the time during which motions to dispose of contentions summarily and without a hearing may be filed, and to limit an intervenor's appeals and filings of proposed findings of fact and conclusions of law to issues which that party actually placed in controversy or sought to place in controversy in the proceeding.

EFFECTIVE DATE: September 11, 1989.

FOR FURTHER INFORMATION CONTACT: Stuart A. Treby, Assistant General Counsel, Rulemaking and Fuel Cycle Division, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555; Telephone (301) 492-1636.

SUPPLEMENTARY INFORMATION

I. Background

On July 3, 1986, after extensive study, evaluation and review and careful consideration of prior public comments,[1] the Commission published a notice of proposed rulemaking stating that it was considering amending certain provisions of its rules of practice in order to improve the licensing process for nuclear power plants and inviting public comment (51 FR 24365, July 3, 1986.) The proposed amendments, which were initially developed by the Regulatory Reform Task Force, addressed specific aspects of the hearings process: Admission of contentions; discovery against NRC staff; use of cross-examination plans; timing of motions for summary disposition; and limitations on intervenors' filings of proposed findings of fact, conclusions of law, and appellate briefs. In addition to these proposals, the Commission also requested comments on a series of related proposals developed by former Commissioner Asselstine concerning the intervention process. The comment period expired October 17, 1986. More than 150 comments, including a few late-filed comments, were received from electric utilities, electric utility and nuclear power associations or their counsel, utility stockholders, counsel for NRC licensees, an architect-engineer, intervenors in NRC proceedings, public interest groups, states, local governments, Indian tribes and interested individuals. Copies of all comments received are available for public inspection, and copying for a fee, at the NRC Public Document Room at 2120 L Street, NW., lower level, Washington, DC.

II. Summary of Comments

A. General

Although objections were raised to some of the specific proposals, the proposed rule received broad support from electric utilities, their counsel and various industry groups. According to these commenters, the proposed rule would streamline the hearing process and make it more efficient. States, local governments, public interest groups, intervenors and individuals generally opposed the proposals on the ground that they would curtail the public's role in the licensing process and meaningful public participation in licensing proceedings would be eliminated. Noting the need for and importance of unbiased factual information in reaching sound regulatory decisions and the effectiveness of intervenors in identifying and obtaining full consideration of vital health and safety issues, these commenters expressed the view that opportunities for full public participation in the licensing process should be expanded, not reduced. Some commenters questioned the need for the proposed changes. Others stated that the Commission's rules of practice should be retained unchanged.

B. Comments on Specific Proposals, with Responses

The sections which follow contain a description of each of the proposed amendments, a summary of the comments received and an NRC response.

1. Intervention (10 CFR 2.714) Admission of Contentions

The proposed amendments to 10 CFR 2.714 would raise the threshold for the admission of contentions to require the proponent of the contention to supply information showing the existence of a genuine dispute with the applicant on an issue of law or fact. The required showing must include references to the specific portions of the application which are disputed. The contention must also be supported by a concise statement of the alleged facts or expert opinion, together with specific sources and documents of which the petitioner is aware, which will be relied on to establish the facts or expert opinion. Absent this showing, the contention will not be admitted. Under the proposed amendments, admission of a contention may also be refused if it appears unlikely that the petitioner can prove a set of facts in support of the contention or if it is determined that the contention, even if proven, would be of no consequence in the proceeding because it would not entitle the petitioner to relief. Finally, the proposed amendments would provide that a contention raising only an issue of law will not be admitted for resolution in an evidentiary hearing but shall be decided on the basis of briefs and any oral argument that may be held.

Electric utilities, their counsel and industry groups, for the most part, supported this change, while environmental and citizen action groups and state and local government representatives opposed the proposed amendments raising the threshold for the admission of contentions.

Characterizing the proposed changes respecting the admission of contentions as one of the most significant aspects of the proposed rule, the commenters who favored adopting more stringent standards of admissibility stated that the Commission's existing procedures permitted too many insignificant,

[1] A detailed account of the background of this rulemaking is set out in the preamble of the proposed rule, *see* 51 FR 24365-24366, July 3, 1986.

meritless, hypothetical and time-consuming contentions to be admitted and that the proposed amendments would have the salutary effect of requiring petitioners to know in advance of filing a petition to intervene what issues they intended to litigate and how they planned to conduct the litigation. In the opinion of some commenters, the proposed amendments, if vigorously enforced, could become an important tool in crystallizing disputes at an early stage in the proceeding, thereby significantly improving the efficiency and quality of the hearing process. The commenters noted that the proposed amendments should curtail the practice of using discovery procedures to develop contentions and that the proposed amendments would bring NRC practice more in line with Federal practice under the Administrative Procedure Act. The proposed amendments would also, in one respect, conform NRC practice more closely to that permitted by the Federal Rules of Civil Procedure. On this point, one commenter noted the similarity between Rule 12(b)(6) of the Federal Rules of Civil Procedure and the provision in proposed § 2.714(d)(2)(iii) under which a presiding officer could refuse to admit a contention upon a determination that the contention, if proven, would be of no consequence in the proceeding because it would not entitle the petitioner to relief.

Some of the proponents of the proposed amendments expressed the view that the amendments should be further revised. Several commenters expressed the view that the proposed amendments did not go far enough in that they failed to include more stringent requirements respecting standing. Several commenters questioned the propriety of admitting contentions based on disputes on issues of policy. In the opinion of these commenters, it would be inappropriate for licensing and appeal boards to decide policy issues. Policy and disagreements concerning policy should be addressed by the Commission itself. According to these commenters, to permit policy statements which have been formally adopted by the Commission to be challenged in licensing and regulatory proceedings devoted to other matters would be inconsistent with current NRC practice (see 10 CFR 2.758) which precludes parties in any adjudicatory proceeding involving initial licensing, except as provided in § 2.758 (b), (c) and (d), from challenging any Commission rule or regulation. Instead, concerns respecting Commission policies should be raised at the time the Commission is actively engaged in developing and formulating those policies in the forum provided by the Commission for that purpose.

In response, the Commission would note that the use of the terms "law, fact and policy" was not meant to change in any manner the way Commission regulations or policy statements are dealt with in NRC proceedings. The terms were used merely to encompass the variety of issues, often mixed factual, legal or policy issues, which can be the subject of contentions in NRC proceedings. However, to avoid any ambiguity about the manner in which policy issues are to be dealt with before the NRC, the word "policy" has been deleted from the final version of § 2.714.

Several commenters criticized the language used in paragraph (b)(2) of § 2.714 to describe the threshold of admissibility on the ground that it was unnecessarily redundant because it included two separate standards of admissibility, *i.e.*, (1) the existence of a genuine dispute with the applicant on a material issue of law, fact or policy, and (2) the information presented prompts reasonable minds to inquire further as to the validity of the contention. Some commenters opposed, while other commenters favored, inclusion of the "reasonable minds" standard. One commenter noted that the genuine dispute standard is the same standard used to determine standing and that if this standard is applied as it has been in the past, adoption of the proposed amendments will have little practical effect. The Commission has concluded that describing the threshold for admissibility by two different phrases is unnecessary and could create confusion. Therefore the "prompts reasonable minds to inquire further" language has been deleted from the final rule.

Commenters opposing the proposed amendments objected on the grounds that the proposed amendments were unnecessary, contrary to due process, unduly burdensome, unfair and in violation of the provisions of section 189a of the Atomic Energy Act of 1954, as amended. According to these commenters, the proposed standard for the admission of contentions is so restrictive that it would be virtually impossible for persons seeking to participate in an NRC adjudicatory proceeding to succeed in having their contentions admitted with the result that significant safety issues might not be fully explored or carefully reviewed. Instead of sharpening the issues in dispute, the proposed amendments would simply eliminate certain issues from further consideration with the result that the problems presented might never be satisfactorily resolved. This could be highly detrimental to the public health and safety.

Asserting that the proposed standard for admissibility of contentions is far more stringent than that applied by the Federal courts, the commenters argued that, if promulgated, the standard would have the effect of requiring persons seeking to participate in an NRC proceeding to prepare and prove their complete evidentiary case before any determination is made on their right to be a party to the proceeding. Under the proposed procedures, several commenters argued, petitioners would not only be required to produce the proof of their alleged facts in order to be admitted to the proof-gathering and fact-finding process; licensing boards would also be permitted to prejudge the petitioner's evidence before the petitioner was granted standing to participate in the proceeding. Several commenters took strong exception to the provision in § 2.714(d)(2)(ii) which would permit presiding officers to bar an intervenor from participating in a proceeding on the basis of a preliminary determination that "it appears unlikely that petitioner can prove a set of facts in support of its contention."

In the opinion of some commenters, the requirement that petitioners must document and furnish evidence in support of their contentions before they are entitled to participate in an adjudicatory proceeding and take advantage of the mechanisms normally available to parties to such a proceeding to obtain relevant documents and information is patently unfair and constitutes a denial of due process. In addition, they argue, contrary to the intent of the present regulatory scheme, one immediate effect of the proposed amendments would be to shift the burden of proof from the license applicant to the intervenor. The comments also noted that under the Commission's regulations, license applicants are not required to furnish all the necessary documentation supporting the application at the time the application is first submitted. These circumstances, coupled with the more stringent standard for the admission of contentions prescribed by the proposed amendments, would make it impossible for intervenors to prepare and litigate a fully definitive case.

Some commenters also argue that to the extent that the proposed amendments would operate to bar intervenors from participating in NRC adjudicatory proceedings, they would contravene the provisions of section 189a of the Atomic Energy Act of 1954,

as amended, which states, in pertinent part:

In any proceeding under this Act, for the granting, suspending, revoking, or amending of any license or construction permit, or application to transfer control, and in any proceeding for the issuance or modification of rules and regulations dealing with the activities of licensees, and in any proceeding for the payment of compensation, an award, or royalties under sections 153, 157, 186c., or 188, the Commission shall grant a hearing upon the request of any person whose interest may be affected by the proceeding, and shall admit any such person as a party to such proceeding * * *.

