AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

7-19-91
Vol. 56 No. 139

federal register

Friday
July 19, 1991

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, $300

SECOND CLASS NEWSPAPER

Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

7-19-91
Vol. 56 No. 139
Pages 33189-33366

federal register

Friday
July 19, 1991

Briefing on How To Use the Federal Register
For information on a briefing in New Orleans, LA, see announcement on the inside cover of this issue.

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

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The seal of the National Archives and Records Administration authenticates this issue of the **Federal Register** as the official serial publication established under the Federal Register Act. 44 U.S.C. 1507 provides that the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** will be furnished by mail to subscribers for $340 per year in paper form; $195 per year in microfiche form; or $37,500 per year for the magnetic tape. Six-month subscriptions are also available at one-half the annual rate. The charge for individual copies in paper or microfiche form is $1.50 for each issue, or $1.50 for each group of pages as actually bound, or $175.00 per magnetic tape. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, or charge to your GPO Deposit Account or VISA or Mastercard.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 56 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	202–783–3238
Magnetic tapes	275–0186
Problems with public subscriptions	275–3054

Single copies/back copies:

Paper or fiche	783–3238
Magnetic tapes	275–0186
Problems with public single copies	275–3050

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	523–5240
Magnetic tapes	275–0186
Problems with Federal agency subscriptions	523–5243

For other telephone numbers, see the Reader Aids section at the end of this issue.

THE FEDERAL REGISTER
WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

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

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

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

NEW ORLEANS, LA

WHEN: July 23, at 9:00 am
WHERE: Federal Building, 501 Magazine St., Conference Room 1120, New Orleans, LA
RESERVATIONS: Federal Information Center 1–800–366–2998

Contents

Federal Register

Vol. 56, No. 139

Friday, July 19, 1991

Agricultural Marketing Service
PROPOSED RULES
Lemons grown in California and Arizona, 33213
NOTICES
Wool advertising and promotion; referendum, 33242

Agricultural Stabilization and Conservation Service
NOTICES
Wool advertising and promotion; referendum, 33242

Agriculture Department
See Agricultural Marketing Service; Agricultural Stabilization and Conservation Service; Animal and Plant Health Inspection Service; Commodity Credit Corporation; Forest Service; Soil Conservation Service

Air Force Department
NOTICES
Active military service and discharge determinations:
Civilian employees of U.S. Navy who participated in defense of Bataan and Corregidor (December 7, 1941—May 6, 1942), 33267
Civilian flight crew and aviation ground support employees of United Air Lines (UAL) who served overseas as result of UAL's contract with Air Transport Command (May 15, 1942—September 12, 1945), 33267
Meetings:
Community College Board of Visitors, 33267

Animal and Plant Health Inspection Service
RULES
Plant-related quarantine, domestic:
Peach fruit fly, 33190
NOTICES
Harry S. Truman Animal Import Center; importation procedures; application period and lottery, 33243

Antitrust Division
NOTICES
National cooperative research notifications:
Hydrocyclone Development Consortium, 33307
Oil Combustion Consortium, 33307
Open Document Architecture Consortium, 33307
SQL Access Group, Inc., 33308
WAG Ratio Consortium, 33308

Army Department
See also Engineers Corps
NOTICES
Committees; establishment, renewal, termination, etc.:
Inland Waterways Users Board, 33267
Meetings:
Science Board, 33268
Senior Executive Service:
Performance Review Boards; membership, 33268

Blind and Other Severely Handicapped, Committee for Purchase From
See Committee for Purchase From the Blind and Other Severely Handicapped

Centers for Disease Control
NOTICES
Grant and cooperative agreement awards:
International Centre for Birth Defects, 33294

Children and Families Administration
NOTICES
Agency information collection activities under OMB review, 33294

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
Indiana, 33245

Commerce Department
See Foreign-Trade Zones Board; International Trade Administration; National Oceanic and Atmospheric Administration; National Technical Information Service

Committee for Purchase From the Blind and Other Severely Handicapped
NOTICES
Procurement list; additions and deletions, 33264

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
Philippines, 33263

Commodity Credit Corporation
RULES
Loan and purchase programs:
Emergency livestock assistance, 33190

Consumer Product Safety Commission
NOTICES
Agency information collection activities under OMB review, 33265
Privacy Act:
Systems of records, 33265

Defense Department
See also Air Force Department; Army Department; Engineers Corps; Navy Department; Uniformed Services University of the Health Sciences
PROPOSED RULES
Federal Acquisition Regulation (FAR):
Higher learning institutions and other nonprofit organizations; audits, 33330
Security:
Pentagon reservation, 33218
NOTICES
Agency information collection activities under OMB review, 33266
Federal Acquisition Regulation (FAR):
Agency information collection activities under OMB review, 33272
Meetings:
Defense Research and Development Laboratories Consolidation and Conversion Advisory Commission, 33266

Science Board task forces, 33266

Education Department
RULES
Postsecondary education:
Student assistance general provisions—
Guaranteed student loan program eligibility; cohort default rates, 33332
NOTICES
Grants and cooperative agreements; availability, etc.:
Disabled individuals, severely; protection and advocacy of individual rights, 33272
Drug-free schools and communities programs—
Application preparation workshop, 33274
Individuals with disabilities, education—
Training personnel, 33344

Employment Standards Administration
NOTICES
Minimum wages for Federal and federally-assisted construction; general wage determination decisions, 33308

Energy Department
See also Energy Information Administration; Federal Energy Regulatory Commission
NOTICES
Grant and cooperative agreement awards:
American Solar Energy Society, 33275

Energy Information Administration
NOTICES
Agency information collection activities under OMB review, 33275

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
Folsom Dam and Reservoir Reoperation Study, CA, 33271

Environmental Protection Agency
RULES
Hazardous waste program authorizations:
North Carolina, 33206
PROPOSED RULES
Air programs; fuel and fuel additives:
Lead substitute gasoline additives; registration requirements, 33228
Hazardous waste:
Identification and listing—
Criteria for listing hazardous waste, 33238
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Metaxyl, 33236
NOTICES
Agency information collection activities under OMB review, 33277, 33278
(2 documents)
Clean Air Act:
Acid rain provisions—
National Allowance Data Base version 2.0, etc.; availability, 33278
Environmental statements; availability, etc.:
Agency statements—
Comment availability, 33286
Weekly receipts, 33286
Pesticide programs:
Confidential business information and data transfer to contractors, 33288
Pesticide registration, cancellation, etc.:
Carbofuran, 33286
Water pollution control:
Underground injection control program; case by case basis—
Sabine River Works Facility, 33288

Federal Aviation Administration
RULES
Airworthiness directives:
Textron Lycoming, 33205
PROPOSED RULES
Airworthiness directives:
Boeing, 33214
Fokker, 33215
Control zones, 33217
Rulemaking petitions; summary and disposition, 33213

Federal Deposit Insurance Corporation
NOTICES
Meetings; Sunshine Act, 33327

Federal Energy Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Niagara Mohawk Power Corp. et al., 33276
Applications, hearings, determinations, etc.:
Moraine Pipeline Co., 33276
Ozark Gas Transmission System, 33276
Panhandle Eastern Pipe Line Co., 33276
Williams Natural Gas Co., 33277

Federal Labor Relations Authority
RULES
Privacy Act; implementation, 33189
NOTICES
Privacy Act:
Systems of records, 33291

Federal Maritime Commission
NOTICES
Agreements filed, etc., 33293
Complaints filed:
Sea-Land Dominicana, S.A., et al., 33293

Federal Railroad Administration
NOTICES
Exemption petitions, etc.:
CSX Transportation, Inc., 33323

Federal Reserve System
NOTICES
Applications, hearings, determinations, etc.:
Alex E. Creighton Residuary Trust et al., 33294
Banco de Santander, S.A. de Credito, 33294

Fish and Wildlife Service
PROPOSED RULES
Endangered and threatened species:
African elephant, 33240
NOTICES
Endangered and threatened species:
Recovery plans—
Anastasia Island beach mouse, etc., 33305

Foreign-Trade Zones Board
NOTICES
Applications, hearings, determinations, etc.:
Alabama, 33245

Forest Service
NOTICES
Environmental statements; availability, etc.:
Lewis and Clark National Forest, MT, 33243

General Services Administration
PROPOSED RULES
Federal Acquisition Regulation (FAR):
Higher learning institutions and other nonprofit organizations; audits, 33330
NOTICES
Federal Acquisition Regulation (FAR):
Agency information collection activities under OMB review, 33272

Health and Human Services Department
See Centers for Disease Control; Children and Families Administration; Health Care Financing Administration; National Institutes of Health; Public Health Service; Social Security Administration

Health Care Financing Administration
NOTICES
Medicaid:
State plan amendments, reconsideration; hearings—
New Mexico, 33296

Health Resources and Services Administration
See Public Health Service

Housing and Urban Development Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Facilities to assist homeless—
Excess and surplus Federal property, 33301

Immigration and Naturalization Service
RULES
Immigration:
Aliens—
Apprehension, custody, and detention; service detainers issuance (Form I-247); restriction eliminated, 33204

Interior Department
See Fish and Wildlife Service; Land Management Bureau

International Trade Administration
NOTICES
Antidumping:
Fishnetting of man-made fibers from Japan, 33246
Industrial phosphoric acid from Israel, 33248
Large power transformers from Japan, 33250
Antidumping and countervailing duties:
Administrative review requests, 33250, 33251 (2 documents)
Countervailing duties:
Brass sheet and strip from Brazil, 33252
Carbon steel wire rod from New Zealand, 33253
Ferrochrome from South Africa, 33254
Viscose rayon staple fiber from Sweden, 33256
Short supply determinations:
Large diameter pipe, 33257
Steel plate, 33258

International Trade Commission
NOTICES
Import investigations:
Nepheline syenite from Canada, 33305

Interstate Commerce Commission
NOTICES
Railroad services abandonment:
Union Pacific Railroad Co., 33306

Justice Department
See also Antitrust Division; Immigration and Naturalization Service
NOTICES
Pollution control; consent judgments:
Wildwood Conservation Corp. et al., 33306

Labor Department
See Employment Standards Administration; Mine Safety and Health Administration

Land Management Bureau
NOTICES
Closure of public lands:
Oregon, 33302
Meetings:
Coeur d'Alene District Advisory Council, 33303
Southern Alaska Advisory Council, 33303
Oil and gas leases:
Wyoming, 33303
Realty actions; sales, leases, etc.:
Nevada, 33303
Withdrawal and reservation of lands:
Montana, 33304
Oregon, 33304

Mine Safety and Health Administration
NOTICES
Safety standard petitions:
Mountain Coal Co. et al., 33309

National Aeronautics and Space Administration
PROPOSED RULES
Federal Acquisition Regulation (FAR):
Higher learning institutions and other nonprofit organizations; audits, 33330
NOTICES
Federal Acquisition Regulation (FAR):
Agency information collection activities under OMB review, 33272
Meetings:
Commercial Programs Advisory Committee, 33310

National Highway Traffic Safety Administration
PROPOSED RULES
Motor vehicle safety standards:
Lamps, reflective devices, and associated equipment—
Center highmounted stop lamp; petition denied, 33239
NOTICES
Motor vehicle safety standards; exemption petitions, etc.:
General Motors Corp., 33323

National Institute for Occupational Safety and Health
See Centers for Disease Control

National Institutes of Health
NOTICES
Meetings:
National Institute of Environmental Health Sciences, 33297
National Institute on Aging, 33297

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Bering Sea and Aleutian Islands groundfish, 33210
Foreign fishing—
Exclusive Economic Zone; fishing gear stowage requirements, 33208
South Atlantic snapper-grouper, 33210
Western Pacific Region pelagic, 33211
NOTICES
Permits:
Endangered and threatened species, 33259
Marine mammals, 33259
Practice and procedure:
Environmental data, information, and products; new and revised fees, 33259

National Technical Information Service
NOTICES
Patent licenses; non-exclusive, exclusive, or partially exclusive:
Triton Diagnostics, Inc., 33263

Navy Department
NOTICES
Meetings:
Naval Research Advisory Committee, 33271

Nuclear Regulatory Commission
NOTICES
Regulatory guides; issuance, availability, and withdrawal, 33310
Applications, hearings, determinations, etc.:
GPU Nuclear Corp., 33311
Virginia Electric & Power Co., 33313

Pacific Northwest Electric Power and Conservation Planning Council
NOTICES
Power plan amendments:
Columbia River Basin fish and wildlife program, 33314

Public Health Service
See also Centers for Disease Control; National Institutes of Health
NOTICES
Agency information collection activities under OMB review, 33298
Organization, functions, and authority delegations:
Health Resources and Services Administration, 33299

Research and Special Programs Administration
RULES
Pipeline safety:
Gas and hazardous liquids transportation; operator's plans or procedures
Correction, 33208

Securities and Exchange Commission
NOTICES
Meetings; Sunshine Act, 33327
Self-regulatory organizations; proposed rule changes:
Midwest Stock Exchange, Inc., 33314
National Association of Securities Dealers, Inc., 33316
New York Stock Exchange, Inc., 33317
Options Clearing Corp., 33319
Self-regulatory organizations; unlisted trading privileges:
Midwest Stock Exchange, Inc., 33315
Philadelphia Stock Exchange, Inc., 33320
Applications, hearings, determinations, etc.:
Public utility holding company filings, 33320
THC Fund, Inc., 33321

Social Security Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
Social security disability demonstration project; request for comments from service providers, 33299

Soil Conservation Service
NOTICES
Environmental statements; availability, etc.:
Boyd County Roadbanks, KY, 33244
Lawrence County High School, KY, 33245

State Department
NOTICES
Munitions export licenses suspension:
Yugoslavia, 33322

Susquehanna River Basin Commission
NOTICES
Drought emergency declaration; hearing, 33322

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Transportation Department
See also Federal Aviation Administration; Federal Railroad Administration; National Highway Traffic Safety Administration; Research and Special Programs Administration
NOTICES
Aviation proceedings:
Agreements filed; weekly reports, 33322
Certificates of public convenience and necessity and foreign air carrier permits; weekly applications, 33323

Treasury Department
NOTICES
Agency information collection activities under OMB review, 33324
Senior Executive Service:
Departmental Offices Performance Review Board; membership, 33324

Uniformed Services University of the Health Sciences
NOTICES
Meetings; Sunshine Act, 33327

Veterans Affairs Department
NOTICES
Agency information collection activities under OMB review, 33325, 33326
(3 documents)
Meetings:
Voluntary Service National Advisory Committee, 33326

Separate Parts In This Issue

Part II
Department of Defense; General Services Administration; National Aeronautics and Space Administration, 33330

Part III
Department of Education, 33332

Part IV
Department of Education, 33344

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

5 CFR
2412.....33189

7 CFR
301.....33190
1475.....33190

Proposed Rules:
910.....33213

8 CFR
242.....33204
287.....33204

14 CFR
39.....33205

Proposed Rules:
Ch. I.....33213
39 (2 documents).....33214, 33215
71.....33217

32 CFR

Proposed Rules:
153.....33218

34 CFR
668.....33332
682.....33332

40 CFR
271.....33206

Proposed Rules:
79.....33228
180.....33236
185.....33236
186.....33236
261.....33238

48 CFR

Proposed Rules:
15.....33330
52.....33330

49 CFR
190.....33208
192.....33208
193.....33208
195.....33308
199.....33208

Proposed Rules:
571.....33239

50 CFR
611.....33208
646.....33210
675.....33210
685.....33211

Proposed Rules:
17.....33241

Rules and Regulations

Federal Register
Vol. 56, No. 139
Friday, July 19, 1991

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

FEDERAL LABOR RELATIONS AUTHORITY

5 CFR Part 2412

Privacy Act; New Exempt System of Records

AGENCY: Federal Labor Relations Authority (FLRA).

ACTION: Final rule.

SUMMARY: This final rule adds 5 CFR 2412.16 to exempt a system of records entitled "FLRA/OIG–1—Office of the Inspector General Investigative Files" from certain sections of the Privacy Act of 1974 (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a (j) and (k). By relieving the Office of the Inspector General (OIG) of certain restrictions, the exemptions will help ensure that the OIG may efficiently and effectively perform investigations and other authorized duties and activities.

EFFECTIVE DATE: July 19, 1991.

FOR FURTHER INFORMATION CONTACT: Paul D. Miller, Inspector General, FLRA, 500 C Street, SW., Washington, DC 20424, (202) 382–6002.

SUPPLEMENTARY INFORMATION: Elsewhere in today's **Federal Register**, the FLRA is publishing the system notice for a new system of records, "FLRA/OIG–1, Office of the Inspector General Investigative Files" under the Privacy Act, 5 U.S.C. 552a, as amended. The FLRA published a proposed system notice for this system of records in the **Federal Register** on October 2, 1990 (55 FR 40237). Accompanying the proposed system notice was a proposed rule to exempt this system of records from certain sections of the Privacy Act of 1974 (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a (j) and (k). The proposed rule was also published in the **Federal Register** on October 2, 1990 (55 FR 40188).

Two comments were received in response to the proposed rule. According to one commentator, it may not be appropriate to grant an exemption pursuant to 5 U.S.C. 552a(j)(2).

5 U.S.C. 552a(j)(2) allows for an exemption for files "maintained by an agency or component thereof which performs as its principal function any activity pertaining to the enforcement of criminal laws." The commentator asserts that the FLRA's OIG does not perform as its principal function any activity pertaining to the enforcement of criminal laws, but suggests that an investigative subunit within the OIG may well do so. We do not agree with the commentator that the OIG does not perform as its principal function any activity pertaining to the enforcement of criminal laws. The Inspector General Act of 1978, as amended, specifically mandates Inspectors General to investigate allegations of criminal violations and the FLRA's OIG does so. Moreover, the FLRA's OIG's Investigative Files are, in fact, maintained separately within the OIG, and are accessible only to those persons involved in the investigation and enforcement of criminal laws.

The second commentator suggests that proposed § 2412.16 (a) and (b) be modified in part to emphasize that only those files that are "solely" compiled for criminal investigation purposes or other law enforcement purposes are exempt under 5 U.S.C. 552a (j)(2) and (k)(2). The commentator suggests the changes "to protect the legal rights of individuals under the Privacy Act" and to avoid "excessive interference" "during an investigation, in the privacy rights of individuals." We have not adopted the proposed changes in the final rule. While we share the commentator's concern to protect the privacy rights of individuals and to guard against proscribed interference with those rights, adoption of the proposed changes is unnecessary, and could be misleading. Insofar as the proposed changes would merely reflect that the exemptions adhered to the legal limits on those exemptions set forth in sections (j)(2) and (k)(2) of the Privacy Act, the changes are unnecessary. Such limits are implicit in the regulations. Further, to the extent the proposed changes could be read to reflect a discretionary decision not to use information originally collected for purposes set forth in sections (j)(2) and (k)(2) for other, legally permissible purposes, the changes would not accurately reflect the intent behind the regulations, and could be misleading.

Upon further consideration, we also clarify our view of the breadth of the (j)(2) exemption, discussed in the Supplementary Information accompanying the proposed rule (55 FR 40188). Specifically, we interpret the wording of the (j)(2) exemption to limit exemptible information to that indicated in 5 U.S.C. 552a(j)(2).

This rule has been reviewed under Executive Order No. 12291 and has been determined not to be a "major rule," since it will not have an annual effect on the economy of $100 million or more. In addition, it has been determined that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 5 CFR Part 2412

Privacy.

For the reasons set forth above, 5 CFR, chapter XIV, subchapter B, part 2412, is amended as follows:

PART 2412—PRIVACY

1. The authority for part 2412 continues to read as follows:

Authority: 5 U.S.C. 552a.

2. Section 2412.16 is added as follows:

§ 2412.16 Exemptions.

(a) *OIG files compiled for the purpose of a criminal investigation and for related purposes.* Pursuant to 5 U.S.C. 552a(j)(2), the FLRA hereby exempts the system of records entitled "FLRA/OIG–1, Office of Inspector General Investigative Files," insofar as it consists of information compiled for the purposes of a criminal investigation or for other purposes within the scope of 5 U.S.C. 552a(j)(2), from the application of 5 U.S.C. 552a, except for subsections (b), (c) (1) and (2), (e)(4) (A) through (F), (e) (6), (7), (9), (10), (11) and (i).

(b) *OIG files compiled for other law enforcement purposes.* Pursuant to 5 U.S.C. 552a(k)(2), the FLRA hereby exempts the system of records entitled, "FLRA/OIG–1, Office of Inspector General Investigative Files," insofar as it consists of information compiled for law enforcement purposes other than material within the scope of 5 U.S.C. 552a(j)(2), from the application of 5

U.S.C. 552a (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f).

Dated: July 15, 1991.

Solly J. Thomas, Jr.,

Executive Director.

[FR Doc. 91-17268 Filed 7-18-91; 8:45 am]

BILLING CODE 6727-01-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 91-096]

Peach Fruit Fly; Removal of Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: We are affirming without change an interim rule that removed the peach fruit fly regulations that designated a portion of Orange County in California as a quarantined area and imposed restrictions on the interstate movement of regulated articles from that area. We have determined that the peach fruit fly has been eradicated from Orange County, California, and the regulations are no longer necessary.

EFFECTIVE DATE: August 19, 1991.

FOR FURTHER INFORMATION CONTACT: Michael B. Stefan, Operations Officer, Domestic and Emergency Operations Staff, PPQ, APHIS, USDA, room 642, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8247.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective April 4, 1991, and published in the **Federal Register** on April 10, 1991 (56 FR 14459-14460, Docket Number 91-043), we amended the "Domestic Quarantine Notices" in 7 CFR part 301 by removing the "Peach Fruit Fly" regulations (7 CFR 301.96 through 301.96-10). These regulations designated a portion of Orange County in California as a quarantined area and imposed restrictions on the interstate movement of regulated articles from the area in order to prevent the spread of the peach fruit fly to noninfested areas of the United States. We have determined that the peach fruit fly has been eradicated from Orange County, California, and the regulations are no longer necessary. Comments on the interim rule were required to be received on or before June 10, 1991. We did not receive any comments. The facts presented in the interim rule still provide a basis for this rule.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not cause 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.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

The regulation affirmed by this action affects the interstate movement of regulated articles from a portion of Orange County, California. Within the previously regulated area there are approximately 330 small entities that may be affected, including retail outlets, wholesalers, a processor, a packing house, fruit stands, swap meets, mobile vendors, a farmers market, nurseries, and a commercial grower of cucumbers.

The effect of this rule on these entities should be insignificant since most of the small entities handle regulated articles primarily for intrastate movement, and were not affected by the regulatory provisions we removed.

The effect of the regulations on those few persons who moved regulated articles interstate was minimized by the availability of a treatment that in most cases permitted the interstate movement of regulated articles with very little additional cost. Also, many of these entities sell other items in addition to the previously regulated articles. Further, the number of affected entities is small compared with the thousands of small entities that move these articles interstate from nonquarantined areas in California and other States.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with state and local officials. (See 7 CFR part 3015, subpart V.)

List of Subjects in 7 CFR Part 301

Agriculture commodities, Peach fruit fly, Plant diseases, Plant pests, Plant (Agriculture), Quarantine, Transportation.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR part 301 and was published at 56 FR 14459-14460 on April 10, 1991.

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff, 161, 162, and 164-167; 7 CFR 2.17, 2.51 and 371.2(c)

Done in Washington, DC, this 16th day of July 1991.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 91-17224 Filed 7-18-91; 8:45 am]

BILLING CODE 3410-34-M

Commodity Credit Corporation

7 CFR Part 1475

Emergency Livestock Assistance

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to adopt as a final rule, with certain changes which will enhance the effectiveness of the programs, a proposed rule which was published in the **Federal Register** on March 6, 1990 (55 FR 7905). This final rule amends the regulations at 7 CFR part 1475, to set forth the regulations for the livestock emergency programs conducted by the Commodity Credit Corporation (CCC). The final rule provides a simplified method of obtaining these programs with respect to: (1) Computing feed needs for eligible livestock; (2) determining feed on hand; and (3) determining owner eligibility.

EFFECTIVE DATE: July 19, 1991.

FOR FURTHER INFORMATION CONTACT: Harry D. Millner, Program Specialist,

Emergency Operations and Livestock Programs Division, Agricultural Stabilization and Conservation Service, United States Department of Agriculture, P.O. Box 2415, Washington, DC 20013. Telephone: (202) 475–3605.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Department of Agriculture (USDA) procedures established in accordance with provisions of Departmental Regulations 1512–1 and Executive Order 12291 and has been classified "major." It has been determined that these program provisions will result in an annual effect on the economy of $100 million or more.

The title and number of the Federal Assistance Program to which this final rule applies are: Title—Commodity Loans and Purchases; Number 10.051 as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since the CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

It has been determined that this action is not expected to have any significant impact on the quality of human environment. In addition, it has been determined that this action will not adversely affect environmental factors such as wildlife habitat, water quality, and land use and appearance. Accordingly, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Comments Received

There were 12 letters submitted to CCC pertaining to the proposed rule, with a total of 21 comments. These comments were submitted by 1 State producer organization, 1 State Commissioner of Agriculture, 1 State department of agriculture, and 9 individuals.

1. Three comments that supported the proposed rule in its entirety.

2. Two comments supported the proposed rule in general and specifically supported basing feed needs for eligible livestock based on Net Energy requirements for weight class and type, instead of the use of daily allowances for animal units. These comments further supported the concept of production losses and feed on hand being expressed in monetary values rather than in pounds of feed grain equivalent (FGE). The comments also supported the concept of the livestock owner receiving a portion of eligible assistance in advance to purchase feed and determining eligibility for the program by assessing feed production/needs for the current crop year.

3. Five comments expressing concern about the issuance of advance payments to eligible livestock owners. One comment expressed concern that advance payments to eligible livestock owners may compel such owner(s) to abuse the program; another expressed concern that if eligible livestock owners are given advance payments it provides opportunity for more abuse of the program. It has been determined that the benefits derived by providing the advance payments to eligible livestock owners outweighs the possibilities of abuse. Except for reporting changes in livestock and available feed, the livestock owner would not be required to return to the county ASCS office until the terms of the contract are completed. The amount of time required by the county ASCS office to determine whether the livestock owner has met the terms of the contract would be greatly reduced. Under the terms of the contract entered into by the livestock owner and CCC, the owner will be required to produce livestock feed sales receipts at the end of the contract feeding period, and the county ASCS office will only need to total the monetary amount of the feed purchased by the livestock owner and determine the total benefits due the owner. This differs from the current program which requires the livestock owner to produce livestock feed sales receipts each time that the owner wants to receive a payment. Therefore, it has been determined not to change these provisions of the proposed rule.

4. Three comments expressing concern that the proposed computation of livestock feed needs based on Net Energy requirements rather than 10 pounds of FGE does not address the needs of livestock owners. These comments stated that the current system of establishing animals units by age is much better than changing to a weight basis. One comment stated that the 10 pounds per day per animal unit should be adjusted to a higher level, without reducing the amount of cost share to livestock owners. Another comment suggested that we consider climatic variations when determining feed assistance needs. Another comment suggested that 10 pounds of feed per animal unit was more than enough to provide eligible livestock owners assistance through an emergency period. As was stated in the proposed rule, it has been determined that while 10 pounds per day per animal unit of Total Digestive Nutrients (TDN) is an appropriate means of determining feed for livestock, the use of Net Energy requirements provides a better measurement of the daily needs for the maintenance of livestock. It has also been determined that it would not be feasible to vary feed allowances according to climatic variations. The Net Energy requirements in this rule do account for a 5 to 8 percent increase over the calculated requirements in order to compensate for heat and cold stress of the livestock. For these reasons, it has been determined not to change these provisions of the proposed rule.

It has been determined that the appropriate amount of energy required to provide the daily maintenance requirements for sheep, based on the standard of a ewe weighing 150+ pounds in comparison to the estimated need for goats weighing 125 pounds, needs adjustment. Based on the comparison of the two categories it would be logical to utilize a compatible requirement for both sheep and goats. Taking into consideration that the amount producers would receive per matured ewe in 1990 is only .2 pounds less than what had been alloted under the provisions of this program in past years, it has been determined that the maintenance requirements for ewes weighing 150+ pounds for the 1990 emergency livestock feed program crop year will not be revised. However, for the 1991 and subsequent years, the daily maintenance requirement for ewes weighing 150+ pounds will be adjusted to reflect the comparison.

5. One comment expressed concern that the Livestock Preservation Donation Program (LPDP) has not been implemented because of drought conditions. The comment states that the LPDP should be implemented upon the occurrence of prolonged drought. It has been determined that a livestock emergency due to a drought does not warrant implementation of such a program. These programs are administered on a yearly basis and a livestock emergency is not determined based on the cumulative financial strain on a livestock producer because of several years of drought. Therefore it has been determined not to adopt this suggestion.

6. One comment expressed concern that the provisions of the proposed rule that would permit the livestock owner to omit grazing and foraging animals from a feed assistance application may

jeopardize the ability to graze livestock. The comment recommended that a producer be allowed to submit separate applications for their different livestock operations, or be allowed to differentiate between the needs of their different livestock on one application. It has been determined that it is not feasible to permit livestock owners to submit separate applications for their different livestock operations. Accordingly, the livestock owner will be given the option to designate whether the grazing livestock shall be included on the application for assistance and hence, include or exclude those livestock on the application. The proposed rule also provided that categories for each type of eligible livestock will be established on a specified weight range basis rather than by age. This will more accurately establish the amount of feed necessary to maintain a particular type and weight of livestock because of the differences in weight of different livestock breeds as opposed to age.

7. One comment expressed concern that with respect to refunds to CCC, that livestock owners may be required to pay interest on a refund if the overpayment to the owner resulted because the owner's livestock feed needs were erroneously computed by the county ASCS office. The comment strongly opposed charging an owner interest on a refund that did not result from the owner's actions. In developing the proposed rule, consideration was given for those cases where the livestock owner may have to refund over payment of eligibility due to an error by the county ASCS office. The rule does not propose nor does it intend to require the owner to pay interest on an overpayment, when the county ASCS office is in error. However, if the livestock owner has not reimbursed the overpayment to the county ASCS office within 30 days of the date of the demand letter to the livestock producer for the reimbursement, the producer will then be charged interest with respect to the overpayment.