The commenters also opposed the proposed amendments because, in their opinion, the amendments would, if adopted, create a hopeless state of confusion respecting the matters to be considered in determining whether a person should be entitled to participate in a proceeding and the matters to be considered in reaching a decision on the merits of the proceeding. In their view, the standards used in deciding an issue on the merits are not appropriate for deciding whether a particular person should be allowed to participate in a proceeding. The commenters also took exception to the cases cited in the preamble of the proposed rule in support of this proposal.

Finally, some commenters objected to the proposed amendments on the grounds that they are unnecessary. According to these commenters, presiding officers have adequate authority under the Commission's present rules of practice to bar contentions which are frivolous and without merit. In general, when an effort has been made to apply the existing requirements in a disciplined manner, presiding officers have experienced little difficulty in determining whether a particular contention is meritorious and should be admitted as an issue in the proceeding. The commenters are firmly of the view that additional amendments establishing more stringent standards for the admission of contentions are unnecessary.

The Commission disagrees with the assertions that the proposed amendments are unduly burdensome and so restrictive that it will be virtually impossible for persons to have safety contentions admitted to an NRC proceeding.

Under these new rules an intervenor will have to provide a concise statement of the alleged facts or expert opinion which support the contention and on which, at the time of filing, the intervenor intends to rely in proving the contention at hearing, together with references to the specific sources and documents of which the intervenor is aware and on which the intervenor intends to rely in establishing the validity of its contention. This requirement does not call upon the intervenor to make its case at this stage of the proceeding, but rather to indicate what facts or expert opinions, be it one fact or opinion or many, of which it is aware at that point in time which provide the basis for its contention.

In addition to providing a statement of facts and sources, the new rule will also require intervenors to submit with their list of contentions sufficient information (which may include the known significant facts described above) to show that a genuine dispute exists between the petitioner and the applicant or the licensee on a material issue of law or fact. This will require the intervenor to read the pertinent portions of the license application, including the Safety Analysis Report and the Environmental Report, state the applicant's position and the petitioner's opposing view. Where the intervenor believes the application and supporting material do not address a relevant matter, it will be sufficient for the intervenor to explain why the application is deficient.

The Commission does not agree that this rule contravenes section 189a of the Atomic Energy Act of 1954, as amended. A member of the public has no absolute or unconditional right to intervene in a nuclear power plant licensing proceeding under the Atomic Energy Act. *BPI* v. *Atomic Energy Commission*, 502 F.2d 424 (DC Cir. 1974). Section 189a of the Act which provides for intervention is subject to the Commission's rulemaking power under section 161p and, thus, to reasonable procedural requirements designed to further the purposes of the Act. *BPI* v. *Atomic Energy Commission, supra*, 502 F.2d at 427, 428; *see also American Trucking Ass'ns, Inc.* v. *United States*, 627 F.2d 1313, 1320-23 (DC Cir. 1980). Furthermore, the right to intervention under section 189a for a member of the public is explicitly conditioned upon a "request." The proposed amendments would, in effect, provide that a "proper request" by a member of the public shall include a statement of the facts supporting each contention together with references to the sources and documents on which the intervenor relies to establish those facts. Finally, the Administrative Procedure Act creates no independent right to intervene in nuclear licensing proceedings. See *Easton Utilities Commission* v. *Atomic Energy Commission*, 424 F.2d 847, 852 (DC Cir. 1970)(en banc); *cf. National Coal Operators' Assn.* v. *Kleppe*, 423 U.S. 388, 398-99, 46 L. Ed. 2d 580, 96 S. Ct. 809 (1976).

Nor does the Commission believe that this requirement represents that substantial a departure from existing practice. Under the Commission's existing requirements, as explained by the Atomic Safety and Licensing Appeal Board, "[A]n intervention petitioner has an ironclad obligation to examine the publicly available documentary material pertaining to the facility in question with sufficient care to enable the petitioner to uncover any information that could serve as the foundation for a specific contention. Neither Section 189a of the Atomic Energy Act nor § 2.714 of the Rules of Practice permits the filing of a vague, unparticularized contention, followed by an endeavor to flesh it out through discovery against the applicant or Staff."

Duke Power Co. (Catawba Nuclear Station, Units 1 and 2), ALAB-687, 16 NRC 460, 468 (1982); *vacated in part on other grounds*, CLI-83-19, 17 NRC 1041 (1983). *See also Ohio* v. *NRC*, 814 F.2d 258 (6th Cir. 1987). Under the current requirement to provide the basis for a contention, a petitioner must provide some sort of minimal basis indicating the potential validity of the contention. "The requirement generally is fulfilled when the sponsor of an otherwise acceptable contention provides a brief recitation of the factors underlying the contention or references to documents and texts that provide such reasons." *Texas Utilities Electric Co.* (Comanche Peak Steam Electric Station, Unit 1), ALAB-868, 25 NRC 912, 930 (1987). The revised rule does, however, overturn the holdings of *Mississippi Power and Light Co.* (Grand Gulf Nuclear Station, Units 1 and 2), ALAB-130, 6 AEC 423, 425-26 (1973) and *Houston Lighting and Power Co.* (Allens Creek Nuclear Generating Station, Unit 1), ALAB-590, 11 NRC 542, 546-49 (1980). The Appeal Board found in those cases that the current language of 10 CFR 2.714 does not require a petitioner to describe facts which would be offered in support of a proposed contention. The new rule will require that a petitioner include in its submission some alleged fact or facts in support of its position sufficient to indicate that a genuine issue of material fact or law exists.

We reject the arguments that the new rule is unfair and a denial of due process because it requires intervenors to allege facts in support of its contention before the intervenor is entitled to discovery. Several months before contentions are filed, the applicant will have filed an application with the Commission, accompanied by multi-volume safety

and environmental reports. These documents are available for public inspection and copying in the Commission's headquarters and local public document rooms. Admitted intervenors will continue to be able to use discovery to develop the facts necessary to support its case. However, the rule will require that before a contention is admitted the intervenor have some factual basis for its position and that there exists a genuine dispute between it and the applicant. It is true that this will preclude a contention from being admitted where an intervenor has no facts to support its position and where the intervenor contemplates using discovery or cross-examination as a fishing expedition which might produce relevant supporting facts. The Commission does not believe this is an appropriate use of discovery or cross-examination. *BPI* v. *Atomic Energy Commission*, 502 F.2d 424, 429 (DC Cir. 1974). The Commission believes it is a reasonable requirement that an intervenor be able to identify some facts at the time it proposes a contention to indicate that a dispute exists between it and the applicant on a material issue.

The Commission agrees with commenters that the new rule may require persons seeking intervention to do more work at an earlier stage of the proceeding than under the current regulations. However, the Commission disagrees with the conclusion reached by some commenters that the rule shifts the burden of proof to potential intervenors or should be rejected because of the burden placed on potential intervenors. The revised rule does not shift the ultimate burden of persuasion on the question of whether the permit or license should be issued; it rests with the applicant. Rather, the rule only details what is expected of an intervenor as part of its burden of coming forward with information in support of a proposed contention. *Cf. Consumers Power Co.* (Midland Plant, Units 1 and 2), ALAB-123, 6 AEC 331, 345 (1973). The Commission believes it to be a reasonable requirement that before a person or organization is admitted to the proceeding it read the portions of the application (including the applicant's safety and environmental reports) that address the issues that are of concern to it and demonstrate that a dispute exists between it and the applicant on a material issue of fact or law. Many intervenors in NRC proceedings already ably do what is intended by this requirement: they review the application before submitting contentions, explain the basis for the contention by citing pertinent portions and explaining why they have a disagreement with it.

The Commission also disagrees with the comments that § 2.714(b)(2)(iii) should permit the petitioner to show that it has a dispute with the Commission staff or that petitioners not be required to set forth facts in support of contentions until the petitioner has access to NRC reports and documents. Apart from NEPA issues, which are specifically dealt with in the rule, a contention will not be admitted if the allegation is that the NRC staff has not performed an adequate analysis. With the exception of NEPA issues, the sole focus of the hearing is on whether the application satisfies NRC regulatory requirements, rather than the adequacy of the NRC staff performance. See, *e.g.*, *Pacific Gas and Electric Co.* (Diablo Canyon Nuclear Power Plant, Units 1 and 2), ALAB-728, 17 NRC 777, 807, *review declined*, CLI-83-32, 18 NRC 1309 (1983).[2] For this reason, and because the license application should include sufficient information to form a basis for contentions, we reject commenters' suggestions that intervenors not be required to set forth pertinent facts until the staff has published its FES and SER.

The new rule provides that in ruling on the admissibility of a contention, the presiding officer shall not admit a contention to the proceeding if the intervenor fails to set forth the contention with reasonable specificity or establish a basis for the contention. In addition, the contention will be dismissed if the intervenor sets forth no facts or expert opinion on which it intends to rely to prove its contention, or if the contention fails to establish that a genuine dispute exists between the intervenor and the applicant (or, possibly, the NRC staff on a NEPA issue). Contrary to the assertions of some commenters, the use of this standard for the admission of contentions has been supported by the Federal courts in numerous instances. *Vermont Yankee Nuclear Power Corp.* v. *NRC*, 435 U.S. 519 (1978); *Independent Bankers Ass'n* v. *Board of Governors*, 516 F.2d 1206 (D.C. Cir. 1975); *Connecticut Bankers Ass'n* v. *Board of Governors*, 627 F.2d 245 (D.C. Cir. 1980). The court in the latter case emphasized that "a protestant does not become entitled to an evidentiary hearing merely on request, or on a bald or conclusory allegation that such a dispute exists. The protestant must make a minimal showing that material facts are in dispute, thereby demonstrating that an "inquiry in depth' is appropriate." 627 F.2d at 251. The Commission's rule is consistent with these decisions.