Provisions of the proposed rule provided that the value of normal grazing for each type of grazing applicable to a county, be established for each county either by the county ASC committee or the State ASC committee or be based on data obtained from the National Agricultural Statistics Service (NASS) or other specified sources. It has been determined that data available to determine grazing value is not consistent among states, and State and county committees are experiencing great difficulty in establishing accurate grazing values. Thus, for the 1990 emergency livestock program crop year the normal grazing value will be determined according to § 1475.6 and for the 1991 and subsequent crop years the value of normal grazing shall be determined in a different manner as provided in § 1475.6.

Based upon a review of the comments received and other changes, it has been determined that the proposed rule should be adopted as a final rule with certain changes which will enhance the effectiveness of these programs. In § 1475.3 changes to the definitions are as follows:

1. The definition of "actively engaged" is changed to "actively engaged in livestock production or husbandry, or dairy production" to reflect owner qualification for livestock assistance.

2. The definition of "total adjusted benefits available" is changed to "adjusted total benefits available" to reflect the benefits the owner is entitled to receive.

3. The definition of "adjusted CCC value" has been added to reflect adjustments for loan premiums and discounts when grain which has been pledged as collateral for price support loans is acquired by a producer under the programs authorized by this part.

4. The definition of "average weight classes" has been changed to "weight ranges" for clarity.

5. The definition of "livestock producer" has been added.

6. The definition of "principal owner" has been changed to "contact person" to more reflect accurately the identity of the person who is designated in the contract as the person to receive communications from CCC regarding the participation of several owners in these programs.

7. The definitions of "goat doe", "sheep ewe", and "swine sow" have been added to specify that the eligible types of these animals are kept for breeding and is pregnant or lactating.

8. The definition of "Posted County Price" or "PCP" has been added to clarify the manner in which CCC shall determine the market prices of grains acquired by a program participant under these programs.

Section 1475.6 is revised in its entirety for technical and clerical changes with no substantive changes being made.

Section 1475.9 is revised for clarity by adding a paragraph (g) to reflect the conditions that are applicable to the livestock owner who does not comply with the regulations regarding reporting changes that may affect owner's eligibility.

Section 1475.24 is deleted.

Section 1475.503 is revised to include statutory requirements which are used to determine a livestock owner's eligibility to participate in the programs. This change does not alter the owner's ability to participate in the programs, but is intended to set forth more accurately program requirements which have been in effect since 1988 as required by Congress. In addition, other changes are made for clarification.

The information collection requirements of this subpart have been approved by the Office of Management and Budget (OMB) for the purposes of the Paperwork Reduction Act and OMB Number 0560–0029 has been assigned to 7 CFR part 1475.

List of Subjects in 7 CFR Part 1475

Assistance Grant Programs—Agriculture Livestock.

Final Rule

Accordingly, 7 CFR part 1475 is revised to read as follows:

PART 1475—EMERGENCY LIVESTOCK ASSISTANCE

Subpart—General Provisions

Sec.

1475.1 General statement.
1475.2 Administration.
1475.3 Definitions.
1475.4 Program availability.
1475.5 Owner eligibility.
1475.6 Application for assistance.
1475.7 Adjustment of total benefits available.
1475.8 Disposition of feed.
1475.9 Payments.
1475.10 Termination and suspension of program.
1475.11 Maintenance of books and records.
1475.12 Liens and claims of creditors; setoffs.
1475.13 Assignments of payments.
1475.14 Limitation of authority.
1475.15 Appeals.
1475.16 Misrepresentation, scheme or device.
1475.17 Refunds to CCC; joint and several liability.
1475.18 Cumulative liability.
1475.19 Estates, trusts, and minors.
1475.20 Death, incompetence, or disappearance.
1475.21 Violations.
1475.22 Benefits limitation.
1475.23 Gross revenue limitation.
1475.24 Paperwork Reduction Act assigned numbers.

Subpart—Livestock Preservation Donation Program

1475.101 General statement.
1475.102 Eligibility.
1475.103 Assistance.
1475.104 Feeding period.

Subpart—Emergency Feed Assistance Program

1475.201 General statement.
1475.202 Sale of CCC-owned grain.

Subpart—Emergency Feed Program

1475.301 General statement.
1475.302 Cost-share assistance.

Subpart—Crash Feed Grain Donation Program

1475.401 General statement.
1475.402 Assistance.
1475.403 Feeding period

Subpart—Prickly Pear Cactus Burning Program

1475.501 General statement.
1475.502 Definitions.
1475.503 Eligibility.
1475.504 Assistance.

Authority: 15 U.S.C. 714b and 714c, 7 U.S.C. 1427 and 1471–1471j.

Subpart—General Provisions

§ 1475.1 General statement.

The regulations in this part set forth the terms and conditions of the programs which may be made available to eligible owners for 1990 and subsequent livestock feed crop year disasters. The objective of these programs is to provide emergency feed assistance to eligible livestock owners in a State, county, or area approved by the Executive Vice President, CCC, where because of disease, insect infestation, flood, drought, fire, hurricane, earthquake, storm, hot weather, or other natural disaster, a livestock emergency exists. These programs, except the Crash Feed Grain Donation Program, also provide feed assistance to eligible livestock owners for the preservation and maintenance of livestock in any county contiguous to a county where a livestock feed emergency has been determined to exist at any time during an 8-month period beginning on the date that such an emergency has been determined to exist in the other county. The program or programs which are made available in the event of the occurrence of a livestock feed emergency shall be determined by the Executive Vice President, CCC. With the exception of the Prickly Pear Cactus Burning Program and Crash Feed Grain Donation Program contained at § 1475.401 through § 1475.504 of this part, in order to receive assistance under this part a person must enter into a contract with CCC in order to receive such assistance from CCC.

§ 1475.2 Administration.

(a) This part shall be administered by CCC under the general direction and supervision of the Executive Vice President, CCC. The program shall be carried out in the field by State and county Agricultural Stabilization and Conservation committees (State and county committees).

(b) State and county committees, and representatives and employees thereof, do not have the authority to modify or waive any of the provisions of the regulations in this part, as amended or supplemented.

(c) The State committee shall take any action required by this part which has not been taken by the county committee. The State committee shall also:

(1) Correct, or require a county committee to correct, any action taken by such county committee which is not in accordance with this part; or

(2) Require a county committee to withhold taking any action which is not in accordance with this part.

(d) No delegation herein to a State or county committee shall preclude the Executive Vice President, CCC, or a designee, from determining any question arising under the program or from reversing or modifying any determination made by a State or county committee.

§ 1475.3 Definitions.

In determining the meaning of the provisions of this part, unless the context indicates otherwise, words imparting the singular include and apply to several persons and things, words imparting the plural include the singular, words imparting the masculine gender include the feminine, and words used in the present tense include the future as well as the present. The following terms shall have the following meanings:

Actively engaged in livestock production or husbandry, or dairy production means:

(1) Possessing a beneficial interest in eligible livestock as defined in this part; and

(2) Possessing a financial risk in regards to the eligible livestock.

Adjusted CCC Value means the PCP adjusted for loan premiums and discounts, as applicable.

Adjusted total benefits available means the total monetary value of assistance for which the owner is eligible to receive as recomputed and entered on the addendum to the contract due to changes in feed available or changes in livestock during the feeding period.

Approving official means a representative of CCC who is authorized by the Executive Vice President, CCC, to approve an application for assistance and contract made in accordance with this part.

Area means any part of a State or county including Indian reservations.

ASCS means the Agricultural Stabilization and Conservation Service.

Beef cow means a bovine animal keep for breeding and that is pregnant or lactating.

CCC means the Commodity Credit Corporation.

Commercial Feedlot means an establishment that is primarily engaged in the fattening of beef cattle, goats, swine, and lambs in a confined area for a period of at least 30 days, on a fee or contract basis for profit.

Contact person means the person who is designated in the contract as the person to receive communications from CCC concerning the contract.

Contract means the emergency livestock feed program contract, appendix and addendum thereto when executed by the livestock owner and approved by a representative of the CCC.

Contracting entity means the owner or owners who enter into an emergency livestock feed program contract for payment, to purchase necessary grain or roughage under one or more of the programs of this part and are party to the same contract.

County means a county or similar geographic area as determined by CCC.

Crop year means a period determined by CCC which begins when normal grazing of new pasture growth becomes available in the spring and ends 12 months later.

Dairy cow means a bovine animal which is owned or leased for the purpose of producing milk for commercial marketing and that is pregnant or lactating.

DASCO means the Deputy Administrator, or Assistant Deputy Administrator State and County Operations, ASCS, U.S. Department of Agriculture.

Dry supplemental feed means a dry feed ingredient, or combination of dry feed ingredients, derived as by-products from processing feed and feed grains, oil seeds, meat, fish, citrus, sugar beets, or dairy products that are added to other dry feed materials to improve the nutritional balance or performance of the total feed ration. Antibiotics, emulsifiers, hormones, minerals, and vitamins, as determined and announced by CCC are also included.

Eligible feed for assistance means any type of feed (feed grain, oilseed meal, premix or mixed or processed feed, liquid or dry supplemental feed, roughage, pasture, or forage) that best suits the owner's livestock operation which is consistent with acceptable

feeding practices and which was not produced by the owner except for feed grain pledged as collateral for a farm stored price support loan or upon which assistance has not been provided. Any type of crop not normally considered as a feed grain may if the crop will be feed to the owners livestock, as determined by CCC, be considered as a feed grain and be considered in providing assistance to the owner. If assistance on such crop is requested by the owner, all such crops produced by the owner shall be considered when making a determination of the monetary value of feed available. Such crop shall not be used in determining the monetary value of feed production loss.

Eligible Livestock means beef and dairy cattle, sheep, goats, swine, poultry (including egg-producing poultry), equine animals used for food or in the production of food, and fish used for food. Buffalo and beefalo are also included when maintained on the same basis as beef cattle. Eligible livestock used for determining feed assistance are those livestock that are part of a foundation herd (including producing dairy cattle) or offspring or are purchased as part of a normal operation and not to obtain additional benefits under this part. Eligible livestock also includes:

(1) Livestock inherited by the owner, or

(2) Purchased by the owner as part of a complete farm operation.

Equine animals means horses, mules, and donkeys, and includes animals:

(1) Used commercially for human food, or

(2) Kept for producing food and fiber on the owner's farm, such as draft horses, or cow ponies. Eligible equine animals are limited to the number needed to produce food and fiber on the owner's farm or breed horses and mules to be used to produce food and fiber on the owner's farm, and does not include such animals which are used for recreational purposes or are running wild or uncontrolled on land owned or leased by the owner.

Equine animals for food means those horses which are maintained for commercial sale of food processors for human consumption.

Executive Vice President means the Executive Vice President, CCC, or a designee of the Executive Vice President.

Feed available means the owner's current year feed production on hand on the date the feeding period begins. Feed available shall also include any feed on hand owned by the owner of eligible livestock on the date of application as provided in § 1475.6 of this subpart.

Feed dealer or manufacturer means a person engaged in selling processed feed who is approved by the county committee to advance processed feed from such person's inventory to approved owners when requested to do so by the county committee under a feed dealer's agreement executed with CCC.

Feeding period means: (1) For all livestock except fish for food, the period beginning and ending on the dates determined as follows: The period shall begin on the later of:

(i) The date of the application for assistance; or

(ii) The authorization of the implementation of the program. The period shall end on:

(iii) If both grazing and nongrazing livestock are included, the earlier of the date when additional feed is normally expected to become available; or

(iv) The end of the crop year or the end of the grazing period if pasture (including wheat pasture) is the only crop produced; or

(v) If only nongrazing livestock are included on the later or the date when additional feed is normally expected to become available or the end of the crop year.

(2) For fish for food, the period beginning and ending on the dates determined as follows: The period shall begin on the later of:

(i) The date of the application for assistance; or

(ii) The authorization for implementation of the program and the period shall end on the earlier of:

(iii) The estimated date the owner intends to harvest the fish;

(iv) The anticipated date when water temperature in the pond is expected to be 54 degrees Fahrenheit or less;

(v) The end of the current feeding period established for other eligible livestock if other livestock are included on the application; or

(vi) The end of the emergency livestock feed program crop year.

Fish for food means those fish which are maintained for commercial sale to restaurants, food stores, fish haulers, and processors for human consumption.

Foundation Livestock means eligible livestock that are kept for breeding and the reproduction of such livestock.

Goat doe means a female animal kept for breeding that is pregnant or lactating.

Handler means any person approved by the county ASC committee to perform designated services in accordance with a grain handler agreement executed by such person and CCC.

Husbander means owner as defined in this subpart.

Liquid supplemental feed means that which contains protein, urea or other nonprotein nitrogen, minerals, and vitamins that are added to molasses or other liquids resulting in a product that is mixed, handled, and fed in a liquid form. They may also include such products as emulsifiers for fat, certain antibiotics, and hormones.

Livestock producer means the livestock owner as defined in this subpart.

Natural disaster means disease, insect infestation, flood, drought, fire, hurricane, earthquake, storm, hot weather, or other natural disaster.

Net Energy Maintenance means for all livestock, except fish for food, the appropriate amount of net energy needed to meet the daily maintenance needs for livestock based on the weight range by type of eligible livestock as provided in this section as determined by CCC. The maintenance level for fish for food shall be one percent of the average weight of all fish for food owned by the owner times the number of days in the feeding period.

Normal yield means for program crops the yield established for other CCC programs. If no yield is established for programs crops, the yield shall be based on similar farms. For nonprogram crops, the yield shall be the lower of the yield specified by the owner or the average yield for the county determined according to NASS, unless the owner can substantiate that his or her normal yield is higher than that of NASS. Yields determined by NASS shall be based on a 5-year average excluding the high and low years.

Owner means: (1) A person who is actively engaged in farming as determined according to part 1497 of this chapter, and is:

(i) A citizen of, or legal resident alien in the United States; or

(ii) A farm cooperative, private domestic corporation, partnership, or joint operation in which a majority interest is held by members, stockholders, or partners who are citizens of, or legal resident aliens in the United States;

(iii) Determined to receive 10 percent or more of the person's gross income, as determined by the Secretary, from the production of grain or livestock.

(2) A person that is actively engaged in livestock production or husbandry, or dairy production, and is:

(i) Any Indian tribe under the Indian Self-Determination and Education Assistance Act;

(ii) Any Indian organization or entity chartered under the Indian

Reorganization Act or entity chartered under the Indian Reorganization Act;

(iii) Any tribal organization under the Indian Self-Determination and Education Assistance Act; and

(iv) Any economic enterprise under the Indian Financing Act of 1974.

The owner must own or jointly own the eligible livestock to be fed with the eligible feed which is to be purchased or acquired through donation in accordance with this part or with respect to which assistance is provided in accordance with this part. An owner who pledges livestock as security for a loan shall be considered as the owner for the purpose of this part if all other requirements of this part are met. Notwithstanding any other provisions of this section, livestock leased under a contractual agreement which has been in effect at least 3 months for poultry or fish and 6 months for other livestock on the date of application for assistance under this part requires the lessee to furnish the feed for such livestock and provides for a beneficial interest in such livestock such as the right to market a share of the increase shall be considered as being owned by the lessee. An owner does not include:

(1) State or local governments or subdivisions thereof; or

(2) Any individual or entity which is determined to be ineligible to receive payments or benefits in accordance with part 1498 of this chapter.

Owner's holdings means all land and livestock located within a reasonable travel area, as determined by the county committee, for the owner. Owner's holdings shall also include all land and livestock that is not within a reasonable travel area, if crops and or livestock from such land are normally transported from one operation to the other operation to allow the owner to utilize all feed and grazing available on all operations.

Person means a person as determined according to part 1497 of this title.

Posted county price or (*PCP*) means the daily terminal market price for a commodity at a terminal market as determined by CCC, adjusted by the county average location differential as determined by CCC.

Poultry means domesticated chickens, ducks, geese and turkeys.

Premix means a formulation of one or more microingredients, such as vitamins, minerals, drugs, or other ingredients when one type of ingredient is evenly mixed with one or more of other types of ingredients or with a carrier. One vitamin mixed together solely with another kind of vitamin, or one mineral mixed together solely with another kind of mineral is not considered a premix.

Processed feed means feed grain which contains not more than 90 percent, by weight, of any one feed grain which is ground, rolled, steamed, pelletized, or otherwise processed provided that all of the ingredients of the whole grain are included in such mixture.

Program means emergency livestock feed program authorized by this part.

Secretary means the Secretary of Agriculture or a designee of the Secretary.

Sheep ewe means a female animal kept for breeding that is pregnant or lactating.

State means any State of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, or Guam.

State committee, State office, county committee, or county office, means the respective ASC committee or ASCS office.

Substantial loss of production means the monetary value of feed produced by the owner (including pasture, forage and feed in storage) during the crop year which has, because of a natural disaster, suffered at least a 40 percent reduction in the yield from normal production computed by the county office, or such other amount as determined by the Executive Vice President, CCC, to be the normal production produced by the owner with respect to lands operated by the owner. Any loss of feed production which the approving official determines is attributable to:

(1) Overgrazing; or

(2) Farming practices not recognized as being normal in the area, shall not be included in determining a substantial loss of production. Loss of feed production on crop land leased by the owner, under a new lease, after the beginning of the emergency livestock feed program crop year shall not be included in determining a substantial loss of production. Loss of feed production on pasture land leased by the owner, under a new lease, less than 90 days before the authorization to implement the emergency livestock feed programs shall not be included in determining a substantial loss of production, unless otherwise allowed by CCC. The increase in costs of livestock feed because of a natural disaster or any other reason shall not be construed to mean that the owner has had a loss of production.

Swine sow means a female animal kept for breeding that is pregnant or lactating.

Total benefits available means the total monetary value of assistance for which an owner is eligible as originally computed and entered on the contract. Total benefits available is a percentage of the lesser of the value of feed production loss or the value of additional feed needs.

Value of additional feed needs means the monetary value needed to provide the daily energy requirements for the entire feeding period for the eligible livestock after subtracting the monetary value of feed available to the owner.

Value of total feed needs means, except fish for food, the total monetary value needed to provide daily energy requirements for eligible livestock for the entire feeding period. Feed benefits for fish for food shall be as provided in § 1475.6 of this subpart.

Warehouse means a warehouse which is currently operating in accordance with a valid Uniform Grain Storage Agreement executed with CCC.

Weight ranges means the weight range by type of livestock and an appropriate amount of energy required to provide the daily maintenance needs for livestock as follows:

Kind/Type	Weight range	Daily energy requirement	Allowance/day in lbs. of corn
		Mcals	
(1) Beef cattle:			
Beef	Less than 400	3.0 NE_m	3.5
Beef	400–799	5.2 NE_m	6.5
Beef	800–1099	7.0 NE_m	8.5
Beef	1100+	10.8 NE_m	12.5
Beef, cow	All	13.6 NE_m	15.7
Beef, bull	1000+	10.8 NE_m	13.0
(2) Dairy cattle:			
Dairy	Less than 400	3.0 NE_m	3.5
Dairy	400–799	5.2 NE_m	6.5
Dairy	800–1099	7.0 NE_m	8.5
Dairy	1100+	10.8 NE_m	12.5

Kind/Type	Weight range	Daily energy requirement	Allowance/day in lbs. of corn
Dairy, cow	900–1099	20.4 NE_l	27.0
Dairy, cow	1100–1299	23.0 NE_l	31.0
Dairy, cow	1300–1499	24.5 NE_l	33.0
Dairy, cow	1500+	25.7 NE_l	34.5
Dairy, bull	1000+	12.0 NE_m	14.5
(3) Equine:			
Equine	Less than 450	6.2 DE	4.4
Equine	450–649	8.9 DE	6.3
Equine	650–874	11.6 DE	8.2
Equine	875+	17.3 DE	11.6
(4) Swine:		Kcals	
Swine	Less than 45	780 DE	.5
Swine	45–124	1630 DE	1.1
Swine	125+	2867 DE	1.9
Swine, sow	235+	9854 DE	6.5
Swine, boar	235+	5446 DE	3.7
(5) Sheep:			
Sheep	Less than 44	315 NE_m	.4
Sheep	44–82	718 NE_m	.9
Sheep	83+	973 NE_m	1.1
Sheep, ewe crop year	150+	1420 NE_m	1.8 for 1990
Sheep, ewe and subsequent crop years	150+	1420 NE_m	3.1 for 1991
Sheep, ram	150+	1556 NE_m	1.7
(6) Goats:		Mcals	
Goats	Less than 44	.70 DE_m	.5
Goats	44–82	1.59 DE_m	1.1
Goats	83+	2.16 DE_m	1.5
Goats, doe	125+	5.3 DE_m	3.5
Goats, buck	125+	3.01 DE_m	2.1
(7) Poultry:		Kcals	
Poultry	Less than 3.0	150 ME	.1
Poultry	3.0–7.9	375 ME	.2
Poultry	8.0+	638 ME	.45

Consideration has been given for fetal development, lactation, as applicable, in meeting daily energy requirements for maintenance. Weight ranges and energy requirements shall not be established for fish used for commercial food production but a feed allowance shall be computed in accordance with § 1475.6 of this subpart.

§ 1475.4 Program availability.

(a) Whenever the Governor of a State determines that a livestock feed emergency due to a natural disaster exists in a State, or an area of the State, or a county committee determines that such an emergency exists in the county or area within the county, the Governor or the county committee may submit a request for a determination by the Secretary of a livestock feed emergency in the State, county, or area thereof and for emergency livestock feed assistance under this part. Any request for a determination that a livestock emergency exists because of a slow developing natural disaster such as a drought must be submitted by October 31 of the current crop year. A determination that a livestock emergency due to natural disaster exists may also be made for a State, county or area thereof by the Secretary, whether or not a request for assistance is submitted. The request of a Governor or county committee for a livestock feed emergency determination and for emergency livestock feed assistance shall include recommendations to the Secretary of those options that will fully use feed available through local sources. The request of the Governor must specify the names of the counties for which assistance is requested. The request submitted by a county committee for a livestock feed emergency determination must be submitted to the State committee and must contain:

(1) A County Feed Loss Assessment Report, Form CCC–654;

(2) The rainfall data by month expressed in inches and percent of normal for the current calendar year and the two previous calendar years if the request is due to the occurrence of drought or excess moisture;

(3) The type of assistance requested; and

(4) A report of an on-site visit by the county committee and a State committee representative stating existing production conditions.

(b) The State committee shall forward such a request with a recommendation of whether the request should be approved to DASCO.

(c) The Executive Vice President, CCC, or his designee shall make a final determination as to whether a livestock feed emergency exists not later than 30 days after receipt of any request made in accordance with paragraph (a) of this section and shall notify the Governor or the county committee of such determination as applicable and the livestock feed programs authorized to be implemented.

(d) Owners in any county contiguous to a county that has been designated as a livestock feed emergency county shall be eligible to receive emergency livestock feed assistance under this part, except for the Crash Feed Grain Donation Program and Livestock Feed Donation Program, at any time during the 8-month period beginning on the date on which the emergency was determined exists in the other county.

§ 1475.5 Owner eligibility.

Subject to the terms and conditions in this part, an owner, including an Indian tribal member owner who is participating in the Indian Acute Distress Donation Program (IADDP), may be approved to participate in a program established in accordance with this part.

§ 1475.6 Application for assistance.

(a) Any owner of livestock may file a CCC–652 for participation in a program made available by CCC in an approved county. When a CCC–652 is filed, the owner or, a duly authorized representative of the owner, shall

execute the certification contained on the CCC–652.

(b) The owner, or duly authorized representative of the owner, shall enter into a contract with CCC to receive assistance not to exceed the amount of eligibility determined on the CCC–653.

(c) An CCC–652 application worksheet and CCC–653 contract must be filed at the county ASCS office in an approved county or in a county office in a contiguous county.

(d)(1) The owner, or a duly authorized representative of an owner, shall:

(i) Furnish all the information specified on the CCC–652 and CCC–651;

(ii) Certify that the owner meets the requirements of the applicable program; and

(iii) Provide any other information which the approving official determines to be necessary to determine the owner's eligibility.

(2) Applications for assistance due to production losses because of a livestock feed emergency determined to exist for 1990 and subsequent livestock feed crop year disasters must be filed by December 31 of the year in which the disaster occurred.

(3) With respect to owners in a county contiguous to a county where a livestock feed emergency has been determined to exist, owners must file not later than the last day of the 8-month period beginning on the day the Secretary of Agriculture determines that a livestock feed emergency exists in the other county.

(e)(1) With respect to those programs which require that an eligible livestock owner must have suffered a substantial loss of production of feed, in determining whether a substantial loss of production of feed exists, the normal production of livestock feed and the current year livestock feed production harvested by the owner shall be converted to a monetary value based on established crop yields or the 5-year average yield of the crop excluding the high and low years, obtained from the National Agriculture Statistics Service (NASS). The amount of loss of livestock feed production shall be determined by CCC by comparing the monetary value of normal feed production produced on the owner's landholdings including leased land and any other land which is available for use by the owner to the monetary value of the actual livestock feed production harvested from such holdings. Loss of pasture production shall be based on the grazing value per acre of such pasture and the percent of loss for such acres. The owner must have suffered a substantial monetary value loss of feed normally produced by the owner to be eligible to participate in the emergency livestock feed programs.

(2) A substantial loss of production may, as determined by CCC, include feed stocks produced in the current crop year which were damaged or destroyed by a natural disaster while in storage. Feed stocks not totally destroyed shall be appraised by CCC on the basis of the remaining value of such stocks as livestock feed.

(3) For the 1990 emergency livestock feed program the determination of a substantial loss of production with respect to pasture, range, or other grazing land shall be computed based on the loss of current year grazing after the beginning of the livestock feed program crop year through the end of the feeding period. County ASC committees shall establish a value per acre for each type of grazing for the county and the maximum degree of loss for each type of grazing. Any production loss attributed to overgrazing in a prior crop year shall be excluded.

(4) For the 1991 and subsequent emergency livestock feed program crop years, the determination of a substantial loss of production with respect to pasture, range, or other grazing land shall be computed based on the loss of current year grazing after the beginning of the livestock feed program crop year through the end of the feeding period. State ASC committees shall establish a value for each type of grazing for the county based on the dollar value of the quantity of forage needed to maintain an animal unit for 1 day, as determined by DASCO, and the carrying capacity for each type of normal grazing applicable to the county.

(5) In determining a substantial loss of production with respect to feed grain, silage, green chop, hay, and other roughage, the current crop year acreage and normal yields for such crops shall be used. The owner with swine, poultry or fish and grazing livestock that selects to include only eligible livestock that do not normally graze or use forage in the application for assistance shall not receive a loss on roughage, grazing, or other crops not suitable for non-grazing livestock.

(6) The amount of payment on any loss of production otherwise computed shall be reduced due to the receipt of other government disaster benefits which are received by the person for livestock feed normally grown by the owner. No reduction shall be made for CCC-owned grain that is donated to eligible Indian livestock owners under the Indian Acute Distress Donation Program (IADDP).

(7) No loss of production shall be determined on acreage conservation reserve (ACR) or conserving use (CU) for payment acreage during the 5-month restricted haying and grazing period established by the State committee for purpose of administering part 1413 of this chapter.

(f) The same monetary value per ton, bushel or hundredweight, as applicable, used to determine the value for normal production and feed production harvested shall be used to determine a monetary value for feed available.

(g) Current year feed available owned by the owner of eligible livestock on the date of application shall include, but is not limited to:

(1) Feed grain, silage, green chop, hay, pasture, and other roughage;

(2) Current crop year production of feed still available including any grain pledged as collateral for a CCC price support loan;

(3) Current crop year feed grain pledged as collateral for a CCC price support loan during the current crop year.

(4) Any current crop year feed that is sold during the current crop year by considering the date of delivery of the feed as the date sold;

(5) Pasture, range, or other grazing land owned by the owner and any benefits from any pasture or grazing rights purchased or leased as part of the owner's normal operation during the feeding period;

(6) Grazing benefits from hay or grain crops which are grazed instead of or in addition to harvesting during the feeding period, including any temporary grazing of crops such as wheat;

(7) Temporary winter cover crops available for grazing during the feeding period;

(8) Any current year feed produced by the owner utilized in a feedlot for the commercial feeding of livestock;

(9) Any donated feed received during the current year including current and prior years production, that is still available on the date the application is filed except for feed grain donated by CCC under the IADDP;

(10) Any roughage or grazing value available during the feeding period from ACR or CU during the 7-month nonrestricted haying and grazing period established by the State committee for purposes of administering part 1413 of this chapter;

(11) If haying or grazing of ACR or CU for payment acreage during the 5-month restricted period is authorized, any roughage or grazing value available from these acreages during the feeding period; and

(12) Except as otherwise provided in this section, any other feed that may be determined by approving officials in accordance with instructions issued by

DASCO including adjustments based upon other government disaster benefits which are received by the person.

(h) The total monetary value of feed available, for an Indian tribal member who is determined eligible to receive assistance under the emergency livestock feed programs and receive donated grain under the IADDP, shall be the monetary value of the Indian owner's current year livestock feed available as determined in paragraphs (g) (1) through (12) of this section, less the monetary value, as determined by DASCO, of any donated grain received under IADDP.

(i)(1)(i) The value of total feed needs determined with respect to an owner of livestock, other than fish for food, shall not exceed the amount obtained by multiplying:

(A) The average cost of corn, as established by CCC for the feeding period established for the livestock owner, that is determined necessary to provide the energy requirements established for each weight class of livestock by type; times

(B) The number of eligible animals of each type and weight range of livestock; times

(C) The number of days in the feeding period.

(ii) The livestock owner with swine, poultry or fish and grazing livestock shall have the option to include only eligible livestock that do not normally graze or use forage in the application for assistance under this part.