Several commenters were concerned that the standard "dispute on a genuine issue of material law or fact" is the same one to be used by the presiding officer in ruling on motions for summary judgment filed under 10 CFR 2.749. The Commission expects that at the contention filing stage the factual support necessary to show that a genuine dispute exists need not be in affidavit or formal evidentiary form and need not be of the quality necessary to withstand a summary disposition motion. At the summary disposition stage the parties will likely have completed discovery and essentially will have developed the evidentiary support for their positions on a contention. Accordingly, there is much less likelihood that substantial new information will be developed by the parties before the hearing. Therefore, the quality of the evidentiary support provided in affidavits at the summary disposition stage is expected to be of a higher level than at the contention filing stage.

The proposed rule also provided in § 2.714(d)(2) that the presiding officer would refuse to admit a contention where:

(ii) It appears unlikely that petitioner can prove a set of facts in support of its contention; or

(iii) The contention, if proven, would be of no consequence in the proceeding because it would not entitle petitioner to relief.

The requirement in (iii) above was intended to parallel the standard for dismissing a claim under Rule 12(b)(6) of the Federal Rules of Civil Procedure. The intent of Rule 12(b)(6) is to permit dismissal of a claim where the plaintiff would be entitled to no relief under any set of facts which could be proved in support of his claim.

A number of commenters disagreed with the language of proposed § 2.714(d)(2)(ii); specifically, the phrase "appears unlikely", because it suggests that the presiding officer is to prejudge the merits of a contention before an intervenor has an opportunity to present a full case. The Commission recognizes the potential ambiguity of the proposed phrasing and the paragraph has been deleted.

Issues which arise under the National Environmental Policy Act (NEPA) are specifically addressed in the new rule.

[2] The Commission recognizes that in some cases the applicant's and the NRC staff's position on a particular issue will be similar. Although under these rules the contention must be framed to disagree with the applicant's position, an intervenor's evidentiary in the proceeding. For each issue appealed, the precise portion of the record relied upon in support of the assertion of error must also be provided.

NEPA requires the NRC to analyze the environmental impact of its proposed major actions significantly affecting the quality of the environment. In the licensing context, the NRC fulfills this obligation by issuance of a draft environmental impact statement (DES) and a final environmental impact statement (FES). Any license or permit application subject to NEPA's impact statement requirement must contain a complete Environmental Report (ER) which is essentially the applicant's proposal for the DES. (See 10 CFR 51.20 and 51.40). As described in § 2.714(b)(2)(iii), an intervenor will be required to demonstrate that a genuine dispute exists between it and the applicant or the staff on a material issue of fact or law which relates to NEPA. Several commenters took exception to the provisions in paragraph (b)(2)(iii) of § 2.714 relating to environmental matters, claiming, among other things, that those provisions appear to authorize petitioners to submit late-filed contentions based on the NRC staff's environmental review documents. One commenter recommended that the discussion of NEPA issues in § 2.714(b)(2)(iii) be deleted as unnecessary, noting the availability of a right, based on past precedents, to amend or supplement environmental documents to reflect new information. The commenters disagreed on whether contentions relating to environmental matters should focus on environmental reports submitted by the applicant or environmental documents prepared by the NRC staff.

The Commission has reexamined those portions of § 2.714(b)(2)(iii) which relate to the filing of environmental contentions in the light of these comments and has concluded that the text of the rule as presently drafted is clear and that no further revision is needed. The rule makes clear that to the extent an environmental issue is raised in the applicant's ER, an intervenor must file contentions on that document. The NRC staff in its DES or FES may well take a different position than the applicant. 10 CFR 2.714(b)(2)(iii) explicitly recognizes for environmental matters existing precedent regarding the right to amend or supplement contentions based on new information. The Commission wishes to emphasize that these amendments to § 2.714(b)(2)(iii) are not intended to alter the standards in § 2.714(a) of its rules of practice as interpreted by NRC caselaw, *e.g., Duke Power Co.,* (Catawba Nuclear Station, Units 1 and 2), CLI-83-19, 17 NRC 1041 (1983), respecting late-filed contentions nor are they intended to exempt environmental matters as a class from the application of those standards.

One commenter objected to the inclusion of the word "concise" in paragraph (b)(2)(ii) of § 2.714 on the ground that it "could be misconstrued as requiring brevity." The commenter added that a word or phrase which connotes sufficient detail to inform the reader of the various factual or other bases for the contention should be used instead.

The Commission disagrees with the view of the commenter that retention of the word "concise" in paragraph (b)(2)(ii) of § 2.714 could be misleading. In the opinion of the Commission, paragraph (b)(2)(ii), when read in context with paragraphs (b)(2)(i) and (b)(2)(iii) of § 2.714, clearly identifies the kind of detailed information which a petitioner must provide to enable the Commission or the presiding officer to determine whether a contention should be admitted in a particular adjudicatory proceeding.

Several commenters suggested that paragraph (b)(2)(iii) of § 2.714 should require that the issue being raised is not only in dispute but is also "material", that is, that the resolution of the dispute would make a difference in the outcome of the licensing proceeding. The Commission concurs that that was the intention of the requirement, as is demonstrated by the the language of paragraph (d)(2)(i) of § 2.714, which provided for "determining whether a genuine dispute exists on a *material* issue" of law or fact. Section 2.714(b)(2)(iii) has been revised to include the word "material".

One commenter expressed the view that there was very little likelihood that contentions involving purely legal issues would be submitted (in most cases contentions raise mixed questions of law and fact) and therefore paragraph (d)(2)(iv) of § 2.714 is unnecessary and should be deleted. Another commenter disagreed with the form of § 2.714(d)(2)(iv). As written, it conflicts with the proposed definition of a contention in 10 CFR 2.714(b)(2) as a statement of "*law*, fact or policy". While not opposed to the intent of the proposal, the commenter recommended that this section be revised to read as follows:

> If the Commission, the presiding officer, or the Atomic Safety and Licensing Board designated to rule on the admissibility of contentions determines that any of the admitted contentions constitute pure issues of law, those contentions must be decided on the basis of briefs or oral argument according to a schedule determined by the Commission or the presiding officer.

The intent of the proposed rule in § 2.714(d)(2)(iv) was that purely legal contentions, which occur rarely, may be admitted as issues in the proceeding. However, they will not be a part of an evidentiary hearing, but rather, will be handled on the basis of briefs and oral arguments. A new paragraph (e) has been added to § 2.714 to clarify this intention.

The Commission is also making a clarifying change to 10 CFR 2.714(c). That paragraph provides that any party to a proceeding may file an answer to a petition to intervene within certain time periods. Prior to 1978, a person petitioning to intervene in an NRC proceeding was required to state not only how his or her interest might be affected by the results of the proceeding, but also the basis for his or her contentions with regard to each aspect on which he or she desired to intervene. Under that scheme for petitions for leave to intervene, it was clear that a response filed pursuant to 10 CFR 2.714(c) could be a response to the contentions and the bases for any contentions proposed. In 1978, the Rules of Practice were amended to provide that a petitioner could file his or her contentions separately in a supplement to the original petition to intervene, not later than fifteen days prior to the special prehearing conference held pursuant to 10 CFR 2.751a or the first prehearing conference. Section 2.714(c) was not amended to make it clear that answers to these supplemental petitions containing contentions and their bases were permitted as well as to the original petition to intervene. However, the practice before the Commission since 1978 has been that answers to supplements to petitions to intervene as well as to an initial petition to intervene are permissible within the timeframe established in § 2.714(c). Language is being added to § 2.714(c) to make it clear that answers to both initial petitions and any supplements thereto are permissible.

Former Commissioner Asselstine also suggested in the proposed rule additional changes in the Commission's rules on intervention and public participation in the licensing process. Changes to 10 CFR 2.104, 2.714, 2.751a and 2.752 were proposed to require early publication of notice of receipt of an application, to specify the time within which petitions for intervention can be filed, to separate the decision on standing from the decision on the validity of contentions, to provide for a mandatory ninety day period of time to draft contentions, and to create a two stage screening process to determine

whether or not a genuine issue of a material fact exists with respect to each contention.

Those commenters who favored former Commissioner Asselstine's proposals felt they would improve the efficiency of the hearing process without imposing additional burdens on intervenors. They were thought to be logical and easy to understand and dealt with the fact that although the hearing clock begins when an application is docketed, much of the documentation of interest to intervenors may not be ready for some time. Some commenters felt the proposals would encourage informal discussion and resolution of disputes and were generally more equitable and fair.

Those commenting unfavorably on the Asselstine proposals felt they would exacerbate the current problems of instability and unpredictability in the hearing process. The use of provisional admission and the notice of receipt proposals would only add additional steps to the hearing process without increasing its effectiveness. They felt presiding officers already have the authority to reject petitions for intervention prior to submission of contentions and do so. These proposals would substantially increase the number of parties and contentions without any countervailing benefit. Other commenters, although favoring the approach of Commissioner Asselstine, believed discovery should take place before contentions and that too much discretion was being given to the presiding officer to dismiss contentions.

The Commission has considered the comments on Commissioner Asselstine's proposals and concluded that it does not wish to take any additional action regarding these proposals at this time. Several of them address the same aspects of the hearing process, *e.g.* the filing of contentions, as the proposed rule changes made by the Commission, and, the Commission has chosen to adopt those rules essentially as proposed.

2. Subpoenas (10 CFR 2.720) Discovery Against NRC Staff

The proposed amendments to 10 CFR 2.720(h)(2)(ii) would codify two existing grounds used by NRC staff to object to responding to interrogatories from parties in NRC adjudicatory proceedings. This change would enable the staff simply to cite the provisions of the rule in objecting to a request, thereby conserving limited staff time and resources. The first ground for objecting reflects existing NRC practice in which a response stating that the requested information is available in either NRC public document rooms or in public compilations and providing sufficient information to enable a party to locate the material requested is considered adequate. The second ground would limit the scope of an interrogatory by barring the requestor from asking the NRC staff to explain its reasons for not using data, assumptions and analyses where the NRC staff did not rely on this information in its review. Persons submitting interrogatories would also be prevented from asking the staff to perform additional research or analytical work beyond that needed to support the NRC staff's position on any particular matter. Requestors could continue to submit interrogatories seeking to elicit factual information reasonably related to the NRC staff's position in the proceeding, including data used, assumptions made and analyses performed by the NRC staff.

The commenters who supported the proposed amendments did so because they believed it would be advantageous if certain established and well recognized precedents commonly used in NRC adjudicatory proceedings were codified in NRC's Rules of Practice. According to the commenters, the perceived advantages of codification included conservation of increasingly limited NRC staff resources, increased use of accepted legal procedures and reduction of delays in the application review process. One commenter stated that these procedures should not be limited to the NRC staff but that they should be equally available to all parties to any NRC adjudicatory proceeding. Several commenters who opposed the rule, also made this comment.

One commenter supported codification in principle but pointed out that the proposed amendments as presently drafted, do not accurately reflect existing precedent. For example, the proposed amendments convert a statement indicating the availability of a document, long recognized as an acceptable response, into an acceptable rationale for not responding. The commenter also took issue with the prohibition against the submittal of questions requesting the NRC staff to explain why it did not use certain alternative data or assumptions or perform certain analyses. According to the commenter, questions of this type would not require the staff to perform additional research; the staff need only respond by providing an explanation.

The commenters who opposed placing additional restrictions on interrogatories to the NRC staff did so for a variety of reasons. Considered unfair, unnecessary and unwise as a matter of policy, the proposed amendments were criticized because they would defeat the basic purpose of discovery--to obtain relevant information on issues raised in and pivotal to the proceeding, thereby preventing surprise at trial.

A number of commenters noted that the staff is a major if not crucial party because it is the party with the technical resources and expertise. Intervenors need full opportunity to understand and question the staff's position. Moreover, the staff should be held accountable for its actions. This proposal could restrict the flow of information and would place the burden on intervenors to locate information bearing on the staff's position. This would increase intervention costs. The current rules provide ample protection for the staff. If anything, discovery against the staff should be increased rather than decreased.

A number of commenters opposed to the rule change expressed concerns similar to those described above made by supporters of the rule. They were concerned that the proposed rule would improperly shield the staff from its obligation to explain and justify its position. The stated rationale for the rule--caselaw on the issue of requiring extensive independent research--does not support the proposal in the view of one commenter. The staff may have examined alternative assumptions, data and analyses and chosen not to rely on them. Interrogatories asking the staff to provide an explanation for why one particular source of data or analysis was chosen is fair discovery.

Several commenters argued that parties are entitled to know not just the facts supporting the staff's position but whatever facts are in the staff's possession. It is unreasonable and unfair to limit discovery to information that supports the staff's position. Relevant facts which do not support the staff's final position could be concealed.

A number of commenters were also critical of the assertion that this proposal was an attempt to conserve staff resources. Several asserted that the existing rules already give the staff special status in responding to discovery. If the staff is to remain a full party, it should be equal not privileged. Commission arguments that this rule is necessary to preserve scarce staff resources are not consistent with positions previously taken with respect to other parties to NRC proceedings. The Commission has consistently taken the view that parties are not excused from hearing obligations due to a lack of resources. Inhibiting the flow of information is not an appropriate way to

deal with scarce staff resources. The Commission should either seek additional appropriations or eliminate party status for the staff.

If the Commission wants to institutionalize the two objections discussed in the proposal they should be made applicable to all parties not just the staff. Commenters representing applicants asserted that discovery against them has many of the same objectionable qualities--asking for documents already on the docket or requesting the applicant to perform new analyses. These commenters saw no justification for codifying the NRC caselaw solely for the benefit of the staff.

A number of commenters were also critical of the second element of the proposed rule which would codify the existing NRC practice that an adequate discovery response is to state that the requested information is available in public document rooms or other public compilations. Several commenters noted that this proposal does more than just codify existing practice. If that were all it did, the basis for it is weak, because citing a rule rather than caselaw is not a meaningful reduction in staff workload. The proposal converts a method of response (citation to a specific document) into grounds for not responding. Under the proposed rule the Licensing Board must determine if information is reasonably obtainable from the public document room or another source. But the Licensing Board won't readily be able to determine this on its own. The staff might as well respond at the outset with the information which constitutes an adequate response under existing practice--title, page reference and location of document--rather than object and become involved in a round of pleadings to determine the staff's duty to respond.

Several commenters objected to the proposal because of the impact they felt it could have on specific types of proceedings. One commenter objected to limitations on interrogatories to the staff in enforcement proceedings regarding alternative assumptions and analyses not relied on. The concern was that if the staff refused to rely on a particular analysis performed by the licensee or its contractor in determining compliance, litigation of the issue could be protracted if the staff were not required to address it during discovery.

The Commission has decided to adopt the proposed changes to its discovery procedures; however, the changes will apply to all parties to NRC proceedings, not just to the NRC staff. Because of this expanded applicability of the changes, they are being incorporated into 10 CFR 2.740, the general provisions governing discovery rather than into § 2.720 as proposed.

Commission caselaw has long established that while in response to a discovery request a party must reveal information within its possession and control, which may entail some investigation to determine what information is in the party's possession, the party is not required to engage in independent research. *Pennsylvania Power and Light Co.* (Susquehanna Steam Electric Station, Units 1 and 2, ALAB-613, 12 NRC 317, 334 (1980). The breadth of permissible interrogatories is limited to those which address factual information related to a party's position in the proceeding, such as data used, assumptions made, and analyses performed by the party.

A party must provide the basis for its position on an issue in the proceeding, but the Commission does not believe that a party should be called upon through the discovery process to explain why it did not use other data or be required to perform additional studies. Interrogatories which elicit what data the party has relied on and why are acceptable. Interrogatories which ask a party to describe reasons why other data were not relied upon in developing a party's position will not be permissible. So long as prior to the trial, parties have an opportunity to learn what another party has done or what information that other party has to provide the basis for its position, the party seeking discovery will be able to show in the hearing what, in its view, the other party should have done or why its position is incorrect. By eliminating burdensome interrogatories the Commission will conserve not only its own staff resources, but provide a fair hearing process for all parties.

These principles are particularly important when applied to the NRC staff. To the extent that discovery elicits otherwise unavailable factual information concerning the basis for the staff's position on a particular issue in a proceeding, a party should be better prepared for trial. At the same time, the staff should be able to produce the factual information requested with minimal disruption of its limited resources. Staff documents relevant to a proceeding are publicly available as a matter of course unless there is a compelling justification for their nondisclosure. These publicly available documents reasonably disclose the basis for the staff's position. Thus formal discovery against the staff may legitimately be narrowed to minimize staff resources involved in time consuming discovery procedures.

The second proposed change to discovery procedures does not, despite suggestion by some commenters to the contrary, add any new bases for objecting to interrogatories. The change merely clarifies current practice that when a document is reasonably available from another source, such as the Commission's Public Document Room or local Public Document Room, the information need not be provided in response to the interrogatory. A sufficient answer to such an interrogatory is the location, title and a page reference to the relevant document.

3. Evidence (10 CFR 2.743) Cross-Examination

The proposed amendment to 10 CFR 2.743 would require a party to a proceeding to obtain the permission of the presiding officer in order to conduct cross-examination and would bar the presiding officer from considering any request to cross-examine unless the request was accompanied by a cross-examination plan containing specified information. The required plan would include a brief description of the issues on which cross-examination would be conducted and a proposed line of questions to achieve stated objectives together with the expected answers. The cross-examination plans would be kept confidential until the presiding officer issued his or her decision.

The commenters who supported the proposed amendments believed the requirement for a plan would encourage parties to think out their case in advance and would lead to better questions and a shorter proceeding. The proposed changes would add structure to cross-examination and decrease repetitive and cumulative questions. Some noted that cross-examination plans are essentially already standard practice, while others indicated their belief that the proposed changes would improve the Board's ability to control proceedings. One commenter, in supporting the proposal, noted that the NRC was within its authority to limit cross-examination to cases where it is required for full and true disclosure of the facts; nothing in the Atomic Energy Act or the Administrative Procedure Act guarantees an absolute right to cross-examine witnesses. *Seacoast Anti-Pollution League* v. *Costle*, 572 F.2d 872, 880 (1st Cir. 1978); *cert. denied*, 439 U.S. 824 (1978).

Several of these same commenters believed the Commission's proposed changes did not go far enough. One asserted that the proposal would not

change the hearing process but would only increase procedural requirements that will do little absent a vigilant presiding officer. The Commission should only permit cross-examination if the points to be made could not be achieved by written testimony. Under such an approach, cross-examination would be reserved for impeaching credibility. Several suggested that a party's cross-examination should be limited to issues or contentions that the party had placed in controversy. Another suggested that if more than one interested party had raised an issue, lead responsibility for litigating it should be assigned to one party.

One commenter stated that this proposal was so watered down from the Commission's earlier proposal in its Advanced Notice as to be almost meaningless. The Board should permit cross-examination only where, based on written evidence, there is a genuine and substantial issue of fact and resolution would be substantially assisted by cross-examination. This commenter also believed that the rule should provide for establishing time limits and noted that requiring and enforcing time limits is routine in Federal courts and other administrative agencies.

Commenters opposed to the proposed rule had concerns both with the proposal as a whole and with specific aspects of it. Several asserted that cross-examination is a fundamental right, and is especially important in NRC proceedings which deal with matters of public health and safety. In their view, the public interest in a full look at safety matters outweighs an interest in reducing a cluttered record. The proposal seeks to gain efficiency at the expense of quality decision-making and the openness of the process. To restrict cross-examination is to negate the purpose of adjudicatory proceedings--to adjudicate disputed facts. The purpose of cross-examination is to explore credibility, inconsistency and bias. Effective cross-examination requires an element of surprise and the ability to shift direction. One commenter asserted that the stated reliance on caselaw is misplaced. While the caselaw does support requiring parties to demonstrate the need for cross-examination, it has never suggested that barriers may be used to actively preclude the public litigant from participating.

Several commenters argued that the proposal imposes a disproportionately severe impact on intervenors. Some argued that the proposed rule was a blatant attempt to limit the record to testimony prepared by applicant and staff who have the resources to file a large amount of direct testimony. Intervenors are more likely to make their case on cross-examination because they lack the resources to produce their own witnesses.