(iii) The value of additional feed needs determined with respect to an owner shall be the monetary value of the total feed needs less the monetary value of feed available including feed grain, hay, silage, pasture and range, and any other source of feed, determined by the approving official to be available to the owner for feeding eligible livestock during the feeding period.

(iv) The amount of total benefits available determined with respect to an owner for the entire feeding period shall be a percentage, as determined by DASCO, of the smaller of the monetary value of additional feed needs or the monetary value of feed production loss by the owner.

(2) The value of feed needs determined with respect to an owner of fish for food shall not exceed the average pounds of fish owned by the owner times the number of days in the feeding period times one percent times the cost of feed as determined by DASCO. The average weight of the fish shall be determined by:

(i) Determining the estimated average weight of the fish at the time of application;

(ii) Determining the estimated average weight of the fish on the ending date of the feeding period; and

(iii) Dividing the same of (i) and (ii) by 2.

(j)(1) The county committee or designee shall review each CCC–652 and CCC–651. The county committee and, if designated by the county committee, the County Executive Director, is authorized to approve or disapprove all CCC–653's and CCC–651's. Each CCC–653 or CCC–651 for a county committee member, or an ASCS employee, shall be reviewed by the State committee after approval by county ASC committee or its designee.

(2) Each CCC–653 or CCC–651 for a State committee member or State Executive Director shall be reviewed by DASCO after approval by the county committee or its designee.

(3) No application or contract shall be approved unless the owner meets all eligibility requirements. Information furnished by the owner and any other information, including knowledge of the county and State committee members concerning the owner's normal operations, shall be taken into consideration in making recommendations and approvals. If information furnished by the owner is incomplete or ambiguous and sufficient information is not otherwise available with respect to the owner's farming operations in order to make a determination as to the owner's eligibility, the owner's application and contract shall be denied until sufficient additional information is provided by the owner. The owner shall be notified of the reason for denial and provided an opportunity to submit additional information as requested.

(4) An owner shall be notified in writing of the action taken with respect to a CCC–652 and CCC–651 by the approving official.

§ 1475.7 Adjustment of total benefits available.

(a)(1) The determination of the total benefits available to the owner may be decreased or increased after a determination has been made. The contact person shall notify all other owners which are a party to the CCC–652 and CCC–651 of all changes regarding the application and contract.

(2) If there is an increase or a reduction in the number of the owner's eligible livestock, this fact shall be promptly reported to the approving official. If necessary an adjustment in the owner's additional feed needs and an adjustment in the benefits issued to the owner shall be made. This increase or reduction shall be made by revising the benefits available on the CCC–653 and CCC–651 by the result of multiplying the amount of the change in eligible animals, times the number of days remaining in the feeding period times the cost per day to provide energy requirements for the applicable weight range by type of eligible livestock. After adjusting the benefits available, if applicable, the county office shall notify the contact person of the current total benefits available.

(3) If, due to a change in total benefits available, an excess amount of assistance was provided to the owner, the owner must refund such excess including applicable interest as determined by DASCO.

(b) If additional feed, including pasture, becomes available to the owner from production on any land included in the owner's holdings covered by the contract during a feeding period, this fact shall be promptly reported to the county office and proper adjustments shall be made.

(c) If any decrease in feed production, including pasture, occurs on any land included in the owner's holdings covered by the contract during a feeding period, this fact shall be promptly reported to the county office and proper adjustments shall be made.

§ 1475.8 Disposition of feed.

(a) (1) Feed grain or other livestock feed obtained under this part shall not be exchanged for any ingredients, services, cash, credit, or any other thing of value.

(2) An owner may feed eligible livestock feed to any livestock owned or leased, after a determination has been made that the owner's eligible livestock were the only livestock used in determining the owner's total benefits available.

(b) The total quantity of feed purchased in accordance with this part, for which CCC has provided assistance under contract with the owner, must be fed to the owner's livestock within the feeding period. The county committee may consider livestock feed as having been fed within the feeding period if the county committee determines that failure to timely feed the livestock feed was due to conditions beyond the control of the owner. The amount of livestock feed remaining which may be considered as being timely fed shall not exceed a 10-day supply of feed for the owner's eligible livestock.

(c)(1) If the owner does not feed the feed grain or other livestock feed as

provided in paragraphs (a) and (b) of this section, with respect to the unfed amount the owner shall pay to CCC the following amounts plus any applicable interest, as determined by CCC:

(i) With respect to purchased CCC-owned feed grain, the difference between the price paid for such feed grain and the Posted County Price (PCP) used to determine the dollar amount paid by the owner thereof, or such other value as determined by CCC, based on the price of such feed grain in the county where the feed grain was stored; and

(ii) With respect to cost-share assistance, the amount of assistance received; and

(iii) With respect to CCC-owned feed grain donated to the owner, the rate equal to the PCP of the feed grain in the county where the grain was stored, on the date the feed grain was made available to the livestock owner.

(2) If the owner has failed to report a change in the livestock operation of the owner as required by this subpart and excess assistance was provided to the owner, the owner shall pay to CCC the following amounts plus any applicable interest, as determined by CCC:

(i) With respect to purchased CCC-owned feed grain, the difference determined under paragraph (c)(1)(i) of this section for any benefits received by the owner under the terms of the contract for the purchase of such feed grains which was purchased in excess of the quantity that CCC would have approved on the contract and made available, if such report had been made.

(ii) With respect to cost-share assistance, the amount of cost-share assistance which was received under the terms of the contract, as determined by CCC, based on the amount in excess of the amount that CCC would have approved on the contract if such report had been made.

(iii) With respect to CCC-owned feed grain donated to the owner, the rate equal to the PCP of the feed grain in the county where the grain was stored, on the date the feed grain was made available to the livestock owner.

§ 1475.9 Payments.

(a) The total amount of payments which are made by CCC to all persons under the contract shall be the amount equal to the total benefits available to all persons which comprise the contracting entity. Such amount shall be paid by CCC only if it has been determined that the persons are eligible to receive such benefits according to the terms and conditions of the regulations and the contract. The county office shall provide a percentage of the total amount of benefit due upon approval of the owner's application for benefits and acceptance of the contract as determined by DASCO. The remainder of the total amount of benefits due if any will be made after the owner has shown that the terms and conditions of the contract have been met. If any terms, conditions, or requirements of the regulations and the contract are not met, payments and benefits previously provided by CCC which were not earned under the provisions of the contract shall be refunded.

(b) At any time during the period of the contract, the owner shall, as requested by the county committee, submit to the county office, receipts and sales documents that are required verifying that the owner purchased the necessary feed to feed the livestock under the terms and conditions of the contract.

(c) Any receipts or sales documents that may be required of the owner by CCC showing that the terms of the contract have been met must be submitted by the owner by not later than the tenth working day after the end of the feeding period on the contract or addendum.

(d) Each person's share of the total contract payment shall be indicated on the contract, and each person shall receive benefits or final payment from CCC according to benefits or payments earned under the provisions of the contract.

(e) The owners who file applications for more than one feeding period relating to a crop year shall execute a contract for each subsequent feeding period for which the owner is eligible. CCC shall provide assistance equal to the amount of benefits determined for the owner for the feeding periods that the owner is eligible to receive benefits.

(f) The failure of any contact person to file the necessary receipts or sales documents showing that the terms and conditions of this part and the contract have been met shall render all of the persons ineligible for any payments and benefits under the contract including any payments previously made. Payments made shall be refunded to CCC with interest, if applicable, as determined under § 1475.17 of this subpart.

(g) Any payments or benefits, as determined under § 1475.17 of this subpart, and interest if applicable, made to participating owners for benefits on each feeding period shall be refunded to CCC if the owner does not submit receipts or sales documents to CCC for purchases of feed not later than the tenth working day after the end of each feeding period on the contract.

(h) The failure of a livestock owner to comply with regulations and contract terms regarding changes that may affect the owner's eligibility shall be a violation of the program and shall render the owner ineligible to receive program benefits. However, in the event the provisions of part 791 of this title are applicable to a specific violation, the owner may receive benefits under the program, reduced as follows:

(1) For the owner's first such violation, total benefits available to the owner shall be reduced by an amount equal to 5 percent of the owner's current total benefits available as specified on the latest CCC–651–B or CCC–651, as applicable.

(2) For the owner's second such violation, total benefits available to the owner shall be reduced by an amount equal to 25 percent of the owner's current total benefits available as specified on the latest CCC–651–B or CCC–651, as applicable.

(3) For the owner's third such violation, total benefits available to the owner shall be reduced by an amount equal to 50 percent of the owner's current total benefits available as specified on the latest CCC–651–B or CCC–651, as applicable.

(4) For the owner's fourth such violation, the owner shall be ineligible to receive any benefits under the emergency livestock feed programs and shall be required to refund any benefits or payments already received, plus any applicable interest as determined by CCC.

§ 1475.10 Termination and suspension of program.

(a) The county committee, in the county that requested emergency livestock feed program assistance, may at any time during the operation of a program recommend suspension or termination of a program. The State committee may at any time during the operation of a program suspend or terminate a program, with the concurrence of DASCO, for the county that requested emergency livestock feed program assistance. DASCO may suspend or terminate a program at any time for the county that requested the emergency livestock feed programs. The suspension or termination of a program in a county shall not apply to any application filed prior to the effective date of the suspension or termination of a program. Owners who filed an initial application prior to the termination of the program shall be eligible to file subsequent applications and contracts.

(b) Emergency livestock feed program assistance in a county contiguous to a

county that requested and was determined eligible to receive livestock program assistance shall not be suspended or terminated prior to the last day of the 8-month period beginning on the date that an emergency has been determined to exist in the county that requested emergency livestock feed program assistance.

§ 1475.11 Maintenance of books and records.

Warehouseman, handlers, dealers, and owners shall maintain and retain financial books and records which will permit verification of all transactions with respect to the provisions of this part for at least 3 years, following the end of the calendar year in which assistance was provided, or for such additional period as CCC may request. An examination of such books and records by a duly authorized representative of the United States Government shall be permitted at any time during business hours. The owner shall, within 30 days after a request by the county committee, submit any requested information with respect to the owner's livestock feeding operation.

§ 1475.12 Liens and claims of creditors; setoffs.

Any payment or benefit or portion thereof due any person under this part shall be allowed without regard to questions of title under State law, and without regard to any claim or lien in favor of any person except agencies of the U.S. Government. The regulations governing set-offs and withholdings found at part 1403 of this chapter shall be applicable to this part.

§ 1475.13 Assignments of payments.

Payments which are earned by a person under the emergency livestock feed programs may be assigned in accordance with the provisions of 7 CFR part 1404.

§ 1475.14 Limitation of authority.

No delegation herein to a State or county committee or a commodity office shall preclude the Executive Vice President, CCC, or a designee, from determining any question arising under this part or from reversing or modifying any determination made by a State or county committee or employee of the Department of Agriculture.

§ 1475.15 Appeals.

Any person who is dissatisfied with a determination made with respect to this part may make a request for reconsideration or appeal of such determination in accordance with the appeal regulations set forth at part 780 of this chapter.

§ 1475.16 Misrepresentation, scheme or device.

A person who is determined by the State committee or the county committee to have:

(a) Adopted any scheme or other device which tends to defeat the purpose of this program;

(b) Made any fraudulent representation; or

(c) Misrepresented any fact affecting a program determination shall be ineligible to receive assistance under this program with respect to the crop year involved.

§ 1475.17 Refunds to CCC; joint and several liability.

(a) In the event there is a failure to comply with any term, requirement, or condition for payment arising under the contract, or this part, and if any refund of a payment to CCC shall otherwise become due in connection with the contract, or this part, all payments made under this part to any person shall be refunded to CCC, together with interest and late-payment charges as provided for in this paragraph.

(b) All persons in the contracting entity shall be jointly and severally liable for any refund, including related charges, which is determined to be due CCC for any reason under the terms and conditions of the contract or this part.

(c) Interest shall be applicable to refunds required of the owner because of intentional misrepresentation, scheme or device on the part of the owner including failure to purchase the amount of feed required to justify the amount of benefits received. Such interest shall be charged at the rate of interest which the United States Treasury charges CCC for funds, as of the date of disbursement by CCC of the monies or benefits to be refunded. Interest that is determined to be due CCC shall accure from the date of such disbursement by CCC to the date of repayment or the date of the demand letter, whichever is first.

(d) Interest determined in accordance with paragraph (c) of this section shall not be applicable to refunds required of the owner because of unintentional misaction on the part of the owner, as determined by CCC.

(e) Late payment interest shall be assessed on all refunds in accordance with the provisions of, and subject to the rates prescribed in, 7 CFR part 1403.

(f) Persons who are a party to the emergency livestock feed program contract must refund to CCC any excess payments made by CCC with respect to such contract.

(g) In the event that the emergency livestock feed program contract was established as result of erroneous information provided by any owner to the county office or was erroneously computed by such office, the emergency livestock feed program contract shall be recomputed and any payments made or due under the contract shall be corrected as necessary. Any refund of payments which are determined to be required as a result of such recomputations of the contract shall be remitted to CCC with any applicable interest.

(h) Any refund of payments, which is determined to be required as a result of any violation of the provisions of the contract by the owner shall be remitted to CCC with any applicable interest.

§ 1475.18 Cumulative liability.

The liability of any person for any penalty under this part or for any refund to CCC or related charge arising in connection therewith shall be in addition to any other liability of such person under any civil or criminal fraud statute or any other provision of law including, but not limited to, 18 U.S.C. 286, 287, 371, 641, 1001; 15 U.S.C. 714m; and 31 U.S.C. 3729.

§ 1475.19 Estates, trusts, and minors.

(a) Program documents executed by persons legally authorized to represent estates or trusts will be accepted only if such person furnishes evidence of the authority to execute such documents.

(b) A minor who is an owner shall be eligible for assistance under this subpart only if such person meets one of the following requirements:

(1) The right of majority has been conferred on the minor by court proceedings or by statute;

(2) A guardian has been appointed to manage the minor's property and the applicable program documents are executed by the guardian; or

(3) A bond is furnished under which the surety guarantees any loss incurred for which the minor would be liable had the minor been an adult.

§ 1475.20 Death, incompetence, or disappearance.

In the case of death, incompetence, or disappearance, of any person who is eligible to receive assistance in accordance with this part, such person or persons specified in part 707 of this title may receive such assistance.

§ 1475.21 Violations.

(a) *Disposal of grain.* (1) If the owner has failed to utilize the entire quantity of livestock feed purchased under the terms and conditions of the application for assistance and contract of these programs, the owner shall not dispose of

any remaining quantity of such livestock feed except as specified by CCC.

(2) Except as permitted by CCC, if feed acquired from CCC is made available to any other person, or if a delivery order is used for obtaining a type of grain other than that specified on the delivery order, the owner shall be subject to such civil penalties and to such criminal liabilities as are provided by applicable State and Federal statutes.

(b) *Fraudulent representations.* Any warehouseman, handler, dealer, or any other person may be suspended from participation in a program in accordance with part 1407 of this chapter if such person has:

(1) Made a false certification, representation or report in accordance with this subpart; or

(2) Otherwise failed to comply with any provisions of this part or any contracts entered into in accordance with this part. The making of such fraudulent representations shall make such person liable in accordance with applicable State and Federal criminal and civil statutes.

§ 1475.22 Benefits limitation.

The total amount of benefits that a person, as determined in accordance with part 1497 of this chapter, shall be entitled to receive annually under one or more of the programs established under this part, may not exceed $50,000 per calendar year in which payment is made or benefit received.

§ 1475.23 Gross revenue limitation.

A person, as defined in part 1497 of this chapter, as applicable, who has annual gross receipts in excess of $2.5 million shall not be eligible to receive assistance under this part. For the purpose of this determination, annual gross receipts means:

(a) With respect to a person who receives more than 50 percent of such person's gross income from farming and ranching, the total gross receipts received from such operations; and

(b) With respect to a person who receives 50 percent or less of such person's gross receipts from farming and ranching, the total gross receipts from all sources.

§ 1475.24 Paperwork Reduction Act assigned numbers.

The information collection requirements contained in these regulations (7 CFR part 1475) have been approved by OMB under the provisions of 44 U.S.C. chapter 35 and have been assigned OMB Number 0560–0029.

Subpart—Livestock Preservation Donation Program

§ 1475.101 General statement.

(a) This subpart sets forth the terms and conditions of the Livestock Preservation Donation Program. This program shall only be in effect upon a determination that a livestock feed emergency exists in a State, county or area and it has been announced that this program is in effect. Information regarding the availability of the program in a county may be obtained from State and county offices.

(b) In order to be eligible to participate in the program, an owner of livestock must have suffered a substantial loss of production of feed as defined in § 1475.3 of this part. The objective of the program is to provide assistance approved by CCC through a contract with the owner, for the owner to receive donated CCC-owned feed grains, for livestock owners who are financially unable to purchase feed, or to otherwise participate in any other program authorized under this part. The owner must establish to the satisfaction of the approving official that:

(1) Without assistance the owner's livestock would perish or be sold at distress prices; and

(2) The owner has insufficient cash or credit to buy feed for eligible livestock.

§ 1475.102 Eligibility.

(a) A livestock owner may be approved to participate in the program if it is determined that in addition to the provisions of §§ 1475.1 through 1475.24 that:

(1) The livestock owner's need for replacing and repairing losses of buildings, equipment, suppliers, and other related matters will leave insufficient cash or credit to buy feed for livestock;

(2) The livestock owner has insufficient cash or credit to buy feed for eligible livestock;

(3) The owner's livestock would perish or be sold at distress prices without donation of feed grains under this program;

(4) The livestock owner does not have sufficient livestock feed to feed the livestock through the period of the emergency; and

(5) The livestock owner is unable to participate in any other emergency livestock feed program which is currently in effect in accordance with this part.

(b) With respect to the determinations made in accordance with paragraphs (a)(2) through (4) of this section, the approving official must determine that under prevailing local conditions the owner's financial resources preclude the owner from obtaining sufficient quantities of feed from normal suppliers without:

(1) Imperiling continuance of the farming operations;

(2) Placing the owner in default with respect to existing financial obligations;

(3) Causing the owner to engage in unsound borrowing practices; or

(4) Resulting in excessive disposal of livestock by the owner.

(c) Purchased feed shall be considered as an available asset in determining whether an owner is suffering an undue financial hardship. In making this determination, the approving official shall take into consideration the normal financial resources of owners in the area. If the owner meets the conditions as provided in § 1475.10 of this part, the resources of the owner and all of the related persons shall be taken into consideration in determining the eligibility of the owner to receive assistance.

§ 1475.103 Assistance.

(a) The livestock owner shall establish that the livestock owner's operation has been so damaged by the disaster that sufficient cash or credit does not exist which may be used to purchase necessary feed grain at present market prices. The owner shall not sell or dispose of in any way, except by feeding to the owner's livestock, CCC-donated feed grain. The owner shall reimburse CCC at a rate equal to the PCP of the feed grain in the county where the feed grain was stored, on the date the feed grain was made available to the livestock owner for any CCC-donated grain which is on hand after the end of the emergency period that exceeds a 10-day supply.

(b) CCC shall designate the kind of CCC-owned feed grain to be donated under this program and the delivery point at which such feed grain shall be made available. The delivery point may be in the eligible designated county, contiguous county, or any other location as designated by CCC. In those instances where feed grain is not available in the eligible designated county, or contiguous county, CCC may reimburse the livestock owner for the cost of transportation of the feed grain at a rate determined by DASCO.

(c) Transportation assistance will be provided to owners based on the smaller of the following:

(1) The loaded mileage from the delivery point where the feed grain is made available to the county line of the county in which the livestock owner is located; or

(2) When the owner delivers grain to a feed dealer for processing, the loaded mileage from the delivery point where the feed grain is made available to such feed dealer's facility.

(d) The maximum quantity of CCC-donated feed grain made available to an owner under this subpart shall be limited to the quantity determined by CCC in accordance with § 1475.6 of this part based on the cost of CCC-owned feed grain purchased in accordance with § 1475.202(h) of this part.

§ 1475.104 Feeding period.

The feeding period established under this subpart for owners shall be limited to the number of days determined by DASCO on a case-by-case basis.

Subpart—Emergency Feed Assistance Program

§ 1475.201 General statement.

(a) This subpart sets forth the terms and conditions of the Emergency Feed Assistance Program. This program shall be in effect only upon a determination that a livestock feed emergency exists in a State, county or area and it has been announced that this program is in effect. Information regarding the availability of the program in a county may be obtained from State and county offices.

(b) In order to be eligible to participate in the program, an owner of livestock must have suffered a substantial loss of production of feed as defined in § 1475.3 of this part. The objective of the program is to provide livestock owners with the option to purchase a quantity of CCC-owned grain, not to exceed the owner's eligibility as stated on the contract at a reduced price. An owner who elects to purchase CCC-owned feed grain will have the monetary value on the application reduced by the result of multiplying the amount of CCC-owned grain purchased times an amount determined by DASCO.

§ 1475.202 Sale of CCC-owned grain.

(a) CCC shall designate the kind of CCC-owned feed grain to be sold under this program and the delivery point at which such feed grain may be made available. The delivery point may be in the eligible county, contiguous county, or any other locations as designated by CCC. In those instances where feed grain is not available in the eligible county or contiguous county, CCC may reimburse the owner for transportation on the smaller of:

(1) The loaded mileage from the delivery point where the feed grain is made available to the county line of the county in which the livestock owner is located; or

(2) When the owner delivers grain to a feed dealer for processing, the loaded mileage from the delivery point where the feed grain is made available to such feed dealer's facility.

(b) Sales of CCC-owned grain may be made in a quantity which does not exceed the quantity determined by CCC in accordance with § 1475.6 of this part based on a cost provided for in paragraph (h) of this subpart, which will permit feeding of grain to eligible livestock by the owner by the end of the feeding period.

(c) After payment is received by CCC, delivery shall be authorized by issuance of nontransferable delivery orders by CCC stating the kind and quantity of grain to be delivered and the expiration date in accordance with instructions issued by DASCO. Quantities authorized by delivery orders shall not exceed the quantity of grain determined in accordance with paragraph (b) of this section.

(d) The owner shall take physical delivery of the grain as soon as possible after issuance of the delivery order but not earlier than the date of such issuance and not later than a date determined by DASCO which would normally permit feeding of the grain as specified in paragraph (b) of this section. Title and risk of loss to the grain specified in the delivery order and stored at a warehouse or handler's facility shall pass to the owner when the owner accepts the grain and the owner and warehouseman certify on the delivery order. The owner shall promptly present the delivery order to the warehouseman or handler. CCC shall not be responsible for storage charges after the title passes to the owner but shall be responsible for handling charges at a rate not to exceed the rate provided in CCC's agreement with the warehouse or the handler. In cases where there is an underdelivery in quantity of the eligible grain, the owner shall not make settlement with the warehouse or handler but shall promptly notify the county office which issued the delivery order and a revised delivery order will be issued to the owner or a refund of the value of underdelivered feed grain will be made to the owner. Differences in quality between the grain accepted by the owner and the grain described in the loading order issued to the warehouseman or handler by CCC shall be settled between the warehouseman or handler and the owner.

(e)(1) Where CCC-owned feed grain is not available in an area in which an eligible county is located and there are no CCC-approved warehouses or handlers in such area, CCC may ship the required quantity of feed grain to the area and consign such grain to the county committee. Title and risk of loss shall pass to the owner upon delivery of the feed grain into the owner's conveyance or whenever the owner takes possession of the feed grain if such possession occurs prior to placing the feed grain in such conveyance.

(2) The sale price shall not be subject to adjustment for the grade and quality actually delivered into the owner's conveyance.

(3) The feed grain shall be weighed at destination if scales approved by CCC are available. If such scales are not available, settlement weights shall be as determined by CCC.

(4) CCC shall bear charges for transportation to the delivery point, for unloading the feed grain from the carrier's conveyance, for loading the feed grain into the owner's conveyance, and for determining the weight of the feed grain.

(f)(1) An owner may elect to receive eligible feed grain under the provisions of this subpart from feed grain stored on the livestock owner's farm if such grain has been pledged as collateral for a farm-stored CCC price support loan. Payment for such feed grain shall be made to CCC at the county office where the livestock feed programs application was filed. Feed grain acquired by the owner shall not be exchanged for any ingredient, service, cash, credit, or any other thing of value.

(2) An owner may elect to receive eligible feed grain under the provisions of this section through a feed dealer provided the owner executes a power of attorney as provided on Form ASCS–211, authorizing the feed dealer to execute the delivery order on behalf of the owner. Payment for feed grain shall be made to CCC at the county office where the application for feed grain is filed when requesting the delivery order. Feed grain purchased by a feed dealer on behalf of the owner shall not be exchanged for any ingredient, service, cash, credit, or any other thing of value.

(3) The feed dealer shall provide such county office, in writing, the names of agents, such as company representatives, authorized to sign the delivery order on behalf of the feed dealer at the time of delivery of feed grain. The feed dealer shall:

(i) Take delivery of the feed grain before the expiration date of the delivery order;

(ii) Take physical delivery of the feed grain at each warehouse where the feed grain is located;

(iii) Not be reimbursed for transportation of feed grain received on behalf of the applicant; and

(iv) Present to such county office a statement signed by the owner and feed dealer certifying that the processed feed contained feed grain in the same quantity, type, and same or better grade as purchased by the owner.

(g) An owner who desires to have grain pelletized, ground, rolled, custom mixed, or otherwise processed may do so if the feed is processed from the feed grain purchased from CCC or the feed accepted from the processor is processed from the same kind of feed grain stated on the delivery order which grades the same or better as compared to such feed grain. The quantity of feed grain processed by the processor and delivered to the owner shall be the same quantity as the feed grain purchased from CCC, except for minor milling losses. CCC shall not be responsible for any charges involving processing, bagging, added freight incurred for processing in transit or any other cost which is incurred which would not have been incurred except for the processing of such feed grain.

(h) The sales price of eligible feed grain made available by CCC in response to any livestock feed emergency determined to exist shall be;

(1) For grain purchased from CCC-owned inventory, 50 percent of the PCP; and

(2) For grain purchased by the owner which had previously been pledged as collateral for such owner's farm-stored price support loan, 50 percent of the ajdusted CCC value as determined by CCC on the date the payment is received in the county in which the feed grain is stored.

(3) If no such PCP is established, the sales price shall be established at a comparable rate in accordance with instructions issued by DASCO.

(i) The quantity of feed grain delivered to an owner shall not exceed the total quantity approved for sale by CCC by more than 5 percent. Differences in quantity between the grain delivered to the owner and the quantity of grain described in the delivery order issued to the warehouseman or handler that was removed from the delivery point in excess of 105 percent shall be considered as open stocks and shall be settled between the livestock owner and the warehouseman or handler. Differences in quantity between the grain delivered to the livestock owner and the quantity of feed grain described in the delivery order issued to the warehouseman or handler between 100 and 105 percent shall be paid by the owner to CCC at 50 percent of the PCP determined by CCC for the commodity in the county in which the feed grain is stored.

(j) An amount equal to the purchase price times the quantity not delivered to the owner shall be refunded to the owner in those cases in which the total approved quantity shown on the delivery order and paid for by the owner is not delivered to the owner.

(k) When an owner desires to purchase feed grain pursuant to an approved application and contract, the owner must make a payment to CCC, in the manner specified in instructions issued by DASCO with respect to the quantity of grain to be purchased prior to issuance of a delivery order for such feed grain. The county committee may waive such prior payment requirement if a State or Federal agency certifies to CCC that such agency will finance part or all of the cost of the purchase. If such agency agrees to make payment directly to CCC as specified by the county committee, such a certification may be accepted by the county committee in lieu of cash to the extent of the amount so certified.

Subpart—Emergency Feed Program

§ 1475.301 General statement.

(a) This subpart sets forth the terms and conditions of the Emergency Feed Program. This program shall be in effect only upon a determination that a livestock feed emergency exists in a State, county or area, and it has been announced that this program is in effect. The objective of the program is to provide monetary assistance to eligible owners of livestock for the purchase of necessary feed. Information regarding the availability of the program in a county may be obtained from State and county offices.

(b) In order to be eligible to participate in the program, an owner of livestock must have suffered a substantial loss of production of feed as defined in § 1475.3 of the part.

§ 1475.302 Cost-share assistance.

(a) An owner of eligible livestock who has submitted an application for participation and a contract has been approved by a representative of CCC in accordance with § 1475.1 through § 1475.25 of this part shall receive monetary assistance for not more than 50 percent of the cost of eligible feed purchased by the owner not to exceed the monetary amount stated on the contract provided the owner presents evidence of the purchase of feed to the approving official at any time during the terms of the contract. If the approving official determines that the owner has met the conditions set forth in § 1475.1 through § 1475.25 of this part, assistance for the weight range by type of eligible livestock may be made available to the owner as provided in § 1475.9 of this part.

(b) In no case may assistance be provided with respect to the value of purchased feed which is greater than the total benefits available determined in accordance with § 1475.6 of this part.

(c) Acceptable evidence which may be presented to an approving official is limited to a sales document or receipt which:

(1) Is signed by the seller, unless the approving official waives such requirement; and

(2) Contains:

(i) The dates of purchase and delivery; and

(ii) The kind, price, and quantity of feed purchased.

(d) Eligible costs of feed purchases are limited to the purchase price paid by the owner at the point of delivery and may include as determined by the approving official:

(1) Costs normally associated with the preparation of mixed or processed feed;

(2) The cost of leasing or purchasing grazing rights for temporary pasture;

(3) The cost of leasing range or other grazing; and

(4) The cost of feed for eligible livestock in a feed lot.

Subpart—Crash Feed Grain Donation Program

§ 1475.401 General statement.

(a) This subpart sets forth the terms and conditions of the Crash Feed Grain Donation Program. This program shall be in effect upon a determination that a sudden livestock feed emergency in a State, county or area requires the implementation of the program. The objective of the program is to provide CCC-owned feed grains on a donation basis to livestock which are:

(1) Stranded;

(2) Unidentified by owner; and

(3) In danger of perishing after the occurrence of a sudden natural disaster.

(b) The Crash Feed Grain Donation Program is for use after a sudden major disaster has occurred and conditions are such that livestock cannot be tended to in a normal manner and would probably perish without the implementation of this program. Livestock owners who have their livestock under control and are capable of caring for them are not eligible to receive CCC-donated grain under this subpart.

§ 1475.402 Assistance.

(a) Assistance is for eligible livestock which are commingled, stranded, and unidentified as to the livestock owner.

(b) The State committee, or its designee, shall determine the eligibility and the amount of assistance which shall be made available in the area for donation under this subpart.

(c) CCC-owned grain donated under this program shall not be sold or disposed of in any way except for feed for the livestock stranded and unidentified as to its owner.

(d) CCC shall designate the kind of CCC-owned grain to be donated under this program and the delivery point at which such grain shall be made available.

(e) The maximum amount of CCC-donated grain under this subpart shall be limited to the total quantity that the approving official determines is needed for the emergency period.

(f) Assistance shall include the cost of transporting the feed from the delivery point to the affected area.

§ 1475.403 Feeding period.

The feeding period established under this subpart shall not exceed the number of days established by DASCO on a case-by-case basis.

Subpart—Prickly Pear Cactus Burning Program

§ 1475.501 General statement.

This subpart sets forth the terms and conditions of the Prickly Pear Cactus Burning Program. This program shall be in effect only upon a determination that a livestock feed emergency exists in a State, county or area and it has been announced that this program is in effect. Information regarding the availability of the program in a county may be obtained from State and county ASCS offices. The objective of the program is to provide cost-share assistance not to exceed 50 percent of the cost of propane, butane, or kerosene used to burn the spines from prickly pear cactus to make it suitable for livestock feed.

§ 1475.502 Definitions.

Butane means either of two isomeric flammable gaseous paraffin hydrocarbons obtained from petroleum or natural gas and used for fuel.

Kerosene means a flammable hydrocarbon oil obtained by distillation of petroleum and used as a fuel.

Propane means a heavy flammable gaseous paraffin hydrocarbon found in crude petroleum and natural gas and used for fuel.

§ 1475.503 Eligibility.

A livestock owner may be approved to participate in the program if such owner:

(a) Is actively engaged in farming and/or ranching and receives 10 percent or more of total gross annual income from the production of grain or livestock;

(b) Does not have a qualifying gross revenue of more than $2,500,000;

(c) Has prickly pear cactus growing on such owner's holdings;

(d) Must have eligible livestock as defined in § 1475.3 of this part to consume the burned prickly pear cactus; and

(e) Must feed all of the burned prickly pear cactus to such owner's own livestock.

§ 1475.504 Assistance.

(a) The maximum amount of cost-share assistance under this program shall be limited to 50 percent or less of the cost of butane, kerosene, or propane used to burn the prickly pear not to exceed an amount as determined by DASCO.

(b) Prickly pear cactus made suitable for livestock feed shall not be considered as feed on hand in determining whether an owner is eligible to participate in this program or any other program implemented in accordance with this part.

(c) Feed obtained from burning prickly pear cactus for which assistance is obtained under this part shall only be used by the eligible owner to feed such owner's livestock.

Signed at Washington, DC, on July 15, 1991.

Keith D. Bjerke,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 91-17226 Filed 7-18-91; 8:45 am]

BILLING CODE 3410-05-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 242 and 287

[INS No. 1294-91]

RIN 1115-AC05

Apprehension, Custody and Detention; Issuance of Service Detainers (Form I-247); Field Officers; Powers and Duties

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule removes the restriction prohibiting a Service officer from placing a detainer (Form I-247) against an alien who is an applicant or is eligible to apply for Legalization or for Special Agricultural Worker (SAW) status, if amenable to exclusion or deportation from the United States. This rule ensures that aliens who are applicants for Legalization or SAW status incarcerated in correctional institutions will be turned over to the Immigration and Naturalization Service if deemed deportable from the United States. As a result of this rule, aliens who are criminals and ineligible for Legalization or SAW status will not be free in the community, but instead, may be taken into custody by the Immigration and Naturalization Service to face possible exclusion or deportation from the United States.

EFFECTIVE DATE: July 19, 1991.

FOR FURTHER INFORMATION CONTACT: Ira L. Frank, Senior Special Agent, Investigations Division, Immigration and Naturalization Service, 425 I Street NW. room 2207, Washington, DC 20536, telephone (202) 514-0747.

SUPPLEMENTARY INFORMATION: The Service published an interim rule in the **Federal Register** on October 29, 1990 at 55 FR 43326. The comment period for the proposed rule ended on November 28, 1990. Only one comment was received on the interim rule. Although it was received after the deadline for the receipt of comments, it will still be addressed.

The commenter raised two issues. The first point was that INS should not bypass the Congressionally mandated process for terminating SAW status by using detainers. However, the ability to place detainers on aliens by the Immigration and Naturalization Service existed prior to passage of the Immigration Reform and Control Act (IRCA) in 1986. The provisions relating to SAWs provide that deportation of applicants with nonfrivolous applications be stayed. IRCA does not prohibit the commencement of deportation proceedings and the issuance of detainers is an integral and necessary part of commencing such proceedings.

The second issue raised concerned INS publishing an interim regulation instead of a notice of proposed rulemaking. It was felt that the Service did not demonstrate "good cause" to quality for an exception to proposed rulemaking. This objection is without merit. In implementing the regulation, the Service unnecessarily restricted its field agents from placing detainers against SAW status aliens amenable to deportation. The result of the regulatory

restriction was an inability to track the release dates of SAW status aliens incarcerated in correctional institutions. SAW status aliens with serious criminal histories, including many dangerous to the physical well-being of the community, were being released from prison due to INS' inability to place a detainer. Accordingly, the Service believed and continues to believe that "good cause" existed for promulgating an interim rule.

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

Accordingly, under the authority of 8 U.S.C. 1103, 1182, 1186a, 1225, 1226, 1251, 1252, 1254, 1357, 1362 and 8 CFR part 2, the interim rule revising 8 CFR 242.2 and 287.7 which was published at 55 FR 43326–43327 on October 29, 1990, is adopted as a final rule without change.

Dated: May 24, 1991.

Gene McNary,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 91–17142 Filed 7–18–91; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89–ANE–10; Amendment 39–6916]

Airworthiness Directives; Textron Lycoming Direct Drive Piston Aircraft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Textron Lycoming direct drive piston aircraft engines (except O–320H, O–360E, LO–360–E, LTO–360-E, and TIO–541 series engines), which requires inspection of the crankshaft gear installation and rework/replacement of the gears where necessary. This amendment is prompted by reports of loosening and disengagement of the gear retaining bolt which could result in loss of the main camshaft drive train and critical engine accessories. This condition if not corrected, could result in sudden engine failure.

DATES: Effective August 19, 1991.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 19, 1991.

ADDRESSES: The applicable service information may be obtained from Textron Lycoming, Oliver Street, Williamsport, Pennsylvania 17701. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803, or the New York Aircraft Certification Office, 181 South Franklin Avenue, room 202, Valley Stream, New York 11581.

FOR FURTHER INFORMATION CONTACT: Mr. Pat Perrotta or Mr. N. Minnitti, Propulsion Branch, New York Aircraft Certification Office, ANE–174, FAA, Engine and Propeller Directorate, Aircraft Certification Service, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581; telephone number (516) 791–7421.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an AD, applicable to certain Textron Lycoming series engines, to require inspections and rework and replacement of parts as necessary of the crankshaft gear installation, was published in the Federal Register on January 22, 1990 (55 FR 2098).

The proposal was prompted by seven accidents and eight incidents involving failure of the crankshaft gear assembly since 1982. Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the two comments received.

One commenter representing an engine overhaul station advised that the compliance requirement "After any propeller strike" is not clear, and that the severity of a propeller strike or sudden stoppage is wide and varied. This commenter recommended additional explanation be included with possible reference to Avco Lycoming Service Letter No. L163B which addresses this problem to some extent.

The FAA concurs with the commenter and has clarified "propeller strike" as used in the compliance section of the AD, as well as adding a note which references Avco Lycoming Service Letter No. L163B dated December 23, 1977, entitled "Recommendations regarding Accidental Engine Stoppage, Loss of Propeller Blade or Tip."

The second commenter discussed concerns by telephone and recommended design changes for the crankshaft gear assembly.

The FAA concurs with the commenter and has been in contact with the commenter and has been in contact with the manufacturer regarding the incorporation of design changes to reduce the susceptibility of crankshaft gear disengagement. Design changes are being considered by the manufacturer at this time.

Since publication of the notice, Textron Lycoming has issued Revision A, dated July 16, 1990, to Textron Lycoming Service Bulletin No. 475, which supersedes Lycoming Service Bulletin No. 475, and its Supplement No. 1. Textron Lycoming Service Bulletin No. 475, Revision A, incorporates the caution against field repair of the crankshaft bolt attaching threads, which was previously contained in the notice. Also, Revision A included some minor changes to Figure 6 for clarity.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes noted. These changes will neither increase the economic burden on any operator nor increase the scope of the rule.

There are approximately 175,000 Lycoming engines of the affected design in the worldwide fleet. It is estimated that 125,000 engines in airplanes of U.S. registry will be affected by this AD, and that it will take approximately 7 manhours per engine to accomplish the required actions. The average labor cost will be $40.00 per manhour. Based on these figures, the total cost impact on U.S. operators is estimated to be $35,000,000.

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

For the reasons discussed above, I certify that this action: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities

under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

91–14–22 Textron Lycoming: (Amendment 39–6916, Docket No. 89–ANE–10)

Applicability: All Textron Lycoming (formerly Avco Lycoming) direct drive piston aircraft engines (except: 0–320–H, 0–360–E, LO–360–E, TO–360–E, LTO–360–E and TI0–541 series engines).

Compliance is required at each engine overhaul, after a propeller strike, sudden stoppage, or whenever gear train repair is required. A propeller strike for the purpose of this AD is defined as a sudden engine stoppage, or loss of a propeller blade or tip.

Note: Avco Lycoming Service Letter No. L163B dated December 23, 1977, "Recommendations Regarding Accidental Engine Stoppage, Loss of Propeller Blade or Tip," contains additional information on the subject.

To prevent loosening or failure of the crankshaft gear retaining bolt, which may cause sudden engine failure, accomplish the following:

(a) Inspect the crankshaft counterbored recess, the alignment dowel, the retaining bolt and lock plate, the bolt hole threads, and the crankshaft gear for wear, galling, corrosion, and fretting in accordance with sections 1 through 7, including all tables and figures, in Textron Lycoming Service Bulletin (SB) No. 475, Revision A, dated July 16, 1990.

(b) Prior to further flight, repair, rework, or replace damaged or worn parts as identified in paragraph (a) of this AD.

(1) Repair and rework crankshaft pilot diameter in accordance with Textron Lycoming SB 475, Revision A, dated July 16, 1990, and replace dowel pin with appropriate size dowel as shown in Table 1 of the service bulletin.

(2) Insure that the tapped threads in the gear retaining bolt hole of the crankshaft are clean and undamaged. If threads are damaged, replace crankshaft with a serviceable unit, or have threads repaired by an FAA approved facility specifically approved to do that repair.

(3) Inspect the counterbored gear mounting face of the crankshaft to ensure there is no damage due to fretting or galling, as damage of this nature is unrepairable.

(4) Repair crankshaft counterbore pilot diameter, if necessary, in accordance with section 3 of Textron Lycoming SB No. 475, Revision A, dated July 16, 1990.

(5) Verify that the crankshaft gear incorporates three .75 inch radius scallops on the flange as shown in Figure 5 of Textron Lycoming SB No. 475, Revision A, dated July 16, 1990. Assemble gear onto crankshaft using a new retaining bolt and lockplate and insure fit of mating parts as described in section 6 and Figure 6 of the Textron Lycoming Service Bulletin No. 475, Revision A, dated July 16, 1990.

(c) Aircraft maybe ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the Ad can be accomplished.

(d) Upon submission of substantiating data by an owner or operator through an FAA Inspector (maintenance, avionics, or operations, as appropriate), an alternate method of compliance with the requirements of this AD or adjustments to the compliance schedule specified in this AD may be approved by the Manager, New York Aircraft Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, FAA, 181 South Franklin Avenue, room 202, Valley Stream, New York 11581.

The inspection procedure shall be done in accordance with the following Textron Lycoming document:

Document No.: SB 475
Page No.: 1–4
Issue/Rev.: A
Date: 07/16/90

This incorporation by reference was approved by the Director of the **Federal Register** in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Textron Lycoming, Oliver Street, Williamsport, Pennsylvania 17701. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803, or at the Office of the **Federal Register**, 1100 L Street, NW., room 8401, Washington, DC.

This amendment (39–6916, AD 91–14–22) becomes effective August 19, 1991.

Issued in Burlington, Massachusetts, on June 21, 1991.

Jay J. Pardee,

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

[FR Doc. 91–17231 Filed 7–18–91; 8:45 am]

BILLING CODE 4910–13–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–3975–7]

North Carolina; Final Authorization of Revisions to State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: North Carolina has applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). North Carolina's revisions consist of the provisions of Non HSWA Cluster V promulgated July 1, 1988–June 30, 1989. The North Carolina revisions also consist of the TCLP portion of HSWA Cluster II promulgated March 29, 1990. The Environmental Protection Agency (EPA) has reviewed North Carolina's applications and has made a decision, subject to public review and comment, that North Carolina's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Thus, EPA intends to approve North Carolina's hazardous waste program revisions. North Carolina's applications for program revisions are available for public review and comment.

DATES: Final authorization for North Carolina's program revisions shall be effective September 17, 1991, unless EPA publishes a prior **Federal Register** action withdrawing this immediate final rule. All comments on North Carolina's program revision applications must be received by the close of business August 19, 1991.

ADDRESSES: Copies of North Carolina's program revision applications are available during 8 a.m.–4 p.m. at the following addresses for inspection and copying: North Carolina Department of Environment, Health, and Natural Resources, Hazardous Waste Branch, P.O. Box 27687, Raleigh, North Carolina 27611–7687; U.S. EPA Headquarters Library, PM 211A, 401 M Street, SW., Washington, DC 20460, Phone: (202) 382–5926; U.S. EPA Region IV, Library, 345 Courtland Street NE., Atlanta, Georgia 30365; (404) 347–4216. Written comments should be sent to Narindar Kumar at the address listed below.

FOR FURTHER INFORMATION CONTACT: Narindar Kumar, Chief, State Programs Section, Waste Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, 345

Courtland Street NE., Atlanta, Georgia 30365; (404) 347–2234.

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.

In accordance with part 271, § 271.21(a) of title 40 of the Code of Federal Regulations (40 CFR 271.21(a)), 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 124, 260–268 and 270.

B. North Carolina

North Carolina initially received final authorization for its base RCRA program on December 31, 1984, (49 FR 48694). North Carolina received authorization for revisions to its program on March 25, 1986, (51 FR 10211), October 4, 1988, (53 FR 29460), April 10, 1989, (54 FR 6290), November 21, 1989, (54 FR 38993), and January 18, 1991, (56 FR 1930). On October 26, 1990, North Carolina submitted a program revision application for additional program approval. Today, North Carolina is seeking approval of its program revisions in accordance with 40 CFR 271.21(b)(3).

EPA has reviewed North Carolina's applications and has made an immediate final decision that North Carolina's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant final authorization for the additional program modifications to North Carolina. The public may submit written comments on EPA's immediate final decision until August 19, 1991. Copies of North Carolina's applications for program revisions are available for inspection and copying at the locations indicated in the "**ADDRESSES**" section of this notice. Approval of North Carolina's program revisions shall become effective September 17, 1991, unless an adverse comment pertaining to the State's revisions 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. EPA shall administer any RCRA hazardous waste permits, or portions of permits that contain conditions based upon the Federal Program provisions for which the State is applying for authorization and which were issued by EPA prior to the effective date of this authorization. EPA will suspend issuance of any further permits under the provisions for which the State is being authorized on the effective date of this authorization. North Carolina is today seeking authority to administer the following Federal requirements promulgated between July 1, 1987–June 30, 1988 for Non-HSWA Cluster V, and for the TCLP portion of HSWA Cluster II promulgated March 29, 1990.

Federal requirements	FR notice	Promulgation	State authority
Identification and listing of hazardous waste; treatability studies sample exemption	53 FR 27290	7/19/88	15A NCAC 13A .0002(b) 15A NCAC 13A .0006(a)
Hazardous waste management system; standards for hazardous waste storage and treatment tank systems.	53 FR 34079	9/2/88	15A NCAC 13A .0002(b) 15A NCAC 13A .0009(h) 15A NCAC 13A .0009(k) 15A NCAC 13A .0010(g) 15A NCAC 13A .0010(j) 15A NCAC 13A .0013(a)
Identification and listing of hazardous waste; and designation, reportable quantities, and notification.	53 FR 35412	9/13/88	15A NCAC 13A .0006(d) 15A NCAC 13A .0006(e)
Permit modification for hazardous waste management facilties	53 FR 37912	9/28/88	15A NCAC 13A .0005 15A NCAC 13A .0009(e) 15A NCAC 13A .0009(h) 15A NCAC 13A .0010(g) 15A NCAC 13A .0013(a) 15A NCAC 13A .0013(f) 15A NCAC 13A .0013(g) 15A NCAC 13A .0013(i)
Statistical methods for evaluating groundwater monitoring data from hazardous waste facilities.	53 FR 39720	10/11/88	15A NCAC 13A .0009(g)
Permit modifications for hazardous waste management facilities	53 FR 41649	10/24/88	15A NCAC 13A .0009(g)
Identification and listing of hazardous waste; removal of iron dextran from the list of hazardous wastes.	53 FR 43878	10/31/88	15A NCAC 13A .0006(d) 15A NCAC 13A .0006(e)
Identification and listing of hazardous waste; removal of strontium sulfide from the list of hazardous waste.	53 FR 43881	10/31/88	15A NCAC 13A .0006(d) 15A NCAC 13A .0006(e)
Standards for generators of hazardous waste; manifest renewal	53 FR 45089	11/8/88	15A NCAC 13A .0007(b) 15A NCAC 13A .0007(h)
Hazardous waste miscellaneous units; standards applicable to owners and operators	54 FR 615	1/9/89	15A NCAC 13A .0013(b)
Amendment to requirements for hazardous waste incinerator permits	54 FR 4286	1/30/89	15A NCAC 13A .0013(i)
Changes to interim status facilities for hazardous waste management permits; procedures for post-closure permitting.	54 FR 9596	3/7/89	15A NCAC 13A .0005 15A NCAC 13A .0013(a) 15A NCAC 13A .0013(b) 15A NCAC 13A .0013(g) 15A NCAC 13A .0013(j)

Federal requirements	FR notice	Promulgation	State authority
Toxicity characteristic revisions	55 FR 11798–11877	3/29/90	15A NCAC 13A .0006(a) 15A NCAC 13A .0006(c) 15A NCAC 13A .0006(d) 15A NCAC 13A .0006(e) 15A NCAC 13A .0009(o) 15A NCAC 13A .0010(k) 15A NCAC 13A .0010(m) 15A NCAC 13A .0012(e)

North Carolina is not authorized to operate the Federal program on Indian Lands. This authority remains with EPA unless provided otherwise in a future statute or regulation.

C. Decision

I conclude that North Carolina's application for program revisions meets all of the statutory and regulatory requirements established by RCRA. Accordingly, North Carolina is granted final authorization to operate its hazardous waste programs as revised. North Carolina now has responsibility for permitting treatment, storage, and disposal facilities within its borders and carrying out other aspects of the RCRA program described in its revised program application, subject to the limitations of the HSWA. North Carolina 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 5 U.S.C. 604(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 North Carolina's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

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

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

Joe R. Franzmathes,

Acting Regional Administrator.

[FR Doc. 91–17236 Filed 7–18–91; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 190, 192, 193, 195, and 199

[Docket No. PS–114; Amdts. 190–3, 192–66, 193–7, 195–46, and 199–4]

RIN 2137–AB 77

Amendment of an Operator's Plans or Procedures; Correction

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of correct agency number.

SUMMARY: This notice corrects the agency number of FR Doc. 91–16068, published in the **Federal Register** on July 9, 1991 (56 FR 31087). The agency number heading (in brackets) on page 31087, is changed to read "Docket No. PS–114; Amendments 190–3, 192–66, 193–7, 195–46, and 199–4."

Issued in Washington, DC on July 16, 1991.

George W. Tenley, Jr.,

Associate Administrator for Pipeline Safety.

[FR Doc. 91–17246 Filed 7–18–91; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

[Docket No. 80472–1130]

Foreign Fishing

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

ACTION: Interpretive rule.

SUMMARY: NOAA issues this rule to interpret the language in 16 U.S.C. 1857(4), to provide guidance regarding fishing gear stowage requirements to foreign vessels transiting the exclusive economic zone (EEZ), and to amend 50 CFR part 611 by adding an appendix that sets forth this interpretation. Foreign fishing vessels must have their gear stowed while in the EEZ except in those specific areas, and during those specific periods of time, when such vessels are authorized to engage in harvesting activities.

EFFECTIVE DATE: July 19, 1991.

FOR FURTHER INFORMATION CONTACT: Alfred J. Bilik, (301) 427–2337.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (Magnuson Act) was amended by Public Law 100–629 in November 1988 to prohibit any foreign fishing vessel not authorized to fish in the EEZ from transiting the EEZ without having its fishing gear properly stowed 16 U.S.C. 1801, 1857(4). The purpose of that amendment was to prevent illegal harvesting of fish in the EEZ either by: (1) A vessel not authorized to engage in any type of fishing activity in the EEZ; (2) a vessel with permit authorization limited to processing, support and/or scouting (as opposed to catching, taking or harvesting); or (3) a permitted vessel not authorized to harvest fish in the particular area of the EEZ being transited or at the particular time of transit. Section 307(4) provides:

It is unlawful—

* * * * *

(4) For any vessel other than a vessel of the United States to operate * * * in the exclusive economic zone, if—

(A) All fishing gear on the vessel is not stored below deck or in an area where it is not normally used, and not readily available, for fishing; or (B) all fishing gear on the vessel which is not so stored is not secured and covered so as to render it unusable for fishing; unless such vessel is authorized to engage in fishing in the area in which the vessel is operating.

Section 3 of the Magnuson Act broadly defines "fishing" to encompass various activities, including the catching, taking or harvesting of fish, the attempted catching, taking or harvesting of fish, any other activity that can reasonably be expected to result in the catching, taking or harvesting of fish, and any operation at sea in support of, or in preparation for, those activities. The use of the phrase "authorized to engage in fishing" in the last clause of section 307(4), when read together with this broad definition of "fishing," might lead permit holders to conclude that vessels with permit authorizations limited to processing, support and/or scouting, need not comply with the gear stowage requirements. Such an interpretation would be erroneous. In amending the Magnuson Act to include the gear stowage provision, Congress intended that only those foreign vessels authorized to use their fishing gear to harvest fish in the EEZ would be exempt from the stowage requirement. The legislative history of that amendment reads in pertinent part:

"The third amendment, offered by Mr. Bonker, amends the MFCMA (16 U.S.C. 1857) to require that fishing gear on foreign vessels operating in the U.S. Exclusive Economic Zone be stored or otherwise rendered inoperable unless the vessel has permission to engage in harvesting. The Committee adopted the amendment by voice vote".

[H.R. Rep. No. 100–968, 100 Cong., 2d Sess., 4, *reprinted in* 1988 U.S. Code Cong. & Ad. News, 4498, 4500.] That legislative history evidences Congress' intent that the phrase "engage in fishing" in section 307(4) refers to the narrower activity of "harvesting" rather than the broader set of activities encompassed by the Magnuson Act's "fishing" definition.

Moreover, a reading of section 307(4) of the Magnuson Act demonstrates that a permitted vessel is exempt from the gear stowage requirement only while it is in the particular area of the EEZ (and during the particular time) in which it is authorized to harvest fish. Section 307(4) exempts a vessel from having its gear stowed only if it is "authorized to engage in fishing in the area" in which it is operating. Thus, if a foreign vessel's authorization to harvest fish is restricted to a particular zone or location within the EEZ (either by a restriction in the regulations issued under the Magnuson Act or by a condition or restriction in the vessel's permit authorization), it must have its gear stowed while transiting any other part of the EEZ.

Accordingly, NOAA issues this interpretive rule to make it clear that a foreign vessel with a permit authorization that limits its activities to activities other than the catching, taking or harvesting of fish (e.g., a support activity such as processing), must comply with the gear stowage requirements of section 307(4) of the Magnuson Act while in the EEZ. Further, a foreign vessel with a permit authorization to catch, take or harvest fish (e.g., a permit issued under § 611.3 with an activity code 1 authorization to use fishing gear to catch, take or harvest fish), but whose harvesting activities are restricted by area and/or season closure, must have its gear stowed except when operating in that particular area, and/or during that particular season, when it is permitted to harvest fish under an allocation of the Total Allowable Level of Foreign Fishing.

For example, a foreign fishing vessel with an activity code 1 permit authorization (a permit issued under § 611.3 to use fishing gear to catch, take or harvest fish) need not have its gear stowed while in the management subarea or zone of the EEZ in which it is permitted to harvest fish under a national allocation; however, the vessel must have its gear stowed while transiting all other parts of the EEZ. Further, such a vessel must have its gear stowed even in the management subareas or zones in which it is authorized to harvest during any period in which such area is closed to harvesting under § 611.13, since the exception to the gear stowage requirement only applies to legal harvesting. Finally, any vessel without an activity code 1 permit authorization, or any vessel without a permit, must have its gear stowed, as required in section 307(4), whenever it is in the EEZ.

Classification

This interpretive rule is consistent with the intent of the Magnuson Act and with other applicable law.

This interpretive rule is exempt from the requirement to publish general notice of proposed rulemaking and to delay its effective date under section 553 (b) and (d) of the Administrative Procedure Act.

This rule is exempt from the procedures of the Regulatory Flexibility Act because it is issued without opportunity for prior public comment.

The Assistant Administrator for Fisheries, NOAA, determined that this rule is not a "major rule" requiring a regulatory impact analysis under E.O. 12291.

This action is categorically excluded from the requirement to prepare an environmental assessment by NOAA Directive 02–10.

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

Because the guidelines will have no direct regulatory effect upon the public, NOAA has determined that this rule does not directly affect the coastal zone of any state with an approved coastal zone management program.

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

List of Subjects in 50 CFR Part 611

Fish, Fisheries, Foreign relations.

Dated: July 12, 1991.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For reasons set out in the preamble, 50 CFR part 611 is amended as follows:

PART 611—FOREIGN FISHING

1. The authority citation for part 611 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 971 *et seq.*, 22 U.S.C. 1971 *et seq.*, and 16 U.S.C. 1361 *et seq.*

2. In subpart A, a new appendix L is added, following appendix K, to read as follows:

Appendix L to Subpart A—Interpretation of 16 U.S.C. 1857(4)

Section 307(4) of the Magnuson Act prohibits any fishing vessel other than a vessel of the United States (foreign fishing vessel) from operating in the EEZ if all of the fishing gear on board the vessel is not stowed in compliance with that section "unless such vessel is authorized to engage in fishing in the area in which the vessel is operating." (See 16 U.S.C. 1857(4)). This means that if a foreign fishing vessel has no permit authorization to operate in the EEZ, it must have all of its fishing gear stowed at all times while it is in the EEZ. If such a vessel has a permit authorization that is limited to fishing activities other than catching, taking or harvesting (such as support, scouting or processing activities), it must have all of its fishing gear stowed at all times while it is in the EEZ. If such a vessel has a permit authorization to engage in catching, taking or harvesting activities, but such authorization

is limited to a specific area within the EEZ, and/or to a specific period of time, the vessel must have all of its fishing gear stowed while it is in the EEZ except when it is in the specific area authorized, and/or during the specific period of time authorized. Examples of the application of this provision include the following:

(1) A foreign fishing vessel has an activity code 2 permit authorization allowing it to engage in processing, scouting and support activities (but no authorization for catching, taking or harvesting activities). The vessel must have all of its fishing gear stowed in compliance with 16 U.S.C. 1857(4) at all times while it is in the EEZ. See § 611.3(c) regarding activity codes.

(2) A foreign fishing vessel has an activity code 1 permit authorization to catch, take or harvest an allocated species within a specific sub-area or zone of the Bering Sea and Aleutian Islands Management Area. The vessel need not have its fishing gear stowed while it is in that specific sub-area or zone. However, it must have its gear stowed while it is transiting any other part of the Bering Sea and Aleutian Islands Management Area or any other part of the EEZ, such as the Gulf of Alaska Regulatory Areas.

(3) A foreign fishing vessel has an activity code 1 permit authorization to catch, take or harvest fish in a particular management area, sub-area or zone of the EEZ. If such management area, sub-area or zone is closed to harvesting activities during any period of time, the vessel must have its fishing gear stowed while in that management area, sub-area, or zone during the period of time that sub-area or zone is closed to harvesting. See § 611.13(a) regarding fishery closures.

[FR Doc. 91-17168 Filed 7-18-91; 8:45 am]
BILLING CODE 3510-22-M

---

50 CFR Part 646

[Docket No. 910488-1088]

Snapper-Grouper Fishery of the South Atlantic

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

ACTION: Emergency rule; extension of effectiveness.

SUMMARY: An emergency rule that prohibits bottom longlining for wreckfish is in effect through July 18, 1991. The Secretary of Commerce (Secretary) extends the emergency rule for an additional 90 days (through October 16, 1991) to allow sufficient time to implement an amendment to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP) that would continue the prohibition. The intended effect of this rule is to respond to an emergency in the snapper-grouper fishery by prohibiting a fishing method for wreckfish that causes waste of fish, loss of fishing gear, gear conflicts, habitat damage, and loss of revenue to fishermen.