A number of commenters also opposed the rule as unnecessary because the existing rules, 10 CFR 2.718 and 2.757, are more than sufficient to control cross-examination. The conduct of a hearing and the scope and amount of cross-examination are traditionally within the presiding officer's discretion. One commenter noted that prefiled cross-examination plans are essentially already standard practice. Another stated that such requirements are unnecessary for experienced counsel and unenforceable against others. Several noted that the proposal could waste more time than it would save by creating litigation of the cross-examination plans and by creating a new area for appellate litigation. The remedy is for the board to control the hearing, not add new paperwork requirements on counsel.

Another commenter took a slightly different approach in opposing the proposed rule. This commenter felt there were preferable means to limit argumentative and unnecessary cross examination. Parties should be limited to litigating only their own contentions and only their stated interest in the contention. If parties have a common interest, their contentions may be jointly admitted and lead responsibility assigned for litigating the contention, including cross-examination. Rather than develop more paperwork, the Commission should simply reiterate that hearings be conducted in strict accordance with the NRC's evidentiary practice.

One commenter questioned whether a Board in rejecting a cross-examination plan would not be prejudging an issue because the presiding officer might not understand the party's overall litigation strategy. Another questioned whether NRC can legally require a party to produce its workproduct to the Board and ultimately to other parties. On the other side, one commenter expressed concern that the filing of plans in confidence with the Board could unfairly influence the Board because parties could expound their theory of the case under the guise of describing objectives to be achieved during cross-examination.

One commenter argued that the proposed rule change violates the requirements of the National Environmental Policy Act (NEPA) for full consideration of all environmental impacts of a decision to license a nuclear power plant. Another commenter asserted that it would violate due process requirements if proceedings to impose civil penalties as well as other enforcement proceedings are not excluded from the rule.

Several objections to specific elements of the proposal were also noted. Many felt fifteen days to review prefiled testimony and prepare cross-examination plans was insufficient. A number of commenters objected to the requirement that the plans include not only questions but also the expected answers to questions. Most felt a statement of objectives and a proposed line of questions was sufficient for a Board to determine relevancy. If answers are required, then a party is in effect limited to asking questions for which he or she already knows the answers. A requirement for prefiled questions and answers would unfairly limit the scope of cross-examination because it would not allow questioners to follow up on the unexpected. Cross-examination is dynamic and litigants need the flexibility to try different tacks. The logical extension of the proposed requirement would be plans for redirect and recross-examination which would further delay a proceeding. Several commenters also noted their belief that this requirement could have a negative impact on discovery. They feared it could encourage a lack of full and prompt response to discovery by applicants in order to make it difficult for intervenors to file adequate plans and, consequently, to conduct cross-examination.

The Commission believes that cross examination plans can have a very beneficial impact on the conduct of a hearing by encouraging parties to develop and evaluate the objectives they expect their cross-examination to achieve and by giving the presiding officer the necessary information to effectively manage the proceeding. The Commission disagrees with those commenters who believe that the use of cross-examination plans will sacrifice the quality or openness of its decisionmaking for the sake of efficiency. Cross-examination plans have been used effectively in a number of Commission proceedings. We do not believe it is unduly burdensome to require a party to a proceeding to examine prefiled testimony sufficiently to be able to articulate to the presiding officer the nature of the questions the party believes are necessary to illuminate the issues of concern to it. However, because the usefulness of this procedure is highly dependent upon the circumstances of a particular

proceeding, the final rule has been changed to give the Presiding Officer discretion to require submittal of the plans.

The regulation makes clear that parties are entitled to conduct such cross-examination, in accordance with a plan if required by the Presiding Officer, as is necessary for full and true disclosure of the facts. This is the standard set forth in section 7(c) of the Administrative Procedure Act, 5 U.S.C. 556(d) and existing § 2.743(a). That provision has never been understood to confer unfettered rights to cross-examine witnesses. *See Seacoast Anti-Pollution League* v. *Costle*, 572 F.2d 872 (1st Cir. 1978); *cert. denied*, 439 U.S. 824 (1978); *Northern States Power Co.* (Prairie Island Nuclear Generating Plant, Units 1 and 2), ALAB-244, 8 AEC 857, 867 n. 16 (1974), *reconsideration denied*, ALAB-252, 8 AEC 1175, aff'd., CLI-75-1, 1 NRC 1 (1975). The standard in the rule will assure that issues are appropriately examined and it is also consistent with the Commission's obligations under NEPA to consider the environmental impacts of a decision.

We do not believe, as suggested by some commenters, that a more restrictive test for cross-examination, *e.g.* where genuine and substantive issues will be substantially assisted by cross-examination, is appropriate. The option of requiring use of cross-examination plans together with the discretion granted to the presiding officer elsewhere in the regulations to limit unnecessary, argumentative or duplicative cross-examination provide adequate measures to control the conduct of cross-examination.

This regulation will not inhibit a party's ability to use the element of surprise or shift direction as the cross-examination progresses. When a plan is required, parties must submit objectives and a proposed line of questions. They are not required to submit all of the questions to be asked. If the objectives are sufficiently developed and described, there will be no impediment to shifting the direction of questioning in response to the answers received because the presiding officer will be aware of the ultimate objective of the questioner or be able to ascertain through brief queries of the cross-examiner why the change in direction is appropriate. It is also noted that the plans are required to be kept confidential by the presiding officer. The Commission does agree with a number of commenters that a requirement to include the postulated answers to the questions may create an unnecessary burden on the preparer of the plan. The intent of the requirement was to help the presiding officer understand more easily how the proposed line of questions would achieve the stated objective. We have concluded, however, that the statement of objectives can provide sufficient notice to the presiding officer of the party's intentions and the final rule deletes the requirement to include in the plan expected responses to proposed questions.

Several commenters were also concerned that 15 days was insufficient time to examine testimony and prepare cross-examination plans. Deleting the requirement to include postulated answers should eliminate much of the difficulty which commenters identified for preparation of the plans. Therefore, we are retaining the 15 day prefiling requirement. However, language has been added to § 2.743(b)(2) to indicate that the schedule for filing cross-examination plans is to be established by the Presiding Officer. This will assure that the presiding officer will have sufficient time after filing of testimony but before the hearing to review the plans and make any necessary rulings. It will also permit the Presiding Officer to accomodate any unique circumstances of a particular proceeding.

Several commenters suggested that the Commission should impose strict limits on when cross-examination will be available, *e.g.*, for impeaching credibility or where a genuine and substantive issue is substantially assisted by cross-examination, and that it should limit the issues on which an intervenor may cross-examine and assign lead responsibility to a party when several have raised the same issues. The agency's rules currently authorize a presiding officer to consolidate parties and limit or consolidate cross-examination. 10 CFR 2.715a, 2.718 and 2.757. The Commission believes it is desirable to retain the presiding officer's flexibility to decide whether such consolidation is appropriate and therefore, has not limited the presiding officer's discretion in this regard.

One commenter noted that civil penalty and enforcement proceedings should be excluded from these requirements. As drafted, proposed paragraph (b)(3) of § 2.743 provided that paragraphs (b)(1) and (2) of the section do not apply to proceedings under subpart B of this part for modification, suspension, or revocation of a license. This was intended to continue the existing exemption for enforcement proceedings from requirements regarding prefiled testimony and provide a similar exemption concerning cross-examination plans. The Commission agrees that civil penalty proceedings as an additional type of enforcement proceeding should be included within these exemptions. The final rule has been revised to clarify the intended exemptions and to include civil penalty proceedings within the exemptions.

Several changes of a clarifying nature have been made to the rule as proposed. 10 CFR 2.743(b)(2)(iii) has been modified to indicate that the presiding officer is to keep the cross-examination plans in confidence until the initial decision on the matter being litigated has been issued. The language describing how the plans are to become part of the official record has also been clarified.

4. Authority of Presiding Officer to Dispose of Certain Issues on the Pleadings (10 CFR 2.749) Summary Disposition

The proposed amendment to § 2.749(a) would permit motions for summary disposition to be filed at any time during the proceeding, including during the hearing. Current rules provide that summary disposition motions shall be filed within such time as may be fixed by the presiding officer and also provides that the presiding officer may dismiss motions filed shortly before the hearing commences if responding to or ruling on the motion would divert substantial resources from the hearing. The proposed change is intended to give parties maximum flexibility to file such motions and to terminate litigation at any point in the proceeding when it becomes apparent that no genuine issue of material fact remains in dispute.

Those commenters who favored the proposed change felt that it would help simplify and rationalize the hearing process by preventing unnecessary litigation. Resolution of issues would be permitted at any point where it became apparent further hearing is unnecessary. Thus, the proposal could expedite elimination of frivolous contentions. Another commenter pointed out that § 2.749(c) would still be available to protect a party who for valid reasons could not respond to a motion for summary disposition, and would thus provide sufficient protection against inopportune motions.

Several commenters recommended that the proposal be clarified to provide that during a hearing, where cross-examination has not created a genuine dispute of fact and the intervenor has not called any witnesses, the Board is empowered to grant summary disposition on the applicant's testimony

or the evidentiary record, without a requirement for supporting affidavits.

Commenters opposing the proposed change generally felt that it would not increase the effectiveness of the hearing process, but rather could result in chaos and enormous inefficiencies during the hearing process. Several commenters were particularly concerned that this change would create the opportunity for harassing motions. Well-funded parties could overwhelm other parties with paperwork at crucial times. Several commenters felt the change would be unfair to intervenors, who generally have fewer resources and rely on volunteers. Several indicated that time was needed before trial to prepare testimony and review that of others. If summary judgment motions could be filed anytime, they could divert resources away from trial preparation. In addition, several expressed concern that motions could be filed before discovery was completed and before opponents of the motion could have obtained information to respond to the motion. This could result in legitimate safety issues being lost and never litigated. One commenter noted that this proposed change constitutes a departure from Federal practice. The purpose of summary judgment is to eliminate issues from the evidentiary hearing; therefore, summary disposition motions are appropriately filed before a hearing begins. Once the hearing has started, use of summary judgment motions is more likely to slow down rather than speed up the process.

Another commenter noted that the rule change is unnecessary because the current rule would permit summary judgment motions at all times if the presiding officer permits. If the rule is changed, however, the commenter argued that the last sentence of the current 10 CFR 2.749(a) should be retained. It provides that the Board may summarily dismiss summary disposition motions if they are filed shortly before or during the hearing and would result in a substantial diversion of resources. The commenter expressed concern that without this sentence the presiding officer's authority to control the hearing process would be diminished. The Board should be able to dismiss or at least hold in abeyance motions filed during the hearing that have the potential to disrupt the hearing.

Summary disposition is a significant procedural tool to eliminate unnecessary hearing time spent on testimony and cross-examination where no material issues of fact remain in dispute. The Commission has evaluated the comments on summary disposition and continues to believe that the advantages for streamlining the hearing process by explicitly permitting summary disposition motions to be filed at any time during the proceeding outweigh the potential disadvantages for the process. The Commission's regulations in 10 CFR 2.749(c) provide safeguards against potential abuses of the summary disposition procedures. A party who is unable to respond to such a motion because discovery is incomplete may state his or her reasons in a response to the motion and the presiding officer may refuse to grant summary disposition or take other appropriate action. The Commission believes that this provision provides sufficient protection in those instances where a party opposing a motion for summary disposition is unable to respond. However, the Commission recognizes the validity of the concern expressed by several commenters that summary disposition motions filed close to the start of or during a hearing have the potential for prolonging the hearing. Therefore, a sentence has been added to 10 CFR 2.749(a) to give the presiding officer the discretion to dismiss or hold in abeyance summary disposition motions which could divert substantial resources from the hearing and thereby prolong the hearing process.

5. Proposed Findings and Conclusions (10 CFR 2.754) and Appeals to the Commission From Initial Decisions (10 CFR 2.762) Limitations

The proposed amendment to 10 CFR 2.754(c) would limit an intervenor's filings of proposed findings of fact and conclusions of law to issues which that party actually placed in controversy or sought to place in controversy in the proceeding. The proposed amendment to 10 CFR 2.762(d) would similarly limit the issues which an intervenor could raise in an appellate brief. Under current practice, a party may file proposed findings and conclusions of law on any issue in the proceeding and may also appeal on all issues in the proceeding. The only limitation is that a party must have a discernible interest in the outcome of the particular issue being considered. The purpose of the proposed change is to ensure that presiding officers and agency appellate tribunals will be able to focus on disputed issues in a proceeding as presented and argued by parties with a primary interest in the issue. The change would also avoid having these officials inundated with filings from persons with little or no stake in the resolution of a particular issue.

The proposed amendments did not apply to the license applicant or the NRC staff. Applicants have the burden of proof to demonstrate that the action should be taken and thus should be free to submit findings on all issues which could affect the Commission's decision to grant a license or to take an appeal from an adverse decision. The NRC staff has an overall interest in the proceeding to assure that the public health and safety and environmental values are protected.

Commenters supporting the change agreed that it would improve the hearing process and would contribute to the overall effort to streamline and make the hearing process more efficient. Several indicated they felt this change had considerable merit and would ensure that filings are submitted by parties who have a real concern and interest in resolution of issues. One supporter of the proposal suggested that the current policy which permits appeals by a party on any issue whether they have litigated it or not is inconsistent with the basic tenet of hearings to resolve disputes between specific parties. Redundant filings are unnecessary and generally not helpful.

One commenter suggested that the Commission go further and preclude an intervenor from pursuing issues in which it has no cognizable interest. If this were done, there would be no need to place limits on cross-examination or filings. Another suggested that the rule should also provide that an intervenor who fails to file proposed findings on an issue may not thereafter appeal the portion of the initial decision which deals with that issue.

Comments by opponents of the proposed change focused on three main points. The first area concerned the discriminatory impact on intervenors and an asserted misperception on the part of the NRC of the role of intervenors in NRC proceedings. Several asserted that the proposal was a denial of due process and one commenter stated that the Administrative Procedure Act entitles all parties to a hearing to file proposed findings of fact and conclusions of law. 5 U.S.C. 557(c). Several argued that there was no logical explanation given for discriminating against intervenors. They called attention to the fact that in its proposed rule the Commission acknowledged that intervenors have broad, generalized interests in protecting the health and safety. This interest is akin to the same kind of interest which the Commission found to be justification for preserving the right of the NRC staff to file proposed findings and conclusions of law. One commenter asserted that the process of gaining admission as a party

should be sufficient to dismiss any allegations of a lack of a discernible interest in the outcome of issues raised in the proceeding.

Several commenters described the proposal as "mysterious" and confounding. In their view, the goal of the agency should be to compile as full a record as possible for the decisionmakers; the NRC should not seek to limit the information it receives in any licensing proceeding. Findings and conclusions do not harm the decisionmaker and could be helpful. Another commenter noted that the NRC currently has less than a dozen proceedings underway, suggesting that the Hearing Boards are not overworked or overwhelmed by cases. Commenting specifically on the limitation of appeals to issues litigated by a party, one person noted that an erroneous initial decision should be identified and corrected no matter who initially raised the issue of concern.

A second focus of concerns was on the impact of such a change on NRC proceedings. A number of commenters suggested that the proposal would cause intervenors to adopt each other's contentions and assert all issues in order to preserve their rights. This could prolong the hearing and overwhelm hearings with the volume of participation on an issue. The proposal would also make it difficult for intervenors to work together, divide tasks and share the expense of litigating issues. Such coordination now makes it possible for intervenors to financially bear the cost of litigation and reduces redundancy in the proceeding. Currently, intervenors may share issues and an intervenor may not participate fully knowing another intervenor is raising the issue. Under this proposal if a party subsequently fails to pursue an issue, other intervenors would not have the opportunity to adopt the issue. Without this opportunity, further consideration of issues would be blocked regardless of how serious or meritorious they were. Also, because of the complex and technical nature of NRC's proceedings, an intervenor may discover it is interested in an issue it did not identify initially. The proposal also ignores the fact that each intervenor brings a different perspective to the proceeding and can make a unique contribution through their filings. Boards should be able to judge these filings and give them such consideration as their quality merits.

Finally, several commenters focused on the application of this proposal to an affected state. States bring a unique perspective to NRC proceedings and should have the opportunity to submit filings. Otherwise, NRC could be deprived of valuable input from the party with the most interest in a particular issue. The State of Nevada indicated its view that under the Nuclear Waste Policy Act, a host state or Indian tribe is to be accorded the same status as the staff or an applicant. The proposed change would thus violate provisions of the NWPA.

Another group of commenters, while generally favoring the proposal, disagreed with the language which would permit filings and appeals on issues which intervenors "sought to place in controversy". If an issue has not been admitted into the proceeding then no record will have been developed and no basis for proposed findings will exist. It is appropriate to allow an appeal and briefs on the basis that a contention was erroneously rejected. But this proposal would appear to allow appeals on a much broader basis and permit filings on the merits of the contentions.

The Commission has reviewed the comments on the proposed changes to 10 CFR 2.754 and 2.762. After consideration of the various arguments put forth by the commenters, the Commission is persuaded that the proposed changes should be adopted. Limitations on proposed findings and appeals to issues that the intervenor actually placed in controversy or sought to place in controversy will ensure that the parties and the adjudicatory tribunals focus their interests and adjudicatory resources on the contested issues as presented and argued by the party with the primary interest in, and concerns over, the issues. These sorts of limitations should also serve to reduce the paper burdens for the adjudicatory boards. We disagree with the suggestion that the proposed limitations will cause intervenors to raise a multitude of issues or adopt each other's contentions in order to preserve their rights, and thus, will prolong and overwhelm the hearing process with the attendant high level of participation on all issues. The new standards for admission of contentions that we are adopting as part of this rulemaking should serve to limit the degree to which any party can gain admission of contentions that are frivolous or in which the party has little real interest. Moreover, existing §§ 2.715a and 2.718 which authorize the presiding officer to consolidate parties, issues and adjudicatory presentations, can and should be used to limit unnecessary multi-party presentations and participation in the litigation of common contentions.

The Commission has also examined the assertion that the proposed rule could violate a provision of the Administrative Procedure Act, 5 U.S.C. 557(c). That section provides that:

"Before a recommended, initial, or tentative decision, or a decision on agency review of the decision of subordinate employees, the parties are entitled to a reasonable opportunity to submit for the consideration of the employees participating in the decisions--(1) proposed findings or conclusions; or (2) exceptions to the decision or recommended decisions of subordinate employees or to tentative agency decisions; and (3) supporting reasons for the exception or proposed findings or conclusions."

There has been little analysis of this aspect of the APA in the case law; *see, e.g., Klinestiver* v. *DEA*, 606 F2d. 1182 (D.C. Cir. 1979). While we recognize there may be some uncertainty about the appropriate reading of section 557(c), we believe that the rule is in accord with the Administrative Procedure Act because it preserves the opportunity for parties to file findings of fact, conclusions of law, and exceptions to initial decisions with respect to those issues which the party has specifically raised as concerns in the proceeding. Practice under the Commission's existing regulations has been moving in the direction of a more carefully circumscribed appeals process. In *Philadelphia Electric Co.* (Limerick Generating Station, Units 1 and 2), ALAB-845, 24 NRC 220 (1986), the Appeal Board concluded that an intervenor which had limited its participation to certain technical issues and had not participated in any aspect of litigation of emergency planning contentions did not have a right to appeal the Licensing Board's decision in connection with the applicant's emergency plan. "Whether an intervenor has the right to pursue a particular issue on appeal is a function of the level of interest expressed by the intervenor in such issue throughout the course of the proceeding." *Id.* at 253.

We also note that the phrase "sought to place in controversy" was intended to recognize that an appeal and briefs are permissible on the basis that a contention was erroneously rejected. The language was not intended to allow appeals on a broader basis or on the merits of the contentions not admitted.

In view of all of the above, the proposed amendment has been adopted.