EFFECTIVE DATES: July 19, 1991, through October 16, 1991.

ADDRESSES: Copies of documents supporting this action may be obtained from Peter J. Eldridge, Southeast Region, NMFS, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

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

SUPPLEMENTARY INFORMATION: Snapper-grouper species, including wreckfish, are managed under the FMP, prepared by the South Atlantic Fishery Management Council (Council), and its implementing regulations at 50 CFR part 646, under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

Under section 305(c)(2)(B) and (c)(3)(B) of the Magnuson Act, the Secretary promulgated an emergency rule (56 FR 18742, April 24, 1991, corrected by 56 FR 23619, May 22, 1991) effective for 90 days (April 19 through July 18, 1991) to prohibit bottom longlining for wreckfish. The Council requested the extension because the conditions identifying the emergency action remain unchanged. The Secretary concurs and thus extends the emergency rule for an additional 90 days in accordance with section 305(c)(3)(B) of the Magnuson Act.

Details concerning the basis for the emergency rule and the classification of the rulemaking are contained in the initial emergency rule and are not repeated here. This extension is necessary to prevent a lapse of the prohibition on bottom longlining for wreckfish prior to the implementation of Amendment 4 to the FMP, which proposes to continue the prohibition.

Other Matters

This extension of the emergency rule is exempt from the normal review procedures of E.O. 12291 as provided for in section 8(a)(1) of that order. It is being reported to the Director, Office of Management and Budget, with an explanation of why it is not possible to follow the procedures of that order.

List of Subjects in 50 CFR Part 646

Fisheries, Fishing, Reporting and recordkeeping requirements.

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

Dated: July 15, 1991.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 91-17169 Filed 7-18-91; 8:45 am]
BILLING CODE 3510-22-M

---

50 CFR Part 675

[Docket No. 901199-1021]

Groundfish of the Bering Sea and Aleutian Islands Area

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

ACTION: Notice of closure.

SUMMARY: The Director, Alaska Region, NMFS (Regional Director), has determined that the prohibited species catch (PSC) allowance of Pacific herring (herring) for the Domestic Annual Processing (DAP) flatfish fishery has been exceeded. The NMFS is closing the Summer Herring Savings Area 2 and the Winter Herring Savings Area to directed fishing with trawl gear for yellowfin sole and "other flatfish" in the aggregate. This action is necessary to reduce herring bycatch in the flatfish trawl fisheries. The intent of this action is to promote optimum use of groundfish while conserving herring stocks.

EFFECTIVE DATES: *Summer Herring Savings Area 2:* 12 noon, Alaska local time (A.l.t.), July 14, 1991, through 12 noon, A.l.t., August 15, 1991. *Winter Herring Savings Area:* 12 noon, A.l.t., September 1, 1991, through March 1, 1992.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, Resource Management Specialist, NMFS, 907-586-7228.

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

The final rule that implements Amendment 16A to the FMP is published in the issue of July 18, 1991, of the Federal Register and establishes herring bycatch management measures for the groundfish trawl fisheries. Under § 675.2, the Herring Savings Areas are defined by location in degrees of latitude/longitude and by date, beginning and ending at 12 noon, A.l.t. Summer Herring Savings Area 1 exists from June 15 through July 1 of a fishing year; Summer Herring Savings Area 2 exists from July 1 through August 15 of a fishing year; and the Winter Herring

Savings Area exists from September 1 of the current fishing year through March 1 of the succeeding fishing year.

Under § 675.21(a)(6), the PSC limit of herring caught while conducting any domestic trawl fishery for groundfish in the BSAI is 1 percent of the annual eastern Bering Sea herring biomass. The PSC limit will be apportioned into annual herring PSC allowances, by target fishery, and will be published along with the annual herring PSC limit in the **Federal Register** with the notices of proposed and final specifications defined in § 675.20(a)(7). For the 1991 fishing year, according to Amendment 16A, the herring PSC limit is 834 metric tons (mt). The amount of herring bycatch apportioned to the 1991 DAP trawl flatfish fishery is 83 mt. As of June 16, 1991, the herring bycatch for the DAP flatfish fishery was 234 mt, almost three times the 83 mt bycatch allowance specified for 1991.

Under § 675.21(d)(3), if, during the fishing year, the Regional Director determines that U.S. fishing vessels using trawl gear will catch a PSC allowance or seasonal apportionment of the PSC allowance of herring while participating in the DAP flatfish fishery as defined in § 675.21(b)(4), the Secretary will publish a notice in the **Federal Register** closing the Herring Savings Areas to directed fishing with trawl gear for yellowfin sole and "other flatfish" in the aggregate.

The Regional Director has determined that the domestic flatfish trawl allowance of herring has been exceeded in the BSAI. With this action the NMFS is prohibiting directed fishing for yellowfin sole and "other flatfish" taken with trawl gear in the Herring Savings Areas in the Bering Sea, effective according to the following schedule: *Summer Herring Savings Area 2:* 12 noon, A.l.t., July 14, 1991, through 12 noon, A.l.t., August 15, 1991. *Winter Herring Savings Area:* 12 noon, A.l.t., September 1, 1991, through 12 noon, A.l.t., March 1, 1992.

Within each closed area, in accordance with § 675.20(h)(1), amounts of yellowfin sole and "other flatfish" in the aggregate retained onboard trawl vessels must be less than 20 percent of the total amount of other fish species (besides rock sole, yellowfin sole, "other flatfish," and arrowtooth flounder) retained at the same time by the vessel during the same trip, calculated in round weight equivalents.

For example, landings total for a vessel was 100 mt. Of that 100 mt, 50 mt was rock sole, 10 mt was yellowfin sole, 8 mt was "other flatfish," 2 mt was arrowtooth flounder, and 30 mt was other fish species. The vessel operator would first calculate the percentage of yellowfin sole and "other flatfish" based on rock sole:

$0.35 \times 50 = 17.5$ mt (allowance 1).

Then, the operator would subtract the amount of rock sole, yellowfin sole, "other flatfish," and arrowtooth flounder from the total amount of fish retained:

$100 - (50 + 10 + 8 + 2) = 30$ mt,

and then would calculate the percentage of yellowfin sole and "other flatfish" based on the difference:

$.20 \times 30 = 6$ mt (allowance 2).

The operator would then add the two calculated allowance amounts to determine the bycatch allowance of yellowfin sole and "other flatfish:"

$17.5 \text{ mt} + 6 \text{ mt} = 23.5$ mt.

The retained amount of yellowfin sole and "other flatfish" (18 mt) is within the bycatch allowance (23.5 mt).

Classification

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

List of Subjects in 50 CFR 675

Fish, Fisheries, Reporting and recordkeeping requirements.

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

Dated: July 12, 1991.

David S. Crestin,

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

[FR Doc. 91–17076 Filed 7–12–91: 4:28 pm]

BILLING CODE 3510-22-M

---

50 CFR Part 685

[Docket No. 910469–1089]

Pelagic Fisheries of the Western Pacific Region

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

ACTION: Emergency interim rule; effective date extension and modification of management measures in the protected species zone in the Northwestern Hawaiian Islands.

SUMMARY: The Secretary of Commerce (Secretary) extends an emergency rule now in effect that closes the areas within 50 nautical miles (nm) of certain Northwestern Hawaiian Islands (NWHI) to pelagic longline fishing. The rule is modified to redefine "longline gear" for application in the area closed to longlining. This action is intended to maintain a longline-free fishing zone around the activity centers and migratory paths of endangered Hawaiian monk seals (*Monachus schauinslandi*) to eliminate incidental take of seals and other protected species by longline gear.

EFFECTIVE DATE: The interim regulations published on April 18, 1991, are modified and extended effective from 0000 hours local time July 16, 1991, to 2400 hours local time October 13, 1991, except for the rule provisions that were made final in a rule published May 31, 1991, as discussed in the **SUPPLEMENTARY INFORMATION** section of this preamble. Section 685.14, which contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA), and which has been approved by the Office of Management and Budget (OMB), is effective from 0000 hours local time July 16, 1991, to 2400 hours local time October 13, 1991.

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

FOR FURTHER INFORMATION CONTACT: Kitty Simonds, Executive Director, Western Pacific Fishery Management Council, Honolulu, Hawaii (808) 523–1368, or Svein Fougner, Fisheries Management Division, Southwest Region, NMFS, Terminal Island, California (213) 514–6660.

SUPPLEMENTARY INFORMATION: Under the emergency action authority of section 305(c) of the Magnuson Fishery Conservation and Management Act (Magnuson Act), the Secretary issued an emergency rule (56 FR 15842, April 18, 1991) temporarily amending the Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region (FMP) and its implementing regulations. The emergency rule, which was implemented on April 15, 1991, prohibits fishing for pelagic species with longline gear within a 50 nm protected species zone established around the following NWHI: Nihoa, Necker, French Frigate Shoals, Gardner Pinnacles, Maro Reef, Laysan, Lisianski, Pearl and Hermes Reef, Midway, and Kure Islands, including corridors between these islands. The zone is intended to prevent the incidental take of Hawaiian monk seals and other protected species by longline gear, particularly in areas where the seals are most likely to occur. Closure of these areas to longline fishing was prompted by reports received early in 1991 confirming incidental hookings and snaggings of monk seals by the rapidly growing longline fishery in the NWHI. Moreover, a total of six monk seals were

observed on Tern Island, French Frigate Shoals, with jaw or head injuries not attributable to natural causes.

In response to these reports the Western Pacific Fishery Management Council (Council) requested that the Secretary implement an emergency closure to longline fishing within 50 nm of certain NWHI. The Secretary approved the Council's request, and the closure became effective on April 15, 1991. On May 16, 1991, the Council requested the Secretary extend the effectiveness date of the emergency rule to prevent a lapse in protection for the monk seals while the plan amendment was being considered for approval by the Secretary.

In addition, this action modifies the emergency measures to ensure the full protection of monk seals as intended by the emergency closure. The current definition of "longline gear" effectively exempts vessels deploying longlines less than 1 nm in length from the permit and logbook requirements of 50 CFR part 685, and thus also from the area closure established by the emergency rule. The intent of the emergency rule is to prevent the use of all longline gear, regardless of length, in areas where monk seals are likely to occur. At least one vessel has fished in the closed area with longline gear less than 1 nm in length and thus circumvented the intent of the emergency rule. Therefore, to prevent such events from occurring in the future and to fully protect Hawaiian monk seals, the existing definition of "longline gear" for the protected species zone as defined in § 685.2 is suspended and a new definition for "longline gear" is added effective, from 0000 hours local time July 16, 1991, to 2400 hours local time October 13, 1991, to eliminate the consideration of the length of the main line of the longline.

Because the same circumstances still exist in the fishery as when the emergency rule took effect, the Secretary extends for 90 days the effective dates of the emergency rule under section 305(c)(3)(B) of the Magnuson Act except as explained below.

Effective Dates

Because the final rule to implement Amendment 2 to the FMP (56 FR 24731, May 31, 1991) made final certain provisions of the emergency rule published April 18, 1991, at 56 FR 15842, this extension does not apply to those provisions, as follows:

1. In § 685.2, definitions for "Northwestern Hawaiian Islands" and "Protected species zone" were added by the April 18, 1991 emergency rule. The May 31, 1991, final rule added a new definition for "Protected species zone" effective at 0000 hours local time July 16, 1991. Therefore, only the definition for "Northwestern Hawaiian Islands" is extended from 0000 hours local time July 16, 1991, through 2400 hours local time October 13, 1991. In addition, this action amends the emergency rule by suspending the existing definition of "Longline gear" and adding a new definition of "Longline gear", effective from 0000 hours local time July 16, 1991, through 2400 hours local time October 13, 1991.

2. In § 685.5, paragraph (i) was suspended and new paragraphs (q) and (r) were added by the April 18, 1991, emergency rule. The May 31, 1991, final rule added a new paragraph (i) to replace the suspended version and redesignated paragraphs (q) and (r) as paragraphs (s) and (t). New paragraph (i) of § 685.5 will become effective upon approval from OMB and publication of a notice to that effect in the **Federal Register.** Because the amendments to § 685.5 contained in the April 18, 1991, emergency rule have been superceded by final action in the May 31, 1991, final rule, there is no impact of this extension on § 685.5.

3. Section 685.11 was suspended effective from 0001 hours local time on April 15, 1991, to 2400 hours local time on July 15, 1991, by the April 18, 1991, emergency rule. Because the May 31, 1991, final rule added a new § 685.11 to replace the suspended version effective at 0000 hours local time July 16, 1991, this extension does not impact the new § 685.11.

4. Section 685.14 was added by the April 18, 1991, emergency rule, effective upon clearance from OMB and publication of a notice to that effect in the **Federal Register.** OMB approval has been obtained (OMB No. 0648–0214) and § 685.14 is effective from 0000 hours July 16, 1991, to 2400 hours local time October 13, 1991.

Other Matters

This emergency rule is exempt from the normal review procedures of Executive Order 12291 as provided in section 8(a)(1) of that order and has been reported to the Director of OMB with an explanation of why it is impracticable to follow the regular procedures of that order.

List of Subjects in 50 CFR Part 685

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: July 15, 1991.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

In addition to the extension of effective date described in the preamble, 50 CFR part 685 is amended as follows, effective at 0000 hours local time July 16, 1991, to 2400 hours local time October 13, 1991.

PART 685—PELAGIC FISHERIES OF THE WESTERN PACIFIC REGION

1. The authority citation for part 685 continues to read as follows:

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

2. In § 685.2, effective from 0000 hours local time July 16, 1991, to 2400 hours local time October 13, 1991, the existing definition for "*Longline gear*" is suspended and a new definition for "*Longline gear*" is added in alphabetical order, to read as follows:

§ 685.2 Definitions.

* * * * *

Longline gear means a type of fishing gear consisting of a main line that exceeds one (1) nautical mile in length, is suspended horizontally in the water column either anchored, floating, or attached to a vessel, and from which branch or dropper lines with hooks are attached; except that, within the protected species zone, longline gear means a type of fishing gear consisting of a main line of any length that is suspended horizontally in the water column either anchored, floating, or attached to a vessel and from which branch or dropper lines with hooks are attached.

* * * * *

[FR Doc. 91–17190 Filed 7–15–91; 4:49 pm]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 56, No. 139
Friday, July 19, 1991

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[FV-90-285]

Lemons Grown in California and Arizona; Withdrawal of Proposed Rule on Weekly Levels of Volume Regulation for the 1990-91 Season

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Withdrawal of the proposed rule.

SUMMARY: This document withdraws a proposed rule concerning the need for regulation of the quantity of fresh California-Arizona lemons that may be shipped to domestic markets, the shipping schedule, and the application of volume regulation for the 1990-91 season. After a review of prevailing marketing conditions, it is the U.S. Department of Agriculture's (Department) view that the implementation of volume regulation for the 1990-91 season will not be necessary.

EFFECTIVE DATE: July 19, 1991.

FOR FURTHER INFORMATION CONTACT: Beatriz Rodriguez, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, room 2524-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 475-3861.

SUPPLEMENTARY INFORMATION: This action withdraws a proposed rule issued under Marketing Order No. 910 (7 CFR part 910), as amended, regulating the handling of lemons grown in California and Arizona, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act.".

On October 12, a proposed rule was issued concerning the need for regulation of the quantity of fresh California-Arizona lemons that may be shipped to domestic markets, the shipping schedule, and the application of volume regulation for the 1990-91 season. The proposal was published in the Federal Register on October 18, 1990, (55 FR 42200), and was based on a marketing policy which was unanimously adopted by the Lemon Administrative Committee (Committee) on June 19, 1990, and later amended on August 14, 1990. The Committee is responsible for local administration of the marketing order covering lemons grown in California and Arizona. The comment period on the proposed rule ended on November 19, 1990.

In December 1990, sub-freezing temperatures prevailed throughout the lemon production area causing severe damage to the 1990-91 lemon crop. Considering the quantity of lemons that would be available for shipment for the remainder of the 1990-91 season, it became apparent to the Department that volume regulation was not necessary to effectuate the purposes of the Act. In addition, the Committee has recommended open movement since January 13, 1991, and no further action has been taken on the proposal. Therefore, the Department has found that volume regulations are not desirable for the remainder of the season, and the proposed rule is hereby withdrawn.

List of Subjects in 7 CFR Part 910

Lemons, Marketing agreements, and Reporting and recordkeeping requirements.

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.

Dated: July 15, 1991.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 91-17223 Filed 7-18-91; 8:45 am]
BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Chapter I

[Summary Notice No. PR-91-14]

Petition for Rulemaking; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials or withdrawals of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before September 16, 1991.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-10), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-10), room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3132.

FOR FURTHER INFORMATION CONTACT: Angela M. Washington, Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence

Avenue, SW., Washington, DC 20591; telephone (202) 267–5571.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC on July 15, 1991.

Denise Donohue Hall,

Manager, Program Management Staff Office of the Chief Counsel.

Petitions for Rulemaking

Docket No.: 26563.

Petitioner: Benedict Canyon Association.

Regulations Affected: 14 CFR 91.119.

Description of Petition: Petitioner would limit provisions of the existing section by requiring that helicopter operations at less than the minimum safe altitudes prescribed in paragraphs (b) or (c) of this section may only be conducted by municipal, county, state or federal authorities for the purposes of emergency services, rescue operations, or police or fire protection.

Petitioner's Reason for the Request: The petitioner, as a representative of homeowners in a noise-sensitive community, states that the community has become aware of an increased incursion of low flying helicopters in its community. The excessive aircraft noise results in discomfort and interference with the use and enjoyment of private land. Cooperative efforts of pilots and aviation associations to adhere to noise abatement practices have failed to produce satisfactory results, thus prompting this request for rulemaking.

Docket No.: 26566.

Petitioner: Union of Flight Attendants, Independent Union of Flight Attendants, Independent Federation of Flight Attendants, Association of Professional Flight Attendants.

Regulations Affected: 14 CFR 121.308 and 121.317.

Description of Petition: Petitioners request that the FAA prohibit tobacco smoking on all U.S. carriers and set specific standards for the design, installation, and testing of airplane lavatory smoke detectors.

Petitioner's Reason for the Request: The petitioners assert that prohibiting the smoking of tobacco on U.S. airliners would protect affected aviation employees and passengers from the health and safety hazards posed by environmental tobacco smoke.

Docket No.: 25044.

Petitioner: Balloon Federation of America.

Regulations Affected: 14 CFR 91.119.

Description of Petition: Petitioner would add provisions to the existing section allowing free balloons to be operated at less than the minimum safe altitudes prescribed in paragraphs (b) and (c) of this section.

Petitioner's Reason for the Request: The petitioner states that the minimum safe altitude requirements of § 91.119(b) and (c) are counterproductive to balloon safety. The petitioner asserts that requiring balloons to operate at the same altitude with airplanes and rotorcraft is unsafe because balloons operate at much slower airspeeds and are less maneuverable than airplanes and rotorcraft. The petitioner further asserts that reducing the minimum safe operating altitudes for balloons will contribute to safety in the event of a balloon malfunction by reducing the resultant impact velocity.

Disposition: Denied. April 18, 1991.

[FR Doc. 91–17198 Filed 7–18–91; 8:45 am]

BILLING CODE 4910–13–M

---

14 CFR Part 39

[Docket No. 91–NM–103–AD]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, which would require repetitive inspections for cracking of the stop support fittings at the forward edge of the number 5 main entry door; replacement, if necessary; and eventual installation of a terminating modification. This proposal is prompted by recent reports of cracks in certain doorstop fittings at the forward edge of number 5 main entry doors. This condition, if not corrected, could allow the door to open during flight, resulting in sudden decompression of the airplane.

DATES: Comments must be received no later than September 9, 1991.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Direct.orate, ANM–103, attention: Airworthiness Rules Docket No. 91–NM–103–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Steven C. Fox, Seattle Aircraft Certification Office, Airframe Branch, ANM–120S; telephone (206) 227–2777. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 91–NM–103–AD." The post card will be date/time stamped and returned to the commenter.

Discussion

Four operators of Boeing Model 747 airplanes have reported finding twenty-one cracks in the stop support fittings at the forward edge of the number 5 main entry door on ten airplanes. As many as four adjacent stop fittings were cracked on one door frame. The FAA has determined that these cracks were in door stop fittings manufactured from 7079–T6 material and were due to stress corrosion. This condition, if not corrected, could allow the door to open during flight, resulting in sudden decompression of the airplane.

All of the stop support fittings that were found cracked were made of 7079–T6 material . There has been no stress

corrosion cracking found in other stop support fittings that were made of 7075–T73 material. On airplanes from line number 001 through 113, some stop support fittings were made of 7079–T6 material. On airplanes from I ine number 114 and subsequent, the stop support fittings were all made of 7075–T73 material.

The FAA has reviewed and approved Boeing Alert Service Bulletin 747–53A2326, dated December 20, 1990, which describes procedures for inspection for cracking in the stop support fittings at the forward edge of the number 5 main entry door; replacement, if necessary; and installation of a modification to eliminate the need for the inspections. The modification entails replacement of all remaining door stop fittings made of 7079–T6 material with fittings made of 7075–T73 material.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require repetitive inspections for cracking in the stop support fittings at the forward edge of the number 5 main entry door, and replacement, if necessary. A terminating modification would be required within four years. These procedures would be required to be accomplished in accordance with the service bulletin previously described.

There are approximately 113 Model 747 series airplanes of the affected design in the worldwide fleet. It is estimated that 78 airplanes of U.S. registry would be affected by this AD, that it would take approximately 636 manhours per airplane to accomplish the required actions, and that the average labor cost would be $55 per manhour. Required parts are estimated at $35,458 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $5,494,164.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

Boeing: Docket No. 91–NM–103–AD.

Applicability: Model 747 series airplanes, line numbers 001 through 113, certificated in any category.

Compliance: Required as indicated, unless previously accomplished.

To prevent sudden decompression of the airplane, accomplish the following:

(a) Within the next 500 flight cycles after the effective date of this AD, unless previously accomplished within the last 1,500 flight cycles, perform an initial high frequency eddy current inspection of the stop support fittings at the forward edge of the number 5 main entry doors, in accordance with Boeing Alert Service Bulletin 747–53A2326, dated December 20, 1990, to determine material type, if not known, and accomplish the following prior to further flight:

(1) For stop support fittings which have been determined to be made of 7075–T73 aluminum: No further action is required under the inspection and modification requirements of this AD.

(2) For stop support fittings which have been determined to be made of 7079–T6 aluminum: Visually inspect the fittings for cracking, in accordance with Boeing Alert Service Bulletin 747–53A2326, dated December 20, 1990. Repeat this inspection thereafter at intervals not to exceed 2,000 flight cycles.

(b) If cracking is found as the result of the inspections required by paragraph (a) of this AD, prior to further flight, replace the cracked stop support fittings with stop support fittings made of 7075–T73 aluminum, in accordance with Boeing Alert Service Bulletin 747–53A2326, dated December 20, 1990. Continue to reinspect any remaining stop support fittings made of 7079–T6 material in accordance with paragraph (a)(2) of this AD.

(c) Within 4 years after the effective date of this AD, replace all remaining door stop fittings made of 7079–T6 material, in accordance with Boeing Alert Service Bulletin 747–53A2326, dated December 20, 1990. This replacement constitutes terminating action for the repetitive inspection requirements of this AD.

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

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

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

Issued in Renton, Washington, on July 5, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91–17199 Filed 7–18–91; 8:45 am]

BILLING CODE 4910–13–M

---

14 CFR Part 39

[Docket No. 91–NM–127–AD]

Airworthiness Directives; Fokker Model F–28 Mark 0100 Series Airplanes Equipped With Smiths Industries Combined Processor/Totaliser (CPT) Units Having Fuel Quantity Indication in Pounds

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain Fokker Model F–28 Mark 0100 series airplanes, which would require the replacement of CPT units and modification of the airplane's wiring. This proposal is prompted by a report that a CPT unit which indicates fuel quantity in pounds might be installed in an airplane with a metric Fuel Quantity Indicating System (FQIS), or vice versa. This condition, if not

corrected, could result in inaccurate presentation of fuel quantity.

DATES: Comments must be received no later than September 9, 1991.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM–103, Attention: Airworthiness Rules Docket No. 91–NM–127–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. The applicable service information may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Quam, Standardization Branch, ANM–113; telephone (206) 227–2145. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 91–NM–127–AD." The post card will be date/time stamped and returned to the commenter.

Discussion

The Rijksluchtvaartdienst (RLD), which is the airworthiness authority of the Netherlands, in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on certain Fokker Model F–28 Mark 0100 series airplanes. The combined processor/totaliser (CPT) units currently installed on these airplanes have identical electrical connectors, irrespective of whether they indicate fuel quantity in kilograms or pounds; therefore, the possibility exists for a CPT unit which indicates fuel quantity in pounds to be installed in an airplane with a metric fuel quantity indicating system (FQIS), or vice versa. This condition, if not corrected, could result in inaccurate presentation of fuel quantity.

Fokker has issued Service Bulletin F100–28–015, dated January 30, 1991, which describes procedures for replacement of CPT units having fuel quantity indication in pounds with CPT units having electrical connectors that do not mate with the connectors on metric CPT units, and modification of the airplane's CPT connectors. This change in connectors would preclude the possibility for connecting a metric CPT to an FQIS which displays pound units or vice versa. This service bulletin also describes procedures for operational tests. The RLD has classified this service bulletin as mandatory.

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

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, an AD is proposed which would require the replacement of CPT units having fuel quantity indication in pounds with CPT units having electrical connectors that do not mate with the connectors on metric CPT units, modification of the airplane's CPT connectors, and operational tests, in accordance with the service bulletin previously described.

It is estimated that 20 airplanes of U.S. registry would be affected by this AD, that it would take approximately 4.5 manhours per airplane to accomplish the required actions, and that the average labor cost would be $55 per manhour. The estimated cost for required parts is $90 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $6,750.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

Fokker: Docket No. 91–NM–127–AD.

Applicability: Model F–28 Mark 0100 series airplanes equipped with Smiths Industries Combined Processor/Totaliser (CPT) units having fuel quantity indication in pounds, certificated in any category.

Compliance: Required as indicated, unless previously accomplished.

To prevent inaccurate presentation of fuel quantity, accomplish the following:

(a) Within 120 days after the effective date of this AD, remove the CPT unit, modify the airplane's electrical wiring connection for the CPT unit, and install a new CPT unit having a modified connector which will mate with the newly-installed connector, in accordance with Fokker Service Bulletin F100–28–015, dated January 30, 1991:

(b) Subsequent to accomplishing the requirements of paragraph (a) of this AD, perform the operational tests in accordance with Fokker Service Bulletin F100–28–015, dated January 30, 1991.

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

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

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

Issued in Renton, Washington, on July 8, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-17200 Filed 7-18-91; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 91-ANM-12]

Proposed Establishment of Additional Control Area; Schloredt, WY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish controlled airspace at Schloredt, Wyoming. There has been an increase in the number of general aviation and air taxi flights between Spearfish, South Dakota, and Gillette, Wyoming. This action would permit direct routing of aircraft and enable air traffic control to provide instrument clearances to aircraft in controlled airspace.

DATES: Comments must be received on or before August 26, 1991.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Docket No. 91-ANM-12, 1601 Lind Avenue, SW., Renton, WA 98055-4056.

The official docket may be examined at the same address.

An informal docket may also be examined during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Robert L. Brown, ANM-535, Federal Aviation Administration, Docket No. 91-ANM-12, 1601 Lind Avenue SW., Renton, WA 98055-4056, Telephone: (206) 227-2535.

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 in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communication should identify the airspace docket and be submitted to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 91-ANM-12." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination at the Federal Aviation Administration, 1601 Lind Avenue SW., Renton, Washington 98055-4056 both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, 1601 Lind Avenue SW., Renton, Washington 98055-4056. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

The Proposal

The FAA proposes an amendment to § 71.163 of part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish controlled airspace at Schloredt, Wyoming. There has been an increase in the number of general aviation and air taxi flights between Spearfish, South Dakota and Gillette, Wyoming. This action would permit direct routing of aircraft and enable air traffic control to provide instrument clearances to aircraft in a controlled airspace environment throughout the entire flight. This will improve the flow of traffic, reduce operating costs and fuel consumption to the public, and reduce controller work load. Section 71.163 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6G, dated September 4, 1990.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Additional control area.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10654; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.163 [Amended]

2. Section 71.163 is amended as follows:

Schloredt, Wyoming [New]

That airspace extending upward from 8,000 feet MSL bounded on the east by an arc of a 53 mile radius of the Ellsworth Air Force Base, South Dakota, (lat. 44°08'45"N., long. 103°06'15"W.), on the southwest by the north

edge of V-86, and on the northwest by a line 5.3 miles north of and parallel to the Gillete VOR (lat. 40°20'52"N., long. 105°32'35"W.) 082° radial.

Issued in Seattle, Washington, on July 5, 1991.

Helen M. Parke,

Assistant Manager, Air Traffic Division.

[FR Doc. 91-17201 Filed 7-18-91; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 153

[Administrative Instruction 30]

Security for the Pentagon Reservation

AGENCY: Office of the Secretary, DoD.

ACTION: Proposed rule.

SUMMARY: This part prescribes the policies, responsibilities, and procedures for security on the Pentagon Reservation. This part describes the procedures for obtaining building passes, access to the building, removing property from the building, and outlines the conduct while on the Pentagon Reservation.

DATES: Comments may be submitted on or before August 19, 1991.

ADDRESSES: Forward Comments To: Physical Security Division, room 3C345, the Pentagon, Washington, DC 20301-1155.

FOR FURTHER INFORMATION CONTACT: Ken Ziegler (703) 695-4668.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 153

Civilian personnel, classified information, military personnel.

Accordingly, title 32, chapter I, subchapter D of the Code of Federal Regulations is proposed to be amended to add part 153 to read as follows:

PART 153—SECURITY FOR THE PENTAGON RESERVATION

Sec.