Miscellaneous Issues

Several commenters included their views on other possible rule changes discussed by the Commission in its 1984 Request for Public Comment on Regulatory Reform Proposals (49 FR

14698, April 12, 1984) which preceded this proposed rule. Those proposals are not a part of this rulemaking. The Commission evaluated comments on the 1984 proposals as part of the decision-making process which led to the choice of the five proposed changes which constitute this rulemaking. No further discussion of those initial proposals is necessary.

Some commenters objected to the application of these changes to High Level Waste (HLW) Licensing proceedings. The Commission has established the procedures for the HLW licensing proceeding in a final LSS rule which added a new subpart J to 10 CFR part 2 (50 FR 14925, April 14, 1989). However, the Commission is now in the process of evaluating whether any additional modifications are needed to these provisions. As part of its evaluation, the Commission is considering whether any of the provisions in the final amendments on regulatory reform that would not already be included in subpart J by cross-reference, should be added to subpart J. Section 2.1000 of subpart J cross-references any sections of general applicability in subpart G of part 2 that will continue to apply to the HLW licensing proceeding. As such, all but one of the provisions in the final regulatory reform rule (§ 2.714, which requires contentions to show that a genuine dispute exists on an issue of law or fact) will apply to the HLW proceeding. However, subpart J contains a new provision on contentions, § 2.1014, and consequently § 2.714 would no longer apply to the HLW proceeding. The Commission intends to evaluate the need to extend the "genuine issue of fact" standard to the HLW proceeding. A determination of such a need would result in the Commission proposing a rule amending 10 CFR 2.1014. As the Commission noted in the Supplementary Information to the final LSS rule --

> * * * the Commission is committed to do everything it can to streamline its licensing process and at the same time conduct a thorough safety review of the Department of Energy's application to construct a high-level waste repository. The negotiators to this rulemaking have made a number of improvements to our existing procedures. However, more improvements may be necessary if the Commission is to meet the tight licensing deadline established by the Nuclear Waste Policy Act of 1982, as amended. By publishing this rule, the Commission is not ruling out further changes to its rules of practice, including further changes to the rules contained in the negotiated rulemaking. (50 FR 14925, 14930, April 14, 1989).

The revised rules do not apply to civil penalty proceedings conducted under 10 CFR 2.205. Section 189a. of the Atomic Energy Act does not provide for third parties to participate as "interested persons" in such proceedings.

These amendments will take effect thirty days after publication in the **Federal Register.** The amendments will apply only to contentions in proceedings initiated after that date. The Commission's rules and administrative decisions interpreting those rules in existence prior to that date will be applied to contentions filed in proceedings initiated prior to that date.

Withdrawal of Earlier Rulemaking

Commission published for public comment on June 8, 1981 (46 FR 30349) a proposed rule to make changes to elements of its Rules of Practice, including several of the sections amended by this proceeding. Because the Commission has chosen to proceed with adoption of the changes to its Rules of Practice included in this rulemaking, the earlier proposal is withdrawn.

Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this proposed regulation.

Paperwork Reduction Act Statement

This final rule contains no information collection requirements and therefore is not subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, et seq.).

Regulatory Analysis

The revisions to the Commission's Rules of Practice in 10 CFR part 2 improve the effectiveness and efficiency of NRC proceedings with due consideration for the rights of all participants. The changes to 10 CFR 2.714 require the proponent of a contention to submit sufficient factual information to demonstrate the existence of a genuine dispute with the applicant or the licensee or the NRC staff regarding a material issue of law or fact. This amendment ensures that the resources of all participants in NRC proceedings are focused on real issues and disputes among the parties and thus it is preferable to existing requirements. The revisions to 10 CFR 2.720 clarify existing practice that the staff may not be required: (1) To perform additional research or analytical work beyond that required to support its position, or (2) to explain why it did not use alternative data, assumptions, or analyses in its reviews. Codification of this requirement is preferable to relying on existing case law because it conserves resources that would otherwise have to be expended in opposing such discovery requests. The final rule's provisions in 10 CFR 2.743 on cross-examination plans require a party to obtain the permission of the presiding officer in order to conduct cross-examination and bar the presiding officer from considering any such request unless it is accompanied by a plan containing specific information about the nature and purpose of the proposed line of questioning. While the use of cross-examination plans could have been left as a matter of discretion for the presiding officer, the benefits from the use of such plans, *i.e.*, more focused and controlled hearings, favor making use of such plans standard practice in NRC proceedings. The revision of 10 CFR 2.749 permits the filing of motions for summary disposition at any time during a proceeding. The current practice leaves the timing for filing of such motions wholly within the discretion of the presiding officer. The final rule is preferable to continuing the present practice because making it explicit that summary disposition motions may be filed at any time during the proceeding encourages the use of such procedures whenever an issue can be disposed of without a hearing.

Since November 1981 a number of alternative changes to improve the hearing process have been evaluated by the Regulatory Reform Task Force, the Senior Advisory Group (NRC personnel), the Ad Hoc Committee for the Review of Nuclear Reactor Licensing Reform Proposals (non-NRC persons with experience in the licensing process) and through the Request for Public Comment on Regulatory Reform Proposal published in the **Federal Register** on April 12, 1984 (49 FR 14698). This final rule improves the efficiency and effectiveness of NRC's hearing process while maintaining due regard for the rights of affected parties and thus is the preferred alternative. This rule does not have a significant impact on State and local governments and geographical regions, public health and safety, or the environment; nor does it represent substantial costs to licensees, the NRC, or other Federal agencies. This constitutes the regulatory analysis for this rule.

Regulatory Flexibility Certification

This final rule does not have a significant economic impact upon a

substantial number of small entities. The amendments modify the Commission's rules of practice and procedure. Most entities seeking or holding construction permits or Commission licenses that would be subject to the revised provisions would not fall within the definition of small businesses found in section 34 of the Small Business Act, 15 U.S.C. 632, in the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR part 121, or in the NRC's size standards published December 9, 1985 (50 FR 50241). Although intervenors subject to the provisions likely would fall within the pertinent Small Business Act definition, the impact on intervenors or potential intervenors will be neutral. While intervenors or potential intervenors will have to meet a higher threshold to gain admission to NRC proceedings and, thereby incur some additional economic costs in preparing requests for hearing or requests to intervene, these costs should be offset by a reduction in intervenors' costs once the hearing commences because information developed to support admission to the proceeding will be used during the conduct of the proceeding. Thus, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), the NRC hereby certifies that this rule does not have a significant economic impact upon a substantial number of small entities.

Backfit Analysis

This final rule does not modify or add to systems, structures, components, or design of a facility; the design approval or manufacturing license for a facility; or the procedures or organization required to design, construct, or operate a facility. Accordingly, no backfit analysis pursuant to 10 CFR 50.109(c) is required for this final rule.

List of Subjects in 10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalty, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the Nuclear Regulatory Commission is adopting the following amendments to 10 CFR part 2.

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

1. The authority citation for part 2 continues to read as follows:

Authority: Secs. 161, 181, 68 Stat. 948, 953, as amended (42 U.S.C. 2201, 2231); sec. 191, as amended, Pub. L. 87-615, 76 Stat. 409 (42 U.S.C. 2241); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); 5 U.S.C. 552.

Section 2.101 also issued under secs. 53, 62, 63, 81, 103, 104, 105, 68 Stat. 930, 932, 933, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135); sec. 102, Pub. L. 91-190, 83 Stat. 853, as amended (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871). Sections 2.102, 2.103, 2.104, 2.105, 2.721 also issued under secs. 102, 103, 104, 105, 183, 189, 68 Stat. 936, 937, 938, 954, 955, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Section 2.105 also issued under Pub. L. 97-415, 96 Stat. 2073 (42 U.S.C. 2239). Sections 2.200-2.206 also issued under secs. 186, 234, 68 Stat. 955, 83 Stat. 444, as amended (42 U.S.C. 2236, 2282); sec. 206, 88 Stat 1246 (42 U.S.C. 5846). Sections 2.600-2.606 also issued under sec. 102, Pub. L. 91-190, 83 Stat. 853, as amended (42 U.S.C. 4332). Sections 2.700a, 2.719 also issued under 5 U.S.C. 554. Sections 2.754, 2.760, 2.770, 2.780 also issued under 5 U.S.C. 557. Section 2.764 and Table 1A of Appendix C also issued under secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 2.790 also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133) and 5 U.S.C. 552. Sections 2.800 and 2.808 also issued under 5 U.S.C. 553. Section 2.809 also issued under 5 U.S.C. 553 and sec. 29, Pub. L. 85-256, 71 Stat. 579, as amended (42 U.S.C. 2039). Subpart K also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97-425, 96 Stat. 2230 (42 U.S.C. 10154). Subpart L also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239). Appendix A also issued under sec. 6, Pub. L. 91-560, 84 Stat. 1473 (42 U.S.C. 2135). Appendix B also issued under sec. 10, Pub. L. 99-240, 99 Stat. 1842 (42 U.S.C. 2021b et seq.).

2. In § 2.714, paragraphs (e) through (h) are redesignated as paragraphs (f) through (i). In paragraphs (a) and (g) of § 2.714, the words "paragraph (d) of this section" which appear in the fourth sentence of paragraph (a)(1), in the single sentence in paragraph (a)(2) and in the single sentence in paragraph (g) are revised to read "paragraph (d)(1) of this section." Paragraphs (b), (c), and (d) of § 2.714 are also revised and a new paragraph (e) is added to read as follows:

§ 2.714 Intervention.

* * * * *

(b)(1) Not later than fifteen (15) days prior to the holding of the special prehearing conference pursuant to § 2.751a, or if no special prehearing conference is held, fifteen (15) days prior to the holding of the first prehearing conference, the petitioner shall file a supplement to his or her petition to intervene that must include a list of the contentions which petitioner seeks to have litigated in the hearing. A petitioner who fails to file a supplement that satisfies the requirements of paragraph (b)(2) of this section with respect to at least one contention will not be permitted to participate as a party. Additional time for filing the supplement may be granted based upon a balancing of the factors in paragraph (a)(1) of this section.