153.1 Purpose.
153.2 Applicability.
153.3 Definitions.
153.4 Policy.
153.5 Responsibilities.
153.6 Information requirements.
Appendix A to Part 153—DoD Building Pass System
Appendix B to Part 153—Access and Property Control
Appendix C to Part 153—[Reserved]
Appendix D to Part 153—Reimbursable Security Services
Appendix E to Part 153—Security Equipment and Construction
Appendix F to Part 153—Destruction of Classified Material
Appendix G to Part 153—Contingency Plans

Authority: 10 U.S.C. 131.

§ 153.1 Purpose.

This part updates policy and assigns responsibilities for the administration of the security programs of the Pentagon Reservation, Arlington, VA.

§ 153.2 Applicability.

This part applies to Office of the Secretary of Defense (OSD); the Military Departments; Chairman, Joint Chiefs of Staff; the Defense Agencies; and activities supported by Washington Headquarters Services (WHS) on the Pentagon Reservation (hereafter referred to collectively as "DoD Components").

§ 153.3 Definitions.

(a) *Background Investigation (BI).* An inquiry into the activities of an individual and consists of record checks, interviews, and subject interview.

(b) *Concessionaire.* Any person employed by a firm that has a contract with the Department of Defense Concessions Committee.

(c) *Contingency Plans.* All plans that outline the program and procedures for safety, security, and emergencies.

(d) *Contractor.* Any person who is employed by a private commercial firm having a contract with the Department of Defense.

(e) *Entrance National Agency Check (ENTNAC).* Identical to a National Agency Check and is initiated on each first term military enlistee entering military service.

(f) *Immigrant Alien.* Any person who has been lawfully admitted into the United States for permanent residence under an immigrant visa.

(g) *Instructor.* Any person who is contracted to instruct DoD employees.

(h) *Maintenance Personnel.* People who are employed by a civilian commercial firm to perform, design, construct, install, repair, move or maintain the physical structure of the building, office furniture, rugs or grounds.

(i) *National Agency Check (NAC).* A search of the indexes and files of appropriate national agencies for information bearing on the loyalty, trustworthiness, and suitability of individuals under the investigative jurisdiction of the Department of Defense.

(j) *NAC with Written Inquiries (NACI).* A search conducted by the Office of Personnel Management (OPM) and consists of checks of national agencies plus written inquiries to appropriate law enforcement agencies, former employers and supervisors, references, and schools.

(k) *National Crime Information Center (NCIC) Check.* A search of the nationwide computerized information system established as a service to all criminal justice agencies.

(l) *Pentagon Reservation.* The area of land and improvements thereon, located in Arlington, Virginia, on which the Pentagon Office Building, Federal Building Number 2, the Pentagon heating and sewage treatment plants, and other related facilities are located, including various areas designated for the parking of vehicles.

(m) *Police Officer.* Any appointed uniformed or plainclothes member of the Defense Protective Service or authorized personnel by the Defense Protective Service.

(n) *Public Area.* Any area of the Pentagon Reservation under control and custody of the Department of Defense which is ordinarily open to members of the public.

(o) *Representative.* Any person who is conducting official business with a DoD Component or Agency.

(p) *Traffic Control Devices.* All signs, signals, markings and devices placed or erected for the purpose of regulating, warning or guiding vehicular or pedestrian traffic.

(q) *U.S. National.* Any person, who though not a citizen of the United States (for example, an American Samoan), owes permanent allegiance to the United States.

(r) *Vehicle.* All vehicles that are self-propelled or designed for self-propulsion, all motorized vehicles, and every vehicle drawn by or designed to be drawn by a motor vehicle and includes every device in, upon, or by which any person or property is or can be transported or drawn upon a highway or designated pathway; to include devices moved by human or animal power, whether required to be licensed in any State or otherwise.

(s) *Visitor.* Any person that does not possess a DoD building pass or an authorized identification card.

(t) *Weapon.* The term "dangerous weapon" means a weapon, device,

instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of causing death, or serious bodily injury, except that such a term does not include a pocket knife with a blade of less than 2½-inches in length.

§ 153.4 Policy.

(a) *DoD building pass.* DoD Building passes shall be used to control access to the buildings on the Pentagon Reservation. A building pass shall be issued to a person assigned for duty to an office located within the building or is performing a service for the building occupants. The authorizing official for each DoD Component shall be held accountable for the building pass. All passes no longer required shall be collected and returned to point of issue for destruction. Appendix A to this part prescribes the use, issuance, and accountability of DoD building passes.

(b) *Access and property control.* Specific types of passes are required for admittance during designated hours. Only persons with a specific permanent DoD building pass are authorized to escort persons within the buildings on the Pentagon Reservation. A pass holder can escort no more than fifteen persons at one time. Escorts shall keep the visitors under constant visual observation. All property removed from the buildings on the Pentagon Reservation shall be indicated in a memorandum or letter. The admittance, escort, and property control procedures for the buildings on the Pentagon Reservation are stated in appendix B to this part.

(c) *Defense Protective Service (DPS).* The DPS has primary law enforcement jurisdiction at the Pentagon Reservation and is responsible for preservation of public order, prevention of crime, and maintenance of security, and performs other public assistance service as may from time to time be necessary. The procedures governing the conduct of persons on the Pentagon Reservation (32 CFR part 40b) shall be maintained and enforced by DPS. In space assigned to tenant agencies, additional security services may be requested by the DoD Component on a reimbursable basis. Procedures for requesting reimbursable security services are outlined in appendix D to this part.

(d) *Security equipment and construction.* In space assigned to tenant agencies, the installation, operation, and maintenance of alarms and other security devices are the responsibility of the occupying DoD Component. All requests of security-related construction shall be approved by the Physical Security Division (PSD). These requests shall be accompanied by a detailed justification statement, citation of regulations or directives upon which the requests are based, statement of work, and drawings. Procedures are outlined in appendix E to this part. The PSD shall be responsible for implementing physical security for the perimeter of the buildings.

(e) *Destruction of classified material.* The National Capital Region (NCR) incinerator shall be used by all DoD Components in the NCR for the destruction of only classified and Privacy Act information material. The use of any other type of destruction facility shall be coordinated with the Physical Security Division (PSD), Real Estate and Facilities Directorate (RE&F), WHS. Shredders shall not be used for the destruction of classified material. The only exception is the shredding of communications security (COMSEC) key cards. The procedures for destroying classified material at the NCR facility are outlined in appendix F to this part.

(f) *Contingency Plans.* The buildings on the Pentagon Reservation shall have contingency plans that shall include, but not be limited to, reporting unusual occurrences (fire, natural disaster, medical), hostage and/or terrorist procedures, and an occupant emergency plan. These contingency plans and THREATCON levels and measures are outlined in appendix G to this part.

§ 153.5 Responsibilities.

(a) Director, Physical Security Division, Real Estate and Facilities Directorate, Washington Headquarters Services (PSD, RE&F, WHS) shall:

(1) Prescribe and implement the DoD building pass system to include the design, color specifications, procurement, accountability, and issuance.

(2) Establish admittance, escort, and property control procedures for the Pentagon Reservation.

(3) Develop security policy for the use of DPS officers and the implementation of security procedures for the perimeter of the buildings on the Pentagon Reservation.

(4) Procure physical security systems for the perimeter of the buildings on the Pentagon Reservation and ensure that security equipment and construction in space assigned to tenant agencies meet prescribed guidelines and do not interfere with building security.

(5) Manage and monitor the operation of the NCR incinerator and the destruction of classified material by DoD Components.

(6) Establish a program for implementing contingency plans and retain an approved file copy of each type of plan.

(7) Institute a Pentagon Reservation Security Work Group for members of the DoD component security organization and meet quarterly.

(b) The Chief, Defense Protective Service, Real Estate and Facilities Directorate, Washington Headquarters Services (DPS, RE&F, WHS) shall:

(1) Operate an access control program in accordance with equipment and procedures developed by the PSD.

(2) Operate a communications center to serve as a central point to report all unusual and emergency incidents and to monitor security and fire alarm systems.

(3) Investigate violations of Federal and State statutes concerning criminal activities over which DPS has jurisdiction and assist other Federal, State and DoD Component investigative agencies.

(4) Conduct crime prevention education and assessment programs for DoD Components.

(5) Enforce the rules and regulations, maintain law and order, and protect life and property through the use of Defense Protective Service Police officers, contract personnel, and law enforcement officers where a response agreement is in effect.

(6) Promulgate contingency plans as deemed necessary to provide for preservation of life safety, and property, and continuity of operations in the event of national and man-made disasters. Plans shall include, but will not be limited to, procedures for responding to emergency situations, where feasible, and prevention of situations as identified in appendix G to this part.

(c) The Director, Federal Facilities Division, Real Estate and Facilities Directorate, Washington Headquarters Service (FFD, RE&F, WHS) shall:

(1) Post approved security regulations, in accordance with 50 U.S.C. 797.

(2) Submit all requirements for security construction and security equipment installation to the PSD for review and coordination.

(3) Maintain and coordinate applications for permits to use an area, which is not under the direct control of a DoD Component, for DoD functions.

(4) Authorize the installation, establishment, and maintenance of antennas on the roofs of the buildings.

(5) Promulgate emergency occupant plans for each building on the Pentagon Reservation.

(d) The Heads of the DoD Components shall:

(1) Appoint authorizing officials who shall sign the DD Form 2249, "DoD Building Pass Request," and shall

maintain appropriate records that ensure strict accountability for all passes issued, lost, turned in, expired, or destroyed.

(2) Appoint an authorizing official who shall sign memorandum or letter for removal of property from the buildings on the Pentagon Reservation.

(3) Inform and forward reports of intelligence, counterintelligence, or security activities that involve any significant degradation of security to the Director, PSD.

(4) Ensure all personnel are aware of all contingency procedures.

§ 153.6 Information requirements.

The reporting requirement listed in this part is exempt, from licensing in accordance with paragraph E.4.h. of DoD 7750.5–M.[1]

Appendix A to Part 153—DoD Building Pass System

DoD building passes are issued to persons for their use only. The lending of a pass to another individual or alteration of a pass is in violation of title 18, United States Code, section 499 and may result in prosecution.

A. Permanent DoD Building Pass

To obtain a permanent DoD building pass, the applicant must work in a building on the Pentagon Reservation or have an official need to visit a person normally three times a week. Only one of the three types of permanent building passes that reflects the type of employee, hours of access, and escort privileges shall be issued to the applicant.

B. Types of Permanent Passes

1. *DD Form 1466 (white border)* "DoD Building Pass" shall be:

a. Issued to military and civilian personnel employed by the Department of Defense and are U.S. citizens, U.S. Nationals, naturalized citizens, or immigrant aliens.

b. Issued for a minimum of 6 months and maximum of 5 years.

c. Issued based on a favorable ENTNAC, NAC, NACI, or BI.

d. Stamped "NCR" in place of individual building code when access is required after duty hours for more than one building.

e. Allowed to escort personnel.

2. *DD Form 1466 (pink border)* shall be:

a. Issued to personnel under contract to or assisting the Department of Defense (contractor, concessionaire, instructor, and maintenance) and U.S. Government Agency personnel who are U.S. citizens, U.S. nationals, naturalized citizens, or immigrant aliens.

b. Issued for a minimum of 6 months and maximum of 3 years.

c. Issued based on a favorable NAC, NACI, or BI.

d. Stamped "NCR" in place of individual building code when access is required after duty hours for more than one building in the NCR.

e. Allowed to escort if stamped "ESCORT".

3. *DD Form 1466 (blue border)* shall be:

a. Issued to personnel providing a service to the Department of Defense (delivery, news correspondent, and representative personnel) and are U.S. citizens, U.S. nationals, naturalized citizens, or immigrant aliens. The pass shall be:

(1) Issued for a minimum of 6 months and maximum of 2 years.

(2) Issued based on a favorable NAC or BI.

(3) Stamped "PNT," "FOB2" or "PRESS".

b. Issued to Foreign government military and civilian personnel who are assigned as exchange officers or who are permitted recurring access based on accreditation on extended visit authorization pursuant to DoD Instruction 5230.2 [1]. The pass shall be:

(1) Issued for a minimum of 6 months and maximum of 2 years.

(2) Issued based on certification from the Foreign Liaison of the Military Departments or Defense Intelligence.

(3) Stamped "PNT" or "FOB2".

C. Temporary DoD Building Pass

To obtain a temporary DoD building pass, the applicant must work in a building on the Pentagon Reservation or visit a person three times a week. Only one of the three types of temporary building passes, that reflects the type of employee and hours of access, shall be issued to the applicant.

D. Types of Temporary Passes

1. *DD Form 1489 (orange background)* shall be:

a. Issued to personnel employed by Department of Defense and are U.S. citizens, U.S. nationals, naturalized citizens or immigrant aliens.

b. Issued for a minimum of 3 days and maximum of 6 months.

c. Issued based on an initiated or favorable NAC, NACI, or BI.

d. Stamped "PNT," "FOB2," or "PUP".

2. *DD Form 1469 (yellow background)* shall be:

a. Issued to personnel under contract to or assisting the Department of Defense (contractor, concessionaire, instructor, and maintenance) and U.S. Government personnel who are U.S. citizens, U.S. nationals, naturalized citizens, or immigrant aliens.

b. Issued for a minimum of 3 days and maximum of 6 months.

c. Issued based on an initiated or favorable NAC, NACI, BI, or favorable National Crime Information Center Check.

d. Stamped "PNT," "FOB2," or "PUP".

3. *DD Form 1469 (tan background)* shall be:

a. Issued to personnel providing a service to Department of Defense (delivery, news correspondent, and representative personnel) and are U.S. citizens, U.S. nationals, naturalized citizens, or immigrant aliens.

b. Issued for minimum of 3 days and maximum of 6 months.

c. Issued based on an initiated or favorable NAC or BI.

d. Stamped "PNT," "FOB2," or "PRESS".

E. Visitor Pass

All visitors to the buildings on the Pentagon Reservation during the hours of 1800 to 0600, Monday through Friday, holidays and weekends shall wear a visitor pass that is prominently displayed on the outer clothing above the waist. Two types of nonreusable visitor passes shall be used:

1. *Visitor.* A pass shall be issued each day by the Police Officer at the point of entry.

2. *Tour.* All persons taking a tour of the Pentagon shall wear a special pass. A different color pass shall be issued each day by personnel from the tour office.

F. Issuance and Accountability Procedures

The DoD Component shall appoint an authorizing official who is assigned office space within the buildings on the Pentagon Reservation. He or she shall sponsor an applicant for a building pass for access only to the buildings on the Pentagon Reservation. The number of authorizing officials shall be kept to the minimum number consistent with maintaining operational efficiency. If an authorizing official does not sign a minimum of 12 DD Form 2249s in 3 months, this person shall be removed automatically as an authorizing official. Each DoD Component shall submit a letter of appointment to the Director, PSD that will state new officials or terminated officials, the organization or office symbol, room number, and telephone number. The following two forms shall be used and may be obtained at any form center:

1. *Signature Card* (DD Form 577) shall be submitted with the letter of appointment. This signature shall be used to verify those signatures on the pass applications. The card shall expire 5 years from date of issue or termination of employment whichever occurs first.

2. *DoD Building Pass Application* (DD Form 2249) shall be properly completed and all requested information validated by the authorizing official. Applications with stamped signatures or "signed for" shall not be processed for a building pass. Any application not properly completed shall be returned without action. This authorizing official shall direct the applicant to carry the application to the building pass office. The application shall be submitted within 2 weeks from date of initiation. This official is responsible to inform the recipient of a DoD building pass of the proper use of the pass.

a. The DoD Component shall establish necessary procedures to ensure collection of permanent and temporary DoD building passes upon expiration or termination of employment. All terminated or expired passes shall be forwarded to the building pass office once a week for cancellation. A DoD employee, transferring from one DoD activity to another, may retain his or her pass. The accountability shall be assumed by the gaining DoD Component by notifying the building pass office in writing of the new authorizing official. A DoD building pass may be withdrawn at any time by the issuing DoD Component or authorizing official.

b. If an individual, who has been issued a pass, loses or temporarily misplaces a pass, a temporary pass shall be issued for no longer than 30 days. The individual may call the

[1] Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

[1] See footnote 1 to § 153.6

Defense Protective Service lost and found at (703) 697–4151. If the original pass has not been recovered, an application for renewal shall be submitted to the building pass office. The temporary pass shall be returned when a new pass is issued. If the original pass is found after the new pass is issued, the original pass shall be returned immediately as outlined in the above paragraph. Any person possessing more than one DoD building pass shall have all passes withdrawn and not be eligible to receive any pass in the future.

G. News Correspondents

1. *Employed by American Media Organizations.* To obtain a DoD building pass, news correspondents employed by American media organizations shall:

a. Present to the Office of the Assistant Secretary of Defense (Public Affairs) (OASD(PA)), Department of Defense, a letter from his or her organization stating:

(1) The applicant is a bona fide, full-time correspondent based permanently in Washington, DC; or

(2) The applicant is employed by the certifying organization; or

(3) The organization gives the applicant substantial assignments in connection with the Department of Defense.

b. Complete and submit signed copies of DD Form 398–3, "DoD Application for Press Building Pass," and FD Form 258, "Applicant Fingerprint Card," to OASD(PA).

c. Have OASD(PA) complete DD Form 2249, to accompany DD Form 398–3 and FD 258, which shall be handcarried by the applicant to room 2E170A for processing.

d. Be fingerprinted and issued a temporary building pass providing he or she has not been convicted of a felony.

e. Be issued a permanent building pass when the Physical Security Division (PSD) has informed OASD(PA) that a National Agency Check has been completed with favorable results. OASD(PA) shall complete a DD Form 2249 for the applicant.

f. Be directed to the Pentagon Building Pass Office to obtain a permanent pass that will be stamped "PRESS".

2. *Employed by Foreign Media Organizations.* The Office of the Under Secretary of Defense for Policy (OUSDP), Department of Defense shall issue to OASD(PA) a memorandum stating which foreign countries can have personnel apply for a DoD building pass. To obtain a DoD building pass, correspondents employed by foreign media organizations shall:

a. Present to OASD(PA), Department of Defense, a letter from his or her organization stating:

(1) The applicant is a bona fide, full-time correspondent based permanently in Washington, DC; or

(2) The applicant is employed by the certifying organization; or

(3) The organization gives the applicant substantial assignments in connection with the Department of Defense.

b. Obtain a letter from the Washington, DC embassy of the nation where the organization is headquartered, or from the Embassy of the United States in the nation where the organization is headquartered, attesting to the existence of the news organization and the applicant's employment by that organization. OASD(PA) may accept a letter from another source attesting to the existence of such news organizations and the applicant's employment if, in his or her judgment, a substitute letter is warranted.

c. Complete and submit signed copies of DD Form 398–3 and FD 258 to OASD(PA).

d. Have OASD(PA) complete DD Form 2249, to accompany DD Form 398–3 and FD 258, which shall be handcarried by the applicant to Room 2E170A for processing.

e. Be fingerprinted and issued a temporary building pass providing he or she has not been convicted of a felony.

f. Be issued a permanent building pass when the Physical Security Division has informed OASD(PA) that a National Agency Check has been completed with favorable results. OASD(PA) shall complete a DD Form 2249 for the applicant.

g. Be directed to the Pentagon Building Pass Office to obtain a permanent pass that will be stamped "PRESS".

3. *Technical Personnel.* OASD(PA) may issue a limited number of DoD building passes to members of television and radio technical crews, photographers, and other personnel that provide technical support on a daily basis to correspondents accredited to the Department of Defense. These personnel must follow the same procedures as news correspondents to obtain a DoD building pass.

4. *Grounds for Denial, Revocation, or Non-renewal.* The Director, PSD, in consultation with the Office of the General Counsel of the Department of Defense (OGC, DoD) and OASD(PA), may deny, revoke, or not renew the DoD building pass of any news correspondent or other personnel who:

a. Does not meet the qualifications stated in paragraphs G.1.a., G.2.a, and G.2.b of this Appendix; or

b. Poses a risk or harm to the personal safety of DoD or other governmental personnel or to government property; or

c. Engages or has engaged in conduct for which there are reasonable grounds to believe they may violate Federal or State law or DoD regulations; or

d. Has been convicted of a felony (or a crime in a foreign country that would be considered a felony if it were committed in the United States).

5. *Procedures for Denial, Revocation, or Non-renewal.* If the Director, PSD, anticipates that in applying the standard in paragraph 4 of this Appendix, and in consultation with the OGC, DoD and OASD(PA), a DoD building pass might be denied, revoked or not renewed, the correspondent shall be notified in writing by the Director of the basis for the proposed denial in as much detail as security considerations will permit. This shall be sent by registered mail.

a. The notification of the proposed denial, revocation, or non-renewal sent to the correspondent shall also contain a statement advising the correspondent of his or her right to respond to the denial and to rebut any factual basis supporting the proposed denial.

b. The correspondent shall be allowed 30 days from the date of the mailing of the proposed denial, revocation, or non-renewal notification to respond in writing. The response shall consist of any explanation or rebuttal deemed appropriate by the correspondent and shall be signed by the correspondent under oath or affirmation.

c. If the correspondent is unable to prepare a response within 30 days, an extension for one additional 30 day period shall be granted upon receipt of the correspondent's written request for such an extension.

d. At the time of the filing of the correspondent's written response to the notification of the proposed denial, revocation, or non-renewal, the correspondent may request, and shall be granted, the opportunity to make a personal appearance before the Director, PSD, for the purpose of personally supporting his or her eligibility for a pass and to rebut or explain the factual basis for the proposed denial. The Director shall exercise, in consultation with the OGC, DoD and OASD(PA), final review authority in the matter. The correspondent may be represented by counsel during this appearance.

e. On the basis of the correspondent's written and personal response and the factual basis for the proposed denial, revocation, or non-renewal, the Director, PSD, in consultation with the OGC, DoD and OASD(PA), shall determine whether or not further inquiry or investigation concerning the issues raised is necessary.

(1) If a decision is made that no such inquiry is necessary, a final decision shall be issued in conformity with paragraph 4 of this appendix.

(2) If a decision is made that such further inquiry is necessary, the Director, PSD, in consultation with the OGC, DoD and the OASD(PA), shall conduct such further inquiry as the Director deems appropriate. At the Director's discretion, the inquiry may consist of:

(a) The security of documentary evidence;

(b) Personal interviews;

(c) An informal hearing;

(d) Any combination of sections 5.e.(2) (a) through (c) of this section.

f. On the basis of the correspondent's written and personal response, the factual basis for the proposed denial, and the additional inquiry provided for, if such inquiry is conducted, a final decision shall be expeditiously made by the Director, PSD, in consultation with the OGC, DoD and OASD(PA), and in accordance with the standard in paragraph G.4. of this appendix. If a final adverse decision is reached, the correspondent shall be notified of this final decision in writing. This notification shall state, as precisely as possible and to the extent that security considerations permit, the factual basis for the denial in relation to the standard in paragraph G.4. of this appendix. This notification shall be sent by registered mail and shall be signed by the Director, PSD.

Appendix B to Part 153—Access and Property Control

A. Admittance Procedures

Each individual, military and civilian (except officials listed), shall show his or her DoD building pass or other authorized

identification card when entering the building and/or when leaving the building or upon request by a police officer. Building passes shall be displayed visibly on outer clothing at all times between 1800 to 0600 hours, Monday through Friday, all day on Saturdays, Sundays, and holidays, or at the direction of the Director, WHS. Department of Defense officials, who are located in the National Capital Region in the grade of Executive Level IV and above or a U.S. four star officer, are not required to show or wear a DoD building pass.

Each DoD Component shall submit 15 copies of 8 by 10 1/2 inch color photographs of these officials to the Physical Security Division (PSD). The Director, PSD shall provide the Defense Protective Service (DPS) a list of names and sufficient photographs. The DPS shall post a book containing only these photographs. No alterations of these books shall be made without the written consent of the Director, PSD.

B. Personnel Access

Access via the building pedestrian entrances shall be restricted for official use. All persons, who do not possess a permanent DoD building pass, shall walk through the metal detector, if present, and all handcarried items shall be x-rayed, if equipment is present. Any person with a valid law enforcement credential or has written authorization from the Director, PSD, is exempt from walking through the metal detector. At any time, a person without a permanent DoD building pass may be requested to show a photographic identification card; for example, drivers license. All personnel shall possess one of the following valid identification cards during specified hours:

1. *0600–1800 hours* (6 a.m.–6 p.m.) Monday–Friday excluding holidays.

a. DD Form 1466 (white border).

b. DD Form 1466 (pink border).

c. DD Form 1466 (blue border).

d. DD Form 1469 (orange background).

e. DD Form 1469 (yellow background).

f. DD Form 1469 (tan background).

g. The following law enforcement credentials: (1) Federal Bureau of Investigation (FBI), (2) United States Secret Service (USSS), (3) Defense Protective Service (DPS).

h. Identification cards issued to a Senator or member of the House of Representatives.

i. DD Form 2 (Active), "Armed Forces Identification Card" (green); DD Form 2 (Reserve) "U.S. Armed Forces Identification Card" (red); and DD Form 2 (Retired) "United States Uniformed Services Identification Card" (blue or gray).

j. DD Form 1173 "Uniformed Services Identification and Privilege Card". HOLDERS OF CARDS MARKED "FM" IN BLOCK 11 (LOWER LEFT SIDE) SHALL NOT BE GRANTED ENTRY.

k. DoD Civilian Identification Cards are used by active duty and retired DoD civilian personnel. The following criteria are required before cards shall be accepted for entrance:

(1) Photograph of bearer.

(2) Signature of bearer.

(3) Card must be a DD Form, DA Form, AF Form, USN Form OR must have a DoD Component return address.

1. White House Passes marked "WHS" or "USSS".

2. *1800–0600 hours* (6 p.m.–6 a.m.) Monday–Friday and *0001–2400 hours* (12 a.m.–12 p.m.) Saturday, Sunday, and holidays.

a. DD Form 1466 (white border) stamped "PNT", "FOB2", "PUP" or "NCR".

b. DD Form 1466 (pink border) stamped "PNT", "FOB2", "PUP" or "NCR".

c. DD Form 1469 (orange background) stamped "PNT", "FOB2", "PUP", or "NCR".

d. DD Form 1469 (yellow background) stamped "PNT", "FOB2", or "PUP".

e. The following law enforcement credentials: (1) Federal Bureau of Investigation (FBI), (2) United States Secret Service (USSS), (3) Defense Protective Service (DPS).

f. Identification cards issued to a Senator or member of the House of Representatives.

C. Visitors

1. *Access.* Visitors shall be allowed access only if they are attending a function sponsored by a DoD Component or conducting official DoD business. All visitors shall be the responsibility of the DoD Component requesting admittance.

2. *Escort.* A visitor shall be met at the entrance by a representative of the office to be visited, escorted while in the building, and escorted out of the building at the conclusion of the visit. Only personnel with a DD Form 1466 (white border) or DD Form 1466 (pink border), which is stamped "ESCORT," shall be allowed to escort 15 people or less. The visitors shall sign SD Form 490, "Defense Protective Service Visitor Register." It shall be completed upon entry. If a person leaves by another exit, he or she shall complete the register at that exit point. The DPS shall collect the registers each day and provide them to PSD.

a. Visitors, accompanied by any of the exempted officials who do not wear a DoD building pass as listed in section A. of this appendix, shall be permitted to enter and leave the building without signing the visitor register.

b. All foreign visitors shall obtain permission for admittance from the U.S. Army, U.S. Navy, U.S. Air Force or Defense Intelligence Agency foreign liaison offices prior to entry.

c. All visitors shall walk through the metal detector, if present, and all hand-carried items shall be x-rayed, if equipment is present.

3. *Groups.* Groups of visitors larger than 15 persons shall be allowed access from 0600 to 1800 hours, Monday through Friday, excluding holidays. The head of the DoD Component shall submit an official, written request through the DoD Component Security Manager to the Director, PSD, at least 24 hours in advance of the event. All requests shall include a roster of the visitors, specify a single point of entry, the location of the function, and name(s) and telephone number(s) of escort personnel. The visitor roster shall not be signed by the visitors.

4. *Pentagon Protocol Doors.* Visitors, meeting the Secretary of Defense; Deputy Secretary of Defense; Chairman, Joint Chiefs of Staff; Secretaries of the Military Departments; Chiefs of Staff of the U.S. Army and U.S. Air Force; and Chief of Naval Operations shall be coordinated with Director, PSD. The respective protocol office shall inform PSD in writing. The PSD shall notify DPS and the Federal Facilities Division of the need for services. The Protocol doors at the Mall and River entrances of the Pentagon shall be opened for only these visitors.

D. Pentagon Tours

1. *Access.* All tours, which are conducted in the corridors and rings of the Pentagon with groups larger than 15 persons, shall be conducted by personnel of OASD(PA) between 0900 to 1530 hours, Monday through Friday, excluding holidays. Registration for each tour is required and may be done in person or by written request.

a. *Regular Tours.* The tour window shall allow up to 30 persons, age 12 and older, to sign-up for each tour. Children under the age of 12 must be accompanied by an adult. Tour group sizes shall never exceed 30 persons for one tour guide. In incidents where more than 30 persons are present, an additional tour guide shall follow behind the overbooked tour.

b. *Social Tours.* Groups (15 or more persons) desiring a tour shall make arrangements to drop off persons at corridor 1 or 3. All buses shall park in bus parking in the north parking lot. Groups larger than 60 persons shall be divided into smaller groups. A tour guide shall be posted in front and back of the group.

2. *Procedures.* Each person over 12 years of age shall present some form of picture identification or have a person escort them. The tour guide shall certify the tour total and perform a head count. At the conclusion of the tour, the guide shall perform a head count to ensure accountability. Restrooms, shops, and dining facilities within the Pentagon are not open to the public. Photographic equipment is welcomed, but taking pictures of interior of the offices is prohibited. If any of the procedures are violated, the tour guide shall detain the person and report the incident to the DPS communications center, (703) 697–5555.

E. Pentagon Vehicle Access

1. *AE Drive.* Vehicles entering the interior roads of the Pentagon shall display either a DD Form 1971–7, "Pentagon AE Parking Permit," AE Access Pass, or be listed on the AE index file. The access is valid for a maximum of 1 year. Only vehicles used to load or unload bulky supplies or equipment to make emergency repairs or installation of equipment; to handle volume mail; to transport prisoners under guard; or for handicapped persons shall enter the A&E Drive. For obtaining permits for AE Drive, refer to Administrative Instruction (AI) No. 88 [1]. The type of permits and admittance procedures are as follows:

[1] Copies may be obtained if needed from the Office of the Assistant Secretary of Defense (Public Affairs), the Pentagon, Washington, DC 20301–1400.

a. *AE Drive Parking Permit.* Component Parking Control Office (PCO) shall certify that the applicant has a DoD building pass and a valid need for vehicle access. The Component PCO shall submit the request to the Central Parking Office (CPO). The driver and riders shall display a valid DoD building pass upon entry to AE drive. Parking shall be in designated spaces.

b. *AE Access Pass.* This pass is issued for U.S. Government vehicles only. The Component Security Officer and individual responsible for the permit shall verify the valid need for vehicle access. Individuals in unmarked U.S. Government vehicles shall submit a copy of the vehicle registration. Only the driver shall be authorized access and display a valid DoD building pass. All passengers shall display a valid PERMANENT DoD building pass. A vehicle may be parked for only 1 hour.

c. *Index File.* All other vehicles requiring access more than once a week shall be listed on the Index File. The PCO shall process the reports with the exception of the Executive Secretary of the DoD Concessions Committee who shall process the requests for commercial firms that deliver goods to concessionaires. All requesters shall complete DD Form 2583, "Vehicle Access Application," and type a brief justification statement on the reverse side. The form shall be submitted to the Director, PSD. Only a driver and helper are authorized access and shall be posted on the index file. These personnel shall display a valid permanent DoD building pass or photographic drivers license. During 1800 to 0600 hours, Monday through Friday, holidays, Saturday and Sunday, the driver and helper shall be issued a visitor pass, if they do not have a building pass. The police officer shall check the photograph against the individual and the name on the drivers license against the name on the index file. The police officer shall give the driver an AE one hour temporary parking permit with the date, time of entry, and vehicle license number printed on the front of the permit. The police officer shall record the vehicle tag number, driver and helper names, and building pass or drivers license number. A vehicle may be parked for only 1 hour.

d. *One-Time Request.* Clearance request for admittance on a one-time basis shall be coordinated through the Component PCO for each occurrence. All requesters shall complete the DD Form 2583, "Vehicle Access Application," and type a brief justification statement on the reverse side. The form shall be submitted to the Director, PSD. In an emergency, telephone requests to the CPO shall be permitted. Only driver and helper with DoD building pass or escorted by a person possessing a valid DOD building pass shall be authorized entry. During 1800 to 0600 hours, Monday through Friday, holidays, Saturday and Sunday, the driver and helper shall be issued a visitor pass. The police officer shall give the driver an AE 1 hour temporary parking permit with the date, time of entry, and vehicle license number printed on the front of the permit. The police officer shall record the vehicle tag number, driver and helper names, and DoD building pass or driver's license number. A vehicle may be parked for only 1 hour.

e. *Requirements.* The following conditions shall be followed by the driver:

(1) The vehicle and all occupants shall be subject to inspection by DPS.

(2) Bulky material rather than the classification of the material shall be the basic criterion for entrance.

(3) Parking in the center courtyard shall be prohibited.

(4) All parking or driving shall be in accordance with posted signs. Violators shall be subject to violation notice and/or towing.

(5) Pick up and drop off of passengers, except handicapped, is prohibited.

2. *Loading Docks.* Access to a loading dock does not constitute admittance to the Pentagon nor is it considered a pedestrian entrance. Only driver and helper receiving or transporting bulk material for official Government use shall be admitted to the loading docks with one of the following:

a. *Vehicle Access Pass.* The pass shall be issued only for U.S. Government vehicles requiring access at least 3 times a week. The Agency Parking Representative (APR) shall submit a letter of justification to the CPO. The driver and helper shall display a valid DoD building pass.

b. *Index List.* Vehicles, requiring access more than once a week, shall be listed on the index list for the specified loading dock. The APR shall complete DD Form and type a brief justification statement on the reverse side. The form shall be submitted to the Director, PSD. Only a driver and helper are authorized access and shall be posted on the index list. These personnel shall display a valid permanent DoD building pass or photographic drivers license. The police officer shall check the photograph against the individual and the name on the drivers license against the name on the index list. The police officer shall record the vehicle tag number, driver and helper names, and building pass or drivers license number.

c. *One-Time Request.* The APR shall clear a vehicle through the CPO for one occurrence. Only the driver and helper are authorized access and shall display a valid permanent DoD building pass or a valid photographic drivers license. The police officer shall check the photograph against the individual and the name on the drivers license against the name on the access request. The police officer shall record the vehicle tag number, driver and helper names, and building pass or drivers license number.

d. *Bill of Lading.* The driver shall display a bill of lading, shipping document, receipt, invoice, or DoD contract indicating delivery. The police officer shall inspect the material to verify the above-mentioned documentation. The driver and helper shall display a valid photographic drivers license. The police officer shall check the photograph against the individual. The police officer shall record the vehicle tag number, driver and helper names, drivers license number.

e. *Other-than-normal Operating Hours.* DoD Components, anticipating movement or delivery of equipment and supplies during other-than-normal operating hours, shall submit a written request to the Director, PSD. It shall contain the date, time, name(s), and telephone number(s) of the project officer(s) and commercial firm(s). Notification shall be furnished at least 24 hours in advance and include DD Form coverage for the extended period and include DD Form 448 for reimbursement of police coverage for the extended period.

3. *Control Gates.* Personnel shall be authorized access via the control gates using one of the following methods:

a. *A Card Access Key and a GMR, GRR Parking, RA, MP, or Reserved Numbered Permit.* The APR shall obtain the card access key, GMR, GRR, and reserved numbered permits as outlined in AI 88.

b. *An Official Business (OB) Pass.* An OB pass can be obtained by written request to the CPO. Full justification is required before approval. This pass is for access only and is not an authorization to park. Only Government-owned vehicles or vehicles of Members of Congress shall park in spaces designated as reserved for official vehicles. Parking in these spaces is limited to fifteen minutes for Government-owned vehicles.

c. *Telephone Clearance From an APR To Central Parking Control.* Telephone clearance is obtained by contacting the APR. The APR is responsible for providing the CPO with the following information, when traveling by:

(1) Privately owned vehicle (POV): State of registration, tag number of the POV, and date and time of arrival.

(2) U.S. Government vehicle (GOV): Name of visitor(s) (individual may be requested to display photographic identification prior to vehicle admittance), and date and time of arrival.

(3) Public transportation: Name of visitor(s) (individual will be requested to display photographic identification prior to vehicle admittance), and date and time of arrival.

d. *Authorized Taxi List from the CPO.*

e. *Vehicles With Congressional License Plates.* Vehicles with congressional license plates shall be admitted (photographic identification may be requested). Reserved spaces are available at the Mall entrance. Members of Congress visiting the Secretary of Defense, Deputy Secretary of Defense, and Chairman, Joint Chiefs of Staff (CJCS) are authorized to park at the River Entrance in spaces reserved for official vehicles and/or visitor spaces.

f. *Foreign Liaison Office Clearances For Foreign Visitors.* Vehicles for all official foreign visitors to the Office of the Secretary of Defense, Office of the Deputy Secretary of Defense, CJCS, and Director, Defense Intelligence Agency shall be cleared for access to the River Entrance through the DIA Foreign Liaison (703) 695–6669. Foreign visitors to the Army (703) 697–2552, Air Force (703) 697–2865, or Navy (703) 695–5333 shall coordinate access through the respective service foreign liaison office. Foreign visitors shall be authorized to park in the Mall Extension Parking area only. Parking at the River or Mall by foreign nationals is strictly prohibited.

g. *Bus Clearances From PSD.* Buses normally will not be permitted access to the River or Mall Parking Plaza. Visitors to meet personally with the Secretary or Deputy Secretary of Defense, CJCS, Secretaries of the Military Departments, Chiefs of Staff of U.S.

Army and U.S. Air Force, and Chief of Naval Operations shall be granted access upon written request. The following information shall be provided, in writing, to the Director, PSD, for approval as far in advance of the visit as possible.

(1) Tag numbers and State of registration.

(2) Bus drivers first and last names.

(3) Date and time of arrival.

(4) Reason for the visit.

Approval is for the loading or discharge of passengers only. Buses shall not be allowed to park or idle for more than 15 minutes at the River or Mall Plaza. Bus parking is provided in north parking area. Passenger discharge points are located in south parking area at Corridors 1 and 3, next to Mall Annex parking area, and on Boundary Channel Drive.

F. FB2 Vehicle Access

1. *Perimeter Gates.* Vehicles entering the compound of FB2 shall display either an FB2 Compound Parking Permit, FB2 Access Pass, or be listed on the FB2 index file. The access is valid for a maximum of 1 year. U.S. Government or commercial transportation vehicles shall not enter the compound for picking up or discharging passengers. To obtain a permit for FB2 Compound, refer to AI 88.

2. *Procedures.* The types of permits and admittance procedures are as follows:

a. *FB2 Compound Parking Permit.* Component Parking Control Officer (PCO) shall certify that the applicant has a DoD building pass and a valid need for vehicle access. The Component PCO shall submit the request to the Central Parking Office (CPO). The driver and riders shall display a valid DoD building pass upon entry to the FB2 compound. Parking shall be in designated spaces.

b. *FB2 Access Pass.* The pass shall be issued only for U.S. Government vehicles requiring access at least 3 times a week. The Agency Parking Representative (APR) shall submit a letter of justification to the CPO. The driver and helper shall display a valid DoD building pass.

c. *Index List.* Vehicles, requiring access more than once a week, shall be listed on the index list for the specified loading dock. The APR shall complete DD Form and type a brief justification statement on the reverse side. The form shall be submitted to the Director, PSD. Only a driver and helper are authorized access and shall be posted on the index list. These personnel shall display a valid permanent DoD building pass or photographic drivers license. The police officer shall check the photograph against the individual and the name on the drivers license against the name on the index list. The police officer shall record the vehicle tag number, driver and helper names, and building pass or drivers license number.

d. *One-Time Request.* The APR shall clear a vehicle through the CPO for one occurrence. Only the driver and helper are authorized access and shall display a valid permanent DoD building pass or a valid photographic drivers license. The police officer shall check the photograph against the individual and the name on the drivers license against the name on the access request. The police officer shall record the vehicle tag number, driver and helper names, and building pass or drivers license number.

G. Roof Access

1. *Access.* Only personnel who possess a DoD building pass and are performing maintenance on the roof or its appurtenances, shall be authorized unescorted access to the roof. Each DoD Component shall submit a list of the names of the authorized persons requiring access and the DoD building pass number to the Defense Protective Service. This list shall be renewed on a yearly basis. The Physical Security Division shall monitor the access.

2. *Antennas.* Only antennas used and controlled by the Components shall be mounted on the roof. The Director, Federal Facilities Division, shall authorize the installation, establishment, and accountability of all antennas. If an antenna is used for transmission of information, the DoD Component shall certify it will not interfere with existing antennas and, if found to cause interference, shall immediately discontinue its use until repaired or changed.

H. Property Inspection and Control

All property, brief cases, packages, and other containers entering or being removed from the buildings on the Pentagon Reservation are subject inspection by the Defense Protective Service police officer.

1. *Letter or Memorandum.* A letter or memorandum is the form used to authorize U.S. Government or personal property to be removed from the building.

a. The letter or memorandum shall be typed on 8½ by 11 inch paper, DoD letterhead, and in the following format:

(1) Date: (The month, day, and year the property is to be removed or see paragraph b. of this section).

(2) Name: (The last name, first name, and middle initial of the individual removing the property.)

(3) Pass Number: (A valid DoD building pass number of the individual removing the equipment or escorting the individual removing the equipment.)

(4) Building: (Pentagon, FOB2, Utilities Plant.)

(5) Room Number: (List the room number the equipment is being removed from.)

(6) Point of Contact: (A last name, first name, middle initial, and telephone number of a person who works within the building and can identify the equipment.)

(7) Equipment List: (Serial Number, Make, and Model Number, or see paragraph c. of this section).

(8) Authorizing official: (The typed name and the original signature of authorizing official.)

b. For an item that will be removed from the building on a recurring basis, a letter or memorandum shall be extended for a maximum period not to exceed 1 year. The date shall be one year from the date of the letter or memorandum. The completed letter or memorandum shall be sent to the Physical Security Division, Room 3C345. The Director, PSD, or designee shall issue a laminated card to the individual removing the property.

c. When packages or boxes (not oversize envelopes) that contain classified material are being removed from the building, a properly authenticated letter or memorandum is required along with a courier card, DD Form 2501. Paragraph 7 of the letter or memorandum shall be noted with the following caveat, "CONTENTS CLASSIFIED—NOT SUBJECT TO INSPECTION. For confirmation, call_____".

2. *Authorizing Officials.* The DoD Component shall appoint an authorizing official who shall sign the letter or memorandum. The number of authorizing officials shall be kept to the absolute minimum, consistent with operating efficiency. Each DoD Component shall submit a letter of authorization that will indicate new official(s) or terminated official(s), the organization or office symbol, building, room number, and telephone number. The letter shall be addressed to Director, Physical Security Division, room 3C345, the Pentagon.

a. A specimen signature on DD Form 577, "Signature Card", of person authorized to authenticate the letter or memorandum shall be attached to the letter. Signature cards automatically expire 3 years from date of issue. Each issuing activity is responsible for assuring that these cards are maintained in a current status.

b. The Director, PSD, shall maintain a roster of authorizing officials. This roster shall be posted at all entrances every 2 weeks. Persons, who do not authorize 12 letters or memorandums in 3 months, shall be automatically removed from the roster. Any DoD Component, that cannot meet this criteria, shall submit a memorandum to the Director, PSD to request a waiver. The Director shall grant the waivers that are properly justified.

3. *Defense Protective Service.* The police officer shall collect all letters or memorandums except extended property cards. Prior to collection, the police officer shall inspect the property to ensure all material is listed on the letter, memorandum, or card. In addition, the holder of the paperwork shall display a valid identification card used for entry. If the material is classified as indicated in paragraph 7 of the letter or memorandum, the police officer may call and confirm the legitimacy of the letter or memorandum. If confirmation is obtained, the package may be removed without inspection of the contents. If confirmation cannot be obtained, the authorizing official shall take possession of the package. All improperly wrapped packages shall not be removed from the building.

I. Weapons and/or Explosives

The possession or use of firearms on the Pentagon Reservation by the general public, whether or not a DoD employee, is prohibited. The DPS, the FBI, and USSS persons are the only authorized law enforcement officials to possess or use a firearm in all areas of the Pentagon Reservation. Any law enforcement officer, not assigned to the Pentagon Reservation, shall be allowed admittance with a weapon after the approval of the Chief, DPS.

1. *Admittance.* Any DoD Component that requires a weapon or explosive device be

brought into a building on the Pentagon Reservation shall submit a letter of permission to the PSD. The following information is required:

a. The date and time of entry.

b. Place of entry.

c. Name of individual carrying the weapon or explosive.

d. The room number of the office to be visited.

2. *Security Force.* Any security force, that is located within the Pentagon, is permitted to wear firearms within its respective areas of control while responding to and from an alarmed area or personal protection. Under no circumstances shall this armed person wear a weapon while conducting personal business. A list of persons to wear a weapon shall be submitted to DPS. This list shall be updated quarterly and indicate the annual weapon qualification date.

3. *Protection Detail.* Any armed person, who provides personnel protection for a visitor to the Pentagon, shall notify the PSD in writing. The PSD shall inform DPS of these visits that require armed protection.

J. Photography

1. Cameras and any other visual recording devices are permitted to be used in public areas of the Pentagon Reservation and in building corridors, hallways, lobbies, concourses and the Center Court. Each DoD Component shall post the policy for use within their respective office space. Any photographs or recording by commercial or newspaper agencies shall be coordinated with OASD(PA).

2. A letter or memorandum is required to remove any photographic equipment from the buildings on the Pentagon Reservation as described in section H. of this appendix.

K. Contracts

The following security clauses shall be incorporated into all contracts in which maintenance personnel shall perform the work.

1. *Standards of Conduct.* All persons employed within the boundaries of the property or restricted access areas herein, and all persons permitted to enter such property and areas shall comply with the security regulations that have been established for this contract.

a. The Contractor agrees on behalf of himself and all subcontractors that these security regulations will be observed by Contractor personnel on the property. The Contractor shall make it a specific provision of his subcontracts that these regulations be accepted.

b. The Contractor shall be responsible for maintaining satisfactory standards of employee competency, conduct, appearance and integrity, and shall be responsible for taking such disciplinary action with respect to his employees as ensuring that his employees do not disturb papers on desks, open drawers or cabinets, or use Government telephones, except as authorized.

2. *Building Passes.* Application for building passes shall be limited to employees reasonably anticipated to be employed for a project. The Contractor shall not apply for a building pass for any employee already in possession of a valid building pass.

a. The Contractor and all subcontractors shall provide information regarding all Contractor personnel and others who require or cease to require continuing access to the site. In order to permit the Government to supply badges for on-site personnel, Contractors will cause each individual to fill out a personal identification form. These forms will be provided in advance by the Government to the Contractors. Information required will include, but is not limited to full legal name, date of birth, race, sex and social security number. Processing of the forms will be performed by Government personnel at Government expense normally within five (5) working days. When an individual reports to the site for work the first time, the Contractor will allow a period of one (1) hour for security processing, to include a review of identification forms, review. of the Contractor's employees valid photographic drivers license or birth certificate and fabrication of a temporary badge. Contractor is advised that the hours of operation of the issuing office are Monday, Tuesday, Wednesday, Thursday and Friday (except holidays) 8:30 a.m. to 12 p.m.

b. The temporary badge, not to exceed 120 calendar days furnished by the Government to each Contractor employee, will serve to authorize the wearer to enter and leave the building in connection with this contract. The badge must be worn so as to be clearly visible at all times when on the work site. The badge will be retained by the individual as long as he requires continued admittance to the site, but the contractor will arrange for its immediate return to the Government when such need ceases to exist. If access is required beyond the expiration date, a renewal application shall be required to be submitted a minimum of five (5) working days prior to the pass expiration date.

3. *Access.* Contractor employees shall not remain in secure or restricted areas during lunch hour without approval of the cognizant officials.

a. For overtime work, the Contractor shall give the Contracting Officer's Representative 72 hours notice. This notice is required so that security access may be provided and is separate and distinct from any notices required for outages.

b. The Contractor shall notify the Contracting Officer's Representative not less than 24 hours in advance when he proposes to work in a security area. Notification shall include the following:

(1) Names of individuals who are to work.

(2) The exact time, date and hours of work.

(3) Areas of the Building in which work is to be performed.

(4) Number of crews working in separate areas.

c. The Contractor and his Subcontractors will not be permitted to maintain a field office on the Pentagon reservation for all public contacts. Applicants for employment and all persons not entitled to access the buildings will be required to contact the Contractor at this off-site office.

Appendix C to Part 153—[Reserved]

Appendix D to Part 153—Reimbursable Security Services

A. Limitations

Defense Protective Services (DPS) may be requested to protect highly classified information such as a Sensitive Compartmented Information Facility (SCIF) or an open storage of classified information area within the DoD Components controlled area. DPS police officers or contract guards shall be requested to have a security clearance only when their duties will require daily visual observation or oral interception of classified information.

B. Duties

The police officers shall perform one or more of the following duties:

1. *Access Control.* The police officers shall check DoD building passes or identification cards, issue visitor passes, and/or maintain a visitor register. Any additional clerical or access control shall be accomplished by personnel other than officers or contract guards.

2. *Property Control.* The police officers shall monitor a property pass system or verify serial number, where applicable.

3. *Monitor Alarm Console.* The police officers shall monitor an intrusion detection system and/or a closed circuit television system.

4. *Respond to Alarm.* In case of an annunciation of an alarm, police officers shall respond to an alarm and conduct a search.

C. Armed DPS Police Officer

The DoD Component shall request an armed police officer when the duties cannot be discharged without reverting to the use of force. Personnel shall use the minimum amount of force necessary. Deadly force is justified only under conditions of extreme necessity and as a last resort, when all lesser means have failed or cannot be reasonably employed, and only under one of the following circumstances:

1. *Self-defense.* When deadly force reasonably appears to be necessary to protect law enforcement or security personnel who reasonably believe themselves to be in imminent danger of death or serious bodily harm.

2. *Assets Involving National Security.* When deadly force reasonably appears to be necessary;

(a) To prevent the threatened theft of, damage to, or espionage aimed at assets specifically designated by a Commander or other competent authority as vital to the national security.

(b) To prevent the actual theft of, damage to or espionage aimed at assets which, though not vital to the national security, is of substantial importance to the national security; or

(c) To apprehend or prevent the escape of an individual whose unauthorized presence in the vicinity of property or information vital to the national security reasonably appears to present a threat of theft, sabotage or espionage. DoD assets shall be specifically designated as vital to the national security

only when their loss, damage or compromise would seriously prejudice national security or jeopardize the fulfillment of an essential national defense mission. Examples include: nuclear weapons; nuclear command, control and communications facilities; special nuclear material; chemical munitions; and, designated restricted areas containing Top Secret information.

3. *Assets Not Involving National Security But Inherently Dangerous to Others.* When deadly force reasonably appears to be necessary to prevent the actual theft or sabotage of resources, such as operable weapons or ammunition, which is inherently dangerous to others; i.e., property which, in the hands of an unauthorized individual, presents a substantial potential danger of death or serious bodily harm to others. Examples include high risk portable, lethal missiles, rockets, arms, ammunition and explosives, and special nuclear material.

4. *Serious Offenses Against Persons.* When deadly force reasonably appears to be necessary to prevent the commission of a serious offense involving violence and threatening death or serious bodily harm. Examples include: murder, arson, armed robbery, aggravated assault or rape.

5. *Apprehension.* When deadly force reasonably appears to be necessary to apprehend or prevent the escape of a person who, there is probable cause to believe, has committed an offense of the nature specified in sections C.2 and C.4 of this section.

D. Request Procedures

The DoD Component shall submit a letter of justification to the Chief, DPS. The letter shall be signed by the highest ranking official in charge of the area. Any request not meeting the outlined criteria shall be returned by the police officer. The duty hours worked and specific procedures performed by the DPS shall be attached to the letter. The requesting agency shall fund for the service by submitting DD Form 448 to DPS.

Appendix E to Part 153—Security Equipment and Construction

A. Physical Security Equipment

The Physical Security Division (PSD) shall requisition and maintain all perimeter physical security systems used for the protection of property and persons in any building on the reservation. This does not include those areas under the direct control of the DoD Component.

1. *Coordination.* Prior to the installation of the system, Defense Protective Service (DPS) and security personnel of each Military Department or Agency shall be informed of the new purchase. Any recommendations and/or suggestions shall be sent to the Director, PSD, in writing.

2. *Maintenance/Repair.* The PSD shall perform routine maintenance and set the level of security where applicable. The DPS shall telephone (703) 697–0519 for repairs after conducting a self check.

B. Building Perimeter Locks

1. *Locks.* The Physical Security Division (PSD) shall install and maintain all locks on the perimeter doors of the buildings on the Pentagon Reservation.

2. *Keys.* A set of keys to the locks on the perimeter doors shall be receipted to the Operations Branch, Defense Protective Service (DPS). Records shall be maintained on the accountability of all keys. No keys shall be issued or lent to personnel other than DPS. Lost keys shall be reported to PSD.

C. Security Construction

Requests for security construction within space assigned to DoD Components or public corridor shall be processed as follows:

1. *Requests.* The requester shall submit the request for work to the Building Manager, Federal Facilities Division. A letter of justification, to include the pertinent regulation requiring the construction, shall be attached to the request.

2. *Review.* After review, the BMO shall provide PSD the request for security review. The determination shall ensure the security regulation is properly enforced and uniform standards are applied by all DoD Components.

3. *Disapproval.* The request shall be returned to the BMO for processing. If the request does not meet security standards, the BMO shall return it to the requester.

Appendix F to Part 153—Destruction of Classified Material

A. Destruction Procedures

A central destruction facility on the Pentagon Reservation shall be used for the destruction of classified and Privacy Act information. This facility has been approved by the cognizant organization for the destruction of material up to and including TOP SECRET, SCI, Special Access Program and COMSEC material. For efficient operation, the following procedures shall be followed by the DoD Component:

1. *Bags.* A preprinted red and white striped bag shall be used for the packing of classified material for destruction. These bags shall not be used to package classified material not intended for delivery to a destruction facility or to carry personal items. If these bags are unavailable, plain brown bags shall be marked with bold red stripes and used as a substitute.

a. When placed in use, the bag shall be marked with the room number and telephone number of the DoD Component. If the bag contains Top Secret material, the bag shall be marked with a serial number.

b. Classified waste material shall be placed in a single burn bag—do not double bag the material. The contents of the bag shall not exceed 10 pounds or three fourths of the bag's content. Classified and Privacy Act papers, plastic diskettes, cartridges, and ribbons shall be disposed of in burn bags. Metal computer disks shall be disassembled and placed into boxes that are taped and marked to identify the contents.

c. The filled bag shall be sealed with 1-inch masking tape or the open end folded at least once and stapled every 2 inches.

2. *Pick up.* Classified waste material is picked up daily between the hours of 8 a.m. to 9 a.m. and 11 a.m. to 12 noon at the South loading dock (next to Corridor 3), the Pentagon. DoD Components with high volumes of classified waste may coordinate for special pick up with the NCR incinerator on telephone (703) 695–1828. The driver shall display a DoD building pass and a DIA courier card upon request. PSD shall ensure all drivers have appropriate security clearances.

B. Accountability

In accordance with 32 CFR part 159a, the following accountability procedures shall be instituted:

1. *Letter or Memorandum.* A letter or memorandum is required to maintain accountability of all bags destroyed at the NCR incinerator. The user shall submit a memorandum or letter to the driver. The letter or memorandum shall be typed on 8 1/2 by 11 inch paper, DoD letterhead, and in the following format:

a. Date: (The month, day, and year the bags are delivered.)

b. Name: (The last name, first name, and middle initial of DoD Component point of contact.)

c. Telephone number: (The telephone number of the DoD Component point of contact.)

d. Number of Privacy Act bags:

e. Number of Confidential burn bags:

f. Number of Secret burn bags:

g. Number of Sensitive Compartmented Information (SCI) bags:

h. Number of Top Secret burn bags with beginning and ending serial numbers:

1. Total number of bags:

2. *Retention.* The copy of the letter or memorandum shall be kept by PSD for a minimum of 2 years.

Appendix G to Part 153—Contingency Plans

A. Reporting Procedures

1. *Fire and/or Smoke.* Any person, who observes fire or smoke, should pull immediately the nearest alarm box. If the person smells something burning or smoldering, he or she shall telephone the DPS on (703) 697–5555 and give the room number or location of the possible fire.

2. *Medical.* Whenever a medical emergency arises, telephone the Defense Protective Service on (703) 697–5555. The DPS shall contact the appropriate medical service.

3. *Suspicious Persons and/or Packages.* Any person discovering a suspicious package or observing a suspicious person shall telephone (703) 697–5555. No attempt shall be made by any individual to touch or move the subject article or person.

4. *Nuisance Calls or Persons or Letters.* Unsolicited contacts may be in person, in writing, or by telephone. In some instances, information is given about individuals or organizations that may pose a threat to the safety and security of Government officials. Prompt notification should be given to the DoD Component Security Managers when an explicit or direct threat to harm or kill any Government employee has been made.

When reporting the incident, provide as much information as possible. The cognizant security office shall notify the DPS of threats against personnel assigned within their organization.

a. Contacts that do not contain a direct threat to do harm, but indicate an intent to

embarrass or harass should not be ignored. These should be reported to DPS. Chronic letter writers and multiple telephone calls from an individual generally create more of a nuisance than a threat; however, each should be monitored closely to determine any change in attitude of individuals.

b. Contacts from the public that have a legitimate request or complaint shall be forwarded to the appropriate office for response or resolution.

5. *Bomb Threats.* Any person receiving a bomb threat shall record:

a. Exact words of caller.
b. Time the device is to explode.
c. Location of the device.
d. Time and date of call.
e. Name of caller.
f. Sex of caller.
g. Accents or dialects.
h. Age (ie. young or old).
i. Any background noises heard over the telephone.

Immediately telephone the DPS on (703) 697–5555.

6. *Hostage or Terrorist Incident.* If a hostage or terrorist incident occurs within the Pentagon Reservation, the person knowing first-hand knowledge of the incident shall telephone the DPS on (703) 697–5555 and provide the following information:

a. Location of the incident.
b. Number of hostage takers.
c. Type of weapons with which the hostage takers are armed, if known.
d. The number of hostages held and their physical condition, if known.

7. *Hazardous Material Leak.* Any suspected hazardous material leak shall be reported immediately to DPS on (703) 697–5555.

B. Evacuation Procedures

1. Evacuation Authorization. Only the following officials are authorized to order evacuation:

a. Director of Administration and Management, Office of the Secretary of Defense.
b. Chief, Defense Protective Service.
c. Senior Arlington County Fire Department Official in Charge.

2. *Notification.* Occupants of a sector shall be notified via the alarm system or by the DPS police officer.

3. *Exit and Entry.* Occupants of a sector in which an alarm is sounded shall evacuate immediately via the nearest stairway identified with a lighted "exit" sign. Evacuation will generally be local in order to clear the affected area. The DPS officers shall inform and/or assist personnel in evacuating.