(2) 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 the following information with respect to each contention:

(i) A brief explanation of the bases of the contention.

(ii) A concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing, together with 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.

(iii) Sufficient information (which may include information pursuant to paragraphs (b)(2)(i) and (ii) of this section) to show that a genuine dispute exists with the applicant on a material issue of law or fact. This showing must include references to the specific portions of the application (including the applicant's environmental report and safety report) that the petitioner disputes and the supporting reasons for each dispute, or, if the petitioner believes that the application fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the petitioner's belief. On issues arising under the National Environmental Policy Act, the petitioner shall file contentions based on the applicant's environmental report. The petitioner can amend those contentions or file new contentions if there are data or conclusions in the NRC draft or final environmental impact statement, environmental assessment, or any supplements relating thereto, that differ significantly from the data or conclusions in the applicant's document.

(c) Any party to a proceeding may file an answer to a petition for leave to intervene or a supplement thereto within ten (10) days after service of the petition or supplement, with particular attention to the factors set forth in paragraph (d)(1) of this section. The staff may file such an answer within fifteen (15) days after service of the petition or supplement.

(d) The Commission, the presiding officer, or the Atomic Safety and Licensing Board designated to rule on petitions to intervene and/or requests for hearing shall permit intervention, in any hearing on an application for a license to receive and possess high-level radioactive waste at a geologic repository operations area, by the State in which such area is located and by any affected Indian Tribe as defined in part 60 of this chapter. In all other circumstances, such ruling body or officer shall, in ruling on--

(1) A petition for leave to intervene or a request for a hearing, consider the following factors, among other things:

(i) The nature of the petitioner's right under the Act to be made a party to the proceeding.

(ii) The nature and extent of the petitioner's property, financial, or other interest in the proceeding.

(iii) The possible effect of any order that may be entered in the proceeding on the petitioner's interest.

(2) The admissibility of a contention, refuse to admit a contention if:

(i) The contention and supporting material fail to satisfy the requirements of paragraph (b)(2) of this section; or

(ii) The contention, if proven, would be of no consequence in the proceeding because it would not entitle petitioner to relief.

(e) If the Commission or the presiding officer determines that any of the admitted contentions constitute pure issues of law, those contentions must be decided on the basis of briefs or oral argument according to a schedule determined by the Commission or presiding officer.

* * * * *

3. In § 2.740, paragraph (b)(1) is revised and a new paragraph (b)(3) is added to read as follows:

§ 2.740 General provisions governing discovery.

* * * * *

(b)(1) *In general.* Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the proceeding, whether it relates to the claim or defense of any other party, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. Where any book, document or other tangible thing sought is reasonably available from another source, such as from the Commission's Public Document Room or local Public Document Room, a sufficient response to an interrogatory involving such materials would be the location, the title and a page reference to the relevant book, document or tangible thing. In a proceeding on an application for a construction permit or an operating license for a production or utilization facility, discovery shall begin only after the prehearing conference provided for in § 2.751a and shall relate only to those matters in controversy which have been identified by the Commission or the presiding officer in the prehearing order entered at the conclusion of that prehearing conference. In such a proceeding, no discovery shall be had after the beginning of the prehearing conference held pursuant to § 2.752 except upon leave of the presiding officer upon good cause shown. It is not ground for objection that the information sought will be inadmissible at the hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

* * * * *

(b)(3) While interrogatories may seek to elicit factual information reasonably related to a party's position in the proceeding, including data used, assumptions made, and analyses performed by the party, such interrogatories may not be addressed to, or be construed to require: (A) Reasons for not using alternative data, assumptions, and analyses where the alternative data, assumptions, and analyses were not relied on in developing the party's position; or (B) Performance of additional research or analytical work beyond that which is needed to support the party's position on any particular matter.

4. In § 2.743, paragraphs (a) and (b) are revised to read as follows:

§ 2.743 Evidence.

(a) *General.* Every party to a proceeding shall have the right to present such oral or documentary evidence and rebuttal evidence and to conduct, in accordance with an approved cross-examination plan that contains the information specified in paragraph (b)(2) of this section if so directed by the presiding officer, such cross-examination as may be required for full and true disclosure of the facts.

(b)(1) *Testimony and cross-examination.* The parties shall submit direct testimony of witnesses in written form, unless otherwise ordered by the presiding officer on the basis of objections presented. In any proceeding in which advance written testimony is to be used, each party shall serve copies of its proposed written testimony on each other party at least fifteen (15) days in advance of the session of the hearing at which its testimony is to be presented. The presiding officer may permit the introduction of written testimony not so served, either with the consent of all parties present or after they have had a reasonable opportunity to examine it. Written testimony must be incorporated into the transcript of the record as if read or, in the discretion of the presiding officer, may be offered and admitted in evidence as an exhibit.

(2) The presiding officer may require a party seeking an opportunity to cross-examine to request permission to do so in accordance with a schedule established by the presiding officer. A request to conduct cross-examination shall be accompanied by a cross-examination plan that contains the following information:

(i) A brief description of the issue or issues on which cross-examination will be conducted;

(ii) The objective to be achieved by cross-examination; and

(iii) The proposed line of questions that may logically lead to achieving the objective of the cross-examination. The cross-examination plan may be submitted only to the presiding officer and must be kept by the presiding officer in confidence until issuance of the initial decision on the issue being litigated. The presiding officer shall then provide each cross-examination plan to the Commission's Secretary for inclusion in the official record of the proceeding.

(3) Paragraphs (b)(1) and (2) of this section do not apply to proceedings under subpart B of this part for modification, suspension, or revocation of a license or to proceedings for imposition of a civil penalty.

* * * * *

5. In § 2.749, paragraph (a) is revised to read as follows:

§ 2.749 Authority of presiding officer to dispose of certain issues on the pleadings.

(a) Any party to a proceeding may move, with or without supporting affidavits, for a decision by the presiding officer in that party's favor as to all or any part of the matters involved in the proceeding. The moving party shall annex to the motion a separate, short, and concise statement of the material facts as to which the moving party contends that there is no genuine issue to be heard. Motions may be filed at any time. Any other party may serve an answer supporting or opposing the motion, with or without affidavits, within twenty (20) days after service of the motion. The party shall annex to any answer opposing the motion a separate, short, and concise statement of the

material facts as to which it is contended there exists a genuine issue to be heard. All material facts set forth in the statement required to be served by the moving party will be deemed to be admitted unless controverted by the statement required to be served by the opposing party. The opposing party may, within ten (10) days after service, respond in writing to new facts and arguments presented in any statement filed in support of the motion. No further supporting statements or responses thereto may be entertained. The presiding officer may dismiss summarily or hold in abeyance motions filed shortly before the hearing commences or during the hearing if the other parties or the presiding officer would be required to divert substantial resources from the hearing in order to respond adequately to the motion and thereby extend the proceeding.

* * * * *

6. In § 2.754, paragraph (c) is revised to read as follows:

§ 2.754 Proposed findings and conclusions.

* * * * *

(c) Proposed findings of fact must be clearly and concisely set forth in numbered paragraphs and must be confined to the material issues of fact presented on the record, with exact citations to the transcript of record and exhibits in support of each proposed finding. Proposed conclusions of law must be set forth in numbered paragraphs as to all material issues of law or discretion presented on the record. An intervenor's proposed findings of fact and conclusions of law must be confined to issues which that party placed in controversy or sought to place in controversy in the proceeding.

7. In § 2.762, paragraph (d) is revised to read as follows:

§ 2.762 Appeals to the Commission from initial decisions.

* * * * *

(d) *Brief Content.* A brief in excess of ten (10) pages must contain a table of contents, with page references, and a table of cases (alphabetically arranged), statutes, regulations, and other authorities cited, with references to the pages of the brief where they are cited.

(1) An appellant's brief must clearly identify the errors of fact or law that are the subject of the appeal. An intervenor-appellant's brief must be confined to issues which the intervenor-appellant placed in controversy or sought to place in controversy in the proceeding. For each issue appealed, the precise portion of the record relied upon in support of the assertion of error must also be provided.

(2) Each responsive brief must contain a reference to the precise portion of the record which supports each factual assertion made.

* * * * *

Dated at Rockville, Maryland, this 2d day of August 1989.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 89-18542 Filed 8-10-89; 8:45 am]

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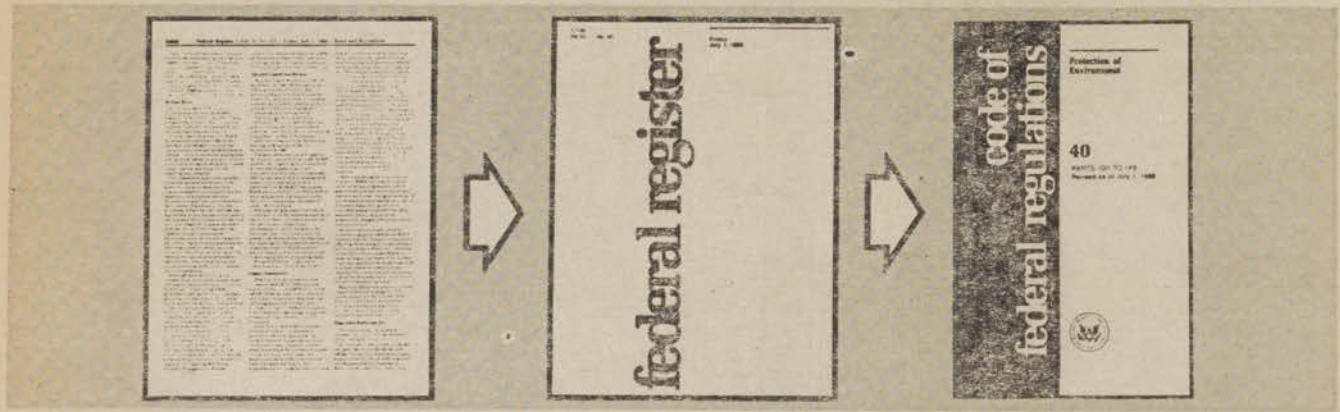

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