C. THREATCON Levels

1. *THREATCON.* The Joint Chiefs of Staff (JCS) instituted levels and prescribed security measures to facilitate inter-Service coordination and support of DoD anti-terrorism efforts. The levels are:

a. NORMAL. A general terrorist threat does not exist and existing protection measures are in effect.

b. ALPHA. THREATCON ALPHA indicates a general threat of possible terrorist activity against installations, facilities, and personnel, the nature and extent of which are unpredictable and circumstances do not justify full implementation of THREATCON BRAVO measures. However, selected measures from higher THREATCON measures may be implemented at the ALPHA condition as a result from intelligence received or as a deterrent. The measures in this THREATCON must be capable of being maintained indefinitely.

c. BRAVO. THREATCON BRAVO indicates an increased and more predictable threat of terrorist activity exists. The measures in this THREATCON must be capable of being maintained for weeks without causing undue hardship, affecting operational capability, and aggravating relations with local authorities.

d. CHARLIE. THREATCON CHARLIE indicates that an incident has occurred or intelligence is received that some form of terrorist action against installations, facilities, and personnel is imminent. Implementation of this measure for more than a short period probably will create hardship and effect the peacetime activities of the unit and its personnel.

e. DELTA. THREATCON DELTA indicates a terrorist attack has occurred or intelligence has been received that terrorist action against a specific location, facility, or person is likely to occur in the immediate area. This THREATCON normally is issued as a localized warning.

2. *THREATCON Implementation.* The following organizations shall implement the THREATCON levels and measures:

a. Military District of Washington. The THREATCON ALPHA and measures shall be declared by the Military District of Washington. The Director, Washington Headquarters Services shall declare THREATCON BRAVO, CHARLIE, AND DELTA.

b. Defense Protective Service (DPS). DPS shall disseminate the THREATCON levels and measures to the security elements of the DoD Components which are housed in the buildings on the Pentagon Reservation. DPS shall develop and implement the specific THREATCON measures to coincide with the JCS guidelines, which are indicated in paragraph D.3. of this appendix for each building on the Pentagon Reservation.

c. DoD Components. Each DoD Component shall inform their employees of the THREATCON levels; develop and implement measures, which are indicated in D.3. of this appendix.

D. THREATCON Measures

1. *THREATCON ALPHA.*

a. Measure 1. At regular intervals, remind all personnel, including family members, to be suspicious and inquisitive about strangers, particularly those carrying suitcases or other containers; to be alert for unidentified vehicles on, or in the vicinity of U.S. installations, units, or facilities; and to be alert for abandoned parcels or suitcases or any unusual activity.

(1) Defense Protective Service (Implement)
(2) DoD Component (Implement)

b. Measure 2. Keep available at all times the duty officer or other appointed personnel who have access to plans for evacuating or sealing off buildings/areas in use or where an explosion or attack has occurred. Keep key personnel who may be needed to implement security plans on call.

(1) Defense Protective Service (Implement)
(2) DoD Component (N/A)

c. Measure 3. Secure buildings, rooms, and storage areas not in regular use.

(1) Defense Protective Service (N/A)
(2) DoD Component (Implement)

d. Measure 4. Increase security spot checks of vehicles and persons entering installations and unclassified areas under the jurisdiction of the U.S. command or agency.

(1) Defense Protective Service (Implement)
(2) DoD Component (N/A)

e. Measure 5. Limit access points for vehicles and personnel commensurate with a reasonable flow of traffic.

(1) Defense Protective Service (Implement)
(2) DoD Component (N/A)

f. Measure 6. As a deterrent, apply one of the following measures from THREATCON BRAVO individually and randomly:

(1) Secure and regularly inspect all buildings, rooms, and storage areas not in regular use (Measure 14).

(a) Defense Protective Service (Implement)
(b) DoD Component (Implement)

(2) At the beginning and end of each workday and at regular and frequent intervals, inspect the interior and exterior of building in regular use for suspicious activity or packages (Measure 15).

(a) Defense Protective Service (Implement)
(b) DoD Component (N/A)

(3) Check all deliveries to messes, clubs, and so forth. Advise family members to check all home deliveries (Measure 17).

(a) Defense Protective Service (N/A)
(b) DoD Component (N/A)

(4) As resources allow, increase surveillance of domestic accommodations, schools, messes, clubs, and other soft targets to improve deterrence and defense and build confidence among staff and family members (Measure 18).

(a) Defense Protective Service (N/A)
(b) DoD Component (N/A)

g. Measure 7. Review all plans, orders, personnel details, and logistic requirements related to the introduction of a higher THREATCON.

(1) Defense Protective Service (Implement)
(2) DoD Component (Implement)

h. Measure 8. As appropriate, review and implement security measures, for high risk personnel (for example, direct use of inconspicuous body armor).

(1) Defense Protective Service (N/A)
(2) DoD Component (Implement)

i. Measure 9. Spare for command use.

(1) Defense Protective Service (N/A)
(2) DoD Component (N/A)

2. *THREATCON BRAVO.*

(a) Measure 10. Repeat Measure 1 and warn personnel of any other form of attack terrorists may use.

(1) Defense Protective Service (Implement)
(2) DoD Component (Implement)

(b) Measure 11. Keep on call all personnel involved in implementing anti-terrorist contingency plans.

(1) Defense Protective Service (Implement)
(2) DoD Component (N/A)

(c) Measure 12. Check plans for implementation of the measures contained in the next higher THREATCON.
(1) Defense Protective Service (Implement)
(2) DoD Component (Implement)
(d) Measure 13. Where possible, cars and objects such as crates and trash containers are to be moved at least 25 meters from buildings, particularly those buildings of a sensitive or prestigious nature. Consider the application of centralized parking.
(1) Defense Protective Service (Implement)
(2) DoD Component (N/A)
(e) Measure 14. Secure and regularly inspect all buildings, rooms, and storage areas not in regular use.
(1) Defense Protective Service (N/A)
(2) DoD Component (Implement)
(f) Measure 15. At the beginning and end of each workday and at other regular and frequent intervals, inspect the interior and exterior of buildings in regular use for suspicious packages.
(1) Defense Protective Service (Implement)
(2) DoD Component (N/A)
(g) Measure 16. Increase examination of all mail or letters for parcel bombs.
(1) Defense Protective Service (N/A)
(2) DoD Component (Implement)
(h) Measure 17. Check all deliveries to messes, clubs, and so forth. Advise family members to check all home deliveries.
(1) Defense Protective Service (N/A)
(2) DoD Component (N/A)
(i) Measure 18. As resources will allow, increase surveillance of domestic accommodations, schools, messes, clubs, and other soft targets to improve deterrence and defense and to build confidence among staff and family members.
(1) Defense Protective Service (N/A)
(2) DoD Component (N/A)
(j) Measure 19. Make staff and family members aware of the general situation in order to stop rumors and prevent unnecessary alarm.
(1) Defense Protective Service (N/A)
(2) DoD Component (N/A)
(k) Measure 20. At an early stage, inform members of local security committees of any action being taken and why.
(1) Defense Protective Service (Implement)
(2) DoD Component (Implement)
(l) Measure 21. Physically inspect visitors to the unit and a percentage of their suitcases, parcels, and other containers.
(1) Defense Protective Service (Implement)
(2) DoD Component (N/A)
(m) Measure 22. Wherever possible, operate random patrols to check vehicles, people, and buildings.
(1) Defense Protective Service (Implement)
(2) DoD Component (N/A)
(n) Measure 23. Protect off-base military personnel and transport in accordance with prepared plans. Remind drivers to lock parked vehicles and institute a positive system of checking before entering and driving a car.
(1) Defense Protective Service (N/A)
(2) DoD Component (Implement)
(o) Measure 24. As appropriate, implement additional security measures for high risk personnel.
(1) Defense Protective Service (N/A)
(2) DoD Component (Implement)
(p) Measure 25. Brief personnel who may augment guard personnel on the use of deadly force.
(1) Defense Protective Service (Implement)
(2) DoD Component (N/A)
(q) Measures 26–29. Spares for command use.
(1) Defense Protective Service (N/A)
(2) DoD Component (N/A)
3. *THREATCON CHARLIE.*
(a) Measure 30. Continue all THREATCON BRAVO measures or introduce those outstanding.
(1) Defense Protective Service (Implement)
(2) DoD Component (Implement)
(b) Measure 31. Keep all personnel responsible for implementing anti-terrorist plans available at their places of duty.
(1) Defense Protective Service (Implement)
(2) DoD Component (N/A)
(c) Measure 32. Limit access points to absolute minimum.
(1) Defense Protective Service (Implement)
(2) DoD Component (N/A)
(d) Measure 33. Strictly enforce entry control and search a percentage of vehicles.
(1) Defense Protective Service (Implement)
(2) DoD Component (N/A)
(e) Measure 34. Enforce centralized parking of vehicles away from sensitive buildings.
(1) Defense Protective Service (N/A)
(2) DoD Component (N/A)
(f) Measure 35. Issue weapons to guards. (Local orders should include specific orders on issue of ammunition).
(1) Defense Protective Service (N/A)
(2) DoD Component (N/A)
(g) Measure 36. Introduce increased patrolling of the installation.
(1) Defense Protective Service (Implement)
(2) DoD Component (N/A)
(h) Measure 37. Protect all designated vulnerable points giving special attention to those outside military establishments.
(1) Defense Protective Service (Implement)
(2) DoD Component (N/A)
(i) Measure 38. Erect barriers and obstacles to control traffic flow.
(1) Defense Protective Service (Implement)
(2) DoD Component (N/A)
(j) Measure 39. Spares for command use.
(1) Defense Protective Service (N/A)
(2) DoD Component (N/A)
4. *THREATCON DELTA.*
(a) Measure 40. Continue or introduce all measures listed for THREATCONS BRAVO and CHARLIE.
(1) Defense Protective Service (Implement)
(2) DoD Component (Implement)
(b) Measure 41. Augment guards as necessary.
(1) Defense Protective Service (Implement)
(2) DoD Component (N/A)
(c) Measure 42. Identify all vehicles already on the installation within operational or mission support areas.
(1) Defense Protective Service (Implement)
(2) DoD Component (N/A)
(d) Measure 43. Search all vehicles and their contents entering the complex or installation.
(1) Defense Protective Service (Implement)
(2) DoD Component (N/A)
(e) Measure 44. Control all installation access, and implement positive identification of all personnel.
(1) Defense Protective Service (Implement)
(2) DoD Component (N/A)
(f) Measure 45. Search all baggage such as suitcases, packages, and briefcases brought into the complex or installation.
(1) Defense Protective Service (Implement)
(2) DoD Component (N/A)
(g) Measure 46. Take measures to control access to all areas under the jurisdiction of the U.S. command or agency concerned.
(1) Defense Protective Service (N/A)
(2) DoD Component (N/A)
(h) Measure 47. Make frequent checks of the exterior of buildings and parking areas.
(1) Defense Protective Service (Implement)
(2) DoD Component (N/A)
(i) Measure 48. Minimize all administrative journeys and visits.
(1) Defense Protective Service (N/A)
(2) DoD Component (Implement)
(j) Measure 49. Consult local authorities about closing public (and military) roads and facilities that might make sites more vulnerable to terrorist attack.
(1) Defense Protective Service (Implement)
(2) DoD Component (N/A)
(k) Measure 50. Spare for command use.
(1) Defense Protective Service (N/A)
(2) DoD Component (N/A)

Dated: July 3, 1991.

L.M. Bynum,

Alternate OSD Federal Liaison Officer, Department of Defense.

[FR Doc. 91–16309 Filed 7–18–91; 8:45 am]

BILLING CODE 3810–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 79

[FRL–3974–1]

Regulations for Registration of Lead Substitute Gasoline Additives To Reduce Valve Seat Wear

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes criteria for any person electing to register a gasoline additive as a lead substitute gasoline additive for reducing valve seat wear. In addition, test procedures to determine a lead substitute additive's effectiveness in reducing valve seat wear and the additive's tendencies to produce engine deposits and other adverse side effects are proposed. This information will assist owners of engines which require this type of additive in making their decisions concerning an additive's effectiveness in reducing valve seat wear.

DATES: The Agency does not plan to hold a public hearing on these proposed criteria unless one is requested by August 2, 1991. Requests for a hearing

must be submitted in writing to Marilyn McCall, at the address in the "ADDRESSES" section. If a hearing is requested, it will be announced in the Federal Register. If a hearing is not held, comments on this proposal must be received no later than August 19, 1991. Otherwise, the comment period would close 30 days after the hearing. Extensions to this comment period will not be allowed due to the necessity to publish rules and to test additives within 18 months of the date of the enactment of the Clean Air Act Amendments of 1990 mandated by the Clean Air Act as amended by the Clean Air Act Amendments of 1990.

ADDRESSES: Interested parties may submit written comments to Public Docket No. A–91–12. It is requested that a duplicate copy be submitted to Marilyn McCall, Environmental Protection Specialist, Field Operations and Support Division (EN–397F) EPA, 401 M Street SW., Washington, DC 20460. The docket is located at the Air Docket, room M–1500, Waterside Mall, 401 M Street, SW, Washington, DC 20460. The docket may be inspected between 8:30 am and 12 noon and between 1:30 pm and 3:30 on weekdays. As provided by 40 CFR part 2, a reasonable fee may be charged for photocopying docket materials.

FOR FURTHER INFORMATION CONTACT: Marilyn McCall at (202) 382–2660.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 211(j)(2) of the Clean Air Act (42 U.S.C. 7545) as amended by the Clean Air Amendments of 1990, Public Law 101–549, section 218 (Act), provides for the registration of a gasoline additive as a lead substitute for reducing valve seat wear and requires the Agency to develop and publish test procedures to determine the additive's effectiveness in reducing valve seat wear and the additive's tendencies to produce engine deposits and other adverse side effects. It states that—

> * * * after the date of the enactment of the Clean Air Act Amendments of 1990, any person proposing to register any gasoline additive under subsection (a) (of section 211) or to use any previously registered additive as a lead substitute may also elect to register the additive as a lead substitute gasoline additive for reducing valve seat wear by providing the Administrator with such relevant information regarding product identity and composition as the Administrator deems necessary for carrying out the responsibilities of paragraph (2) of this subsection (in addition to other information which may be required under subsection (b)).

The following background section gives a summary of related activities, including some testing previously performed on lead substitute additives. Section III is a discussion of the criteria for registering a product as a lead substitute gasoline additive for reducing valve seat wear. Section IV describes the proposed test procedures, including a discussion of how these test procedures were developed.

II. Background

On March 7, 1985, in 50 FR 9386, the Environmental Protection Agency (EPA) issued a final rule promulgating a low-lead standard of 0.10 gram of lead per gallon of leaded gasoline (gplg) effective January 1, 1986, and an interim standard of 0.50 gplg effective on July 1, 1985. In addition, in 50 FR 9400, March 7, 1985, a proposal to ban leaded gasoline as early as January 1, 1988 was announced in a supplemental notice of proposed rulemaking. Under section 211(n) of the amended Clean Air Act, after December 31, 1995, it will be unlawful to sell "any gasoline which contains lead or lead additives." Throughout the lead phasedown program, concern has been raised that low-lead or unleaded gasoline may cause valve-seat recession in engines designed to operate on leaded gasoline. Since there are large numbers of older engines in the farm community that use leaded gasoline, the effect of the tighter lead phasedown standard and the proposal and provision to ban leaded gasoline have raised a great deal of concern.

Due to concerns from the agricultural community, section 1765 of the Food Security Act of 1985 (Pub. L. No. 99–198) required the Environmental Protection Agency (EPA) and the U.S. Department of Agriculture (USDA) to do a study on the possible valve-seat recession effects of unleaded gasoline, low-lead gasoline, and non-lead valve lubricating additives. The study was jointly published by the EPA and USDA in 1987 and was made available for comment by the public in 52 FR 15376, April 28, 1987. In 1988, EPA issued a report to the President and Congress in 53 FR 39516, October 7, 1988, concluding that certain engines designed for leaded gasoline would suffer valve damage using unleaded gasoline at moderate to heavy loads, and that non-lead substitute additives showed promise at reducing valve damage, but warranted further investigation. (A copy of the report to the President and Congress has been placed in the docket. The joint study is presented in the report.)

After the publication of the study, EPA held a workshop to discuss issues concerning valve-seat protection for agricultural engines and the appropriateness of EPA's definition of leaded gasoline. (See 53 FR 39516, October 7, 1988.) During this workshop EPA and USDA developed a committee to study procedures that could be implemented to protect engines from valve-seat recession and to develop a test procedure to evaluate non-lead valve-seat protection. The group met on October 24, 1989 and discussed the issues raised at the workshop. Those attending included representatives from major additive manufacturers, engine manufacturers, valve seat insert manufacturers, associations representing the agricultural community, and the U.S. government. USDA and EPA representatives drafted a report subsequent to the meeting and revised the report based on further comments from those attending the meeting. The test procedures proposed today are based on the USDA and EPA procedures as revised to take into account the valve seat recession meeting and input from the group members.

III. Registration and Fee Procedures

A description of the proposed additions to part 79 for providing for registration of lead substitute gasoline additives for reducing valve seat wear is set forth below:

1. A definition of a lead substitute gasoline additive for reducing valve seat wear is being proposed to be added to section 79.2.

2. A new subpart E is being proposed to be added to part 79. This new subpart allows an additive manufacturer to register its additive as a lead substitute gasoline additive for reducing valve seat wear. Only an additive that is registered or proposed to be registered under subpart C of part 79 may be submitted for registration as a lead substitute additive for reducing valve seat wear. Additives that are registered under subpart E must be tested by the procedures outlined in appendix A, also proposed herein.

As specified in section 211(j)(2) of the Act, the Administrator shall enter into an arrangement with an independent laboratory to conduct the tests. The Agency plans to have these proposed test criteria promulgated as a final rule by November 15, 1991, and a contract in place to conduct the Agency's tests by December 1991. Thus, tests can be conducted within 18 months of the date of the enactment of the Act, or 6 months after the lead substitute additives are identified to the Administrator as such.

In accordance with section 211(j)(2), the Agency will not rank or rate the additives. The test results will be

reported to the public in the **Federal Register**. Consumers concerned with these results will have access to the data via the **Federal Register**. Manufacturers may cite the test results in an accurate manner under proposed subsection 79.41(d). Comparisons of the test results will be left to the general public. In addition to the testing of the lead substitute additives, the Agency will be testing leaded gasoline at 0.1 gram of lead per gallon (gpg). This result will also be reported in the **Federal Register** for comparison purposes, as specified in section 211(j)(2).

Section 211(j)(2) of the Act states that the additives shall be tested within 18 months of the date of the enactment of the Clean Air Act Amendments of 1990 or within six months of the additive being identified to the Administrator as a lead substitute gasoline additive for reducing valve seat wear. The additive will not be registered as such until the tests have been completed. The Additive to be tested is to be supplied by the manufacturer. The Agency desires that the additive manufacturer provide a laboratory analysis of the additive being tested in order to show that it conforms with the information provided for in subpart C.

Section 211(j)(3) of the Act authorizes the Agency to impose a user fee to recover the costs of testing any additive under this section. Section 211(j)(5) of the Act states that fees—

> * * * collected under this subsection shall be deposited in a special fund in the United States Treasury for licensing and other services which thereafter shall be available for appropriation, to remain available until expended, to carry out the Agency's activities for which the fees were collected.

Section 211(j)(3) states that the fee shall not exceed $20,000 for a single fuel additive.

EPA believes that the testing provided under the proposed rule provides a benefit to the manufacturers who elect to have their additives tested. Benefits result from services which assist manufacturers in marketing a quality product and which give the manufacturer a relevant test to cite to consumers in making decisions on an informal basis in the market place. Fees are authorized under section 211(j) based on the test stated in that section. EPA believes the primary factor in determining fees under section 211(j) is the cost to EPA of providing for the testing. Congress may constitutionally authorize agencies to recover the total costs of administering a program from those regulated under the normal delegation standards. *Skinner* v. *Mid-Atlantic Pipelines Co.*, 490 U.S. 212 (1989). Congress may also authorize fees to be charged on a basis "reasonably related" to service and not on the basis of a special benefit. *Florida Power & Light Co.* v. *U.S.*, 847 F.2nd 765 (D.C. Cir. 1988), cert. denied 109 S.Ct. 1952 (1989). In discussing the agency's legal authority, commenters are requested to recognize the full scope of the agency's specific authority under section 211(j).

Based on tests that were performed in conjunction with the joint study of the EPA and USDA, which was discussed previously in this rulemaking, EPA believes that assessing the maximum fee allowed by the Act is warranted.

By using fee assessment(s), EPA proposes to recover most of the costs incurred for these tests. To calculate the costs for each test, EPA based the fee on actual direct costs that were incurred in the EPA/USDA study.

The EPA/USDA study consisted of 24 tests at 200 hours for each test. The total hours expended during this study were 4800 and the total cost was $750,000 resulting in a cost basis of $156.00 per hour. The test procedures which the Agency is proposing in this rulemaking will need 116 hours expended per test. Based on the previous study costs, 116 hours times the $156.00 rate equals about $18,096.00 for each test. Even with as low as inflation rate as 3% per annum since 1986 when the EPA/USDA study was conducted, the total cost today for each test would exceed $20,000. Therefore, the Agency intends to impose the maximum fee of $20,000 for each lead substitute additive test performed under section 211(j)(3) of the Act. The Agency invites comments on this subject.

While the option to register as a lead substitute gasoline additive for reducing valve seat wear will be available indefinitely, we anticipate that all the activity would occur in the first several years. EPA believes the demand for such additives will continue to decrease as older engines requiring leaded gasoline are replaced or rebuilt to use unleaded. EPA does not anticipate any change in the amount of the fee.

EPA proposes the following procedure for payment of fees. For each lead substitute additive test application request, manufacturers would submit a fee filing form and the complete amount of the fee in the form of a corporate check, money order, bank draft, or certified check, payable in U.S. dollars to the order of the U.S. Environmental Protection Agency. The filing form and accompanying fee would only be accepted for filing at the designated lock-box address indicated on the filing form. EPA would not be responsible for fees received in other than the designated location.

To ensure proper identification and handling, the check and accompanying filing form would indicate the manufacturer's corporate name and the name of the lead substitute additive to be tested.

EPA is proposing that the full fee accompany the filing form. Partial payments or installment payments would not be accepted. If a filing form were submitted with an insufficient remittance, the applicant would be notified and given the opportunity to either submit the difference or withdraw the application and receive a refund of any amount paid. Processing of an application would not proceed until EPA received notification from EPA Headquarters Accounting Operations Branch that full payment had been made. Once the fee has been paid and the testing initiated, there would be no refunds of the fee. Refunds before the tests have begun will be considered on a case by case basis.

EPA believes that allowing an application to enter EPA's processing system prior to payment of the full fee would result in additional administrative costs to the government, delay the U.S. Treasury's receipt of funds, and ultimately decrease the amount of regulatory costs recovered by the government.

All fees which are collected would be deposited in the United States Treasury. Specifically, in accordance with section 211(j)(5) of the Act, any fees collected under this subsection shall be deposited in a Special Fund in the United States Treasury for licensing and other services which thereafter shall be available for appropriation to remain available until expended to carry out the Agency's activities for which the fees were collected.

IV. Test Procedures

1. Introduction

Section 211 of the Act requires that the Agency develop a test procedure to determine lead substitute gasoline additives' effectiveness in reducing valve seat wear and the additives' tendencies to produce engine deposits. The Act also requires that this be done in cooperation with the Secretary of Agriculture, and with input from additive manufacturers, engine and engine component manufacturers, and other interested persons. Based on comments from those participants of the valve seat recession group, valve seat were test procedures have been developed. The group included

representatives of engine manufacturers, valve seat insert manufacturers, lead substitute additive manufacturers, associations which have members that have an interest in the valve seat wear issue, and U.S. government representatives from the EPA and USDA. EPA believes the procedures developed with this input are sufficient to meet the aims of the new statutory provision.

The test procedures prescribe the methods to be used to evaluate the lead substitute gasoline additive's ability to reduce valve seat wear. The test consists of two main evaluations: first, a high speed, high load condition over a relatively short time period—20 hours, to see if the additive has any effect on valve seat recession; and second, a procedure over a longer period of time—96 hours, with lower and variable speeds and loads to evaluate the additives' tendency to form deposits in the engine.

Section 211 requires EPA and USDA to develop a test procedure to determine the additive's tendency to produce engine deposits and other adverse side effects. Originally EPA and USDA drafted a deposit accumulation test procedure which was not included in the report. The members of the valve seat recession group discussed these procedures but had different views on the matter. EPA is not aware of a more appropriate procedure to meet the statutory requirement for a test procedure on deposits and EPA has therefore included the procedure in the proposed rule. The test procedure presented in this NPRM is the same as that which USDA and EPA previously developed with input from the valve seat recession group members. The basis for individual features of the test is set out fully in EPA's report to the President and Congress on the Need for Leaded Gasoline on the Farm, and in the Valve-Seat Recession Committee Report, both available in the public docket. The Agency invites comments on this or any other procedure that would meet the objectives of the Act.

2. Valve Seat Wear Test Procedure

The main elements of the test procedure include the engine to be tested, the necessity to have the air fuel ratio constant from cylinder to cylinder, and the duty cycle. The engine proposed to be used for this procedure is identical to the engine used in the EPA/USDA testing program which demonstrated high susceptibility to valve seat recession. During the earlier testing program it appeared that the highest valve seat recession occurred when the air/fuel ratio was in the lean condition. Therefore, for this test procedure it will be necessary that the air/fuel ratio be controlled at constant stoichiometric operating condition for each cylinder. The duty cycle to be used operates the engine at high speed (3500 rpm), high load (100 horsepower) condition for 20 hours.

Besides using this procedure to evaluate valve seat recession, observations will also be made regarding the formation of deposits while operating under these conditions.

This 20-hour cycle is probably harsher than what will be found in most applications, but EPA believes that it is appropriate in order to have confidence in the test results and the relative effectiveness of the additives tested. Observing valve seat recession while operating the engine on a particular additive does not necessarily mean that valve seat recession will occur while actually using that additive. The purpose of this cycle is to compare the different additive results to those obtained by using 0.1 gpg leaded gasoline.

3. Deposit Accumulation Test Procedure

The engine to be used for this procedure should be the same as for the valve seat recession test. The duty cycle is to consist of variable speeds and loads over 96 hours of operation. Besides using this procedure to evaluate additives for possible deposit accumulation, measurements will also be taken to see if there is any valve seat recession on this less harsh cycle.

Conditions describing the operation of the engine will be measured and functional engine checks, emissions and value seat recession are to be measured and recorded periodically during the test. At the conclusion of the 96-hour test, valve seat recession will be measured and the engine will be examined for deposits and rated in accordance with the Coordinating Research Council (CRC) [1] procedures. CRC manual number 16, CRC carburetor and induction system rating manual should be used. This manual has been incorporated by reference in appendix A and a copy has been placed in the docket. In addition, the color, grain, and quantity of the deposits are to be presented in the final report. The valve weights should be determined before rebuilding the engine and after the CRC rating procedures are performed.

A quality control system is required to be incorporated into these test procedures and the Agency invites comments on an applicable quality control system.

[1] The CRC is a non-profit research corporation supported by the petroleum and automotive equipment industries.

V. Administrative Designation and Regulatory Analysis

Under Executive Order 12291, EP must judge whether a regulation is "major" and, therefore subject to the requirement that a Regulatory Impact Analysis (RIA) be prepared. The Agency has determined that this regulation is not "major" because it does not meet any of the criteria set forth and defined in section 1(b) of the Order.

Also, in accordance with E.O. 12291, the proposed rule was submitted to the Office of Management and Budget (OMB) for review. Any written comments from OMB and any EPA response to those comments are in the public docket for this rulemaking.

VI. Paperwork Reduction Act

This proposed rulemaking does impose some new additional reporting requirements and thus is subject to the Paperwork Reduction Act. The only additional reporting requirement to 40 CFR part 79 in this proposed rule is that the additive manufacturers report background information regarding efficacy testing and that they cite recommendations for the additives' proper use. The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq*. An Information Collection Request document has been prepared by EPA (ICR No. 309) and a copy may be obtained from Sandy Farmer, Information Policy Branch; EPA; 401 M St., SW. (PM–223Y); Washington, DC 20460 or by calling (202) 382–2740.

Public reporting burden for this collection of information is estimated to take an average of 1.55 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing the collection of information.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Chief, Information Policy Branch; EPA; 401 M St., SW. (PM–223Y); Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "ATTENTION: Desk Officer for EPA." The Final Rule will respond to any OMB or public comments on the information

collection requirements contained in this proposal.

VII. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 requires federal agencies to identify potentially adverse impacts of federal regulations upon small entities. In instances where significant impacts are possible on a substantial number of these entities, agencies are required to perform a Regulatory Flexibility Analysis (RFA). EPA has determined that the regulations proposed today would not have a significant impact on a substantial number of small entities. This regulation would affect manufacturers of lead substitute gasoline additives who elect to have their additives tested for their ability to reduce valve seat wear. Since this is a test a manufacturer elects to have done, a substantial number of small entities would not be required by this regulation to have the test performed on their additives.

Therefore, as required under section 605 of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, I certify that this regulation does not have a significant impact on a substantial number of small entities.

VIII. Statutory Authority

Authority for the actions promulgated in this notice is granted to EPA by sections 211 and 301(a) of the Clean Air Act (42 U.S.C. 1857F–6C and 1857g).

List of Subjects in 40 CFR Part 79

Fuel additives, Gasoline, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

Dated: July 1, 1991.

William K. Reilly,

Administrator.

For the reasons set out in the preamble, part 79 of title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 79—REGISTRATION OF FUELS AND FUEL ADDITIVES

1. The authority citation for part 79 is proposed to be revised to read as follows:

Authority: Sec. 211 as added by Pub. L. 101–549, 104 Stat. 2399, section 218 and section 301(a) of the Clean Air Act (42 U.S.C. 1857f–6c and 1857g).

2. Section 79.2 is proposed to be amended by adding a new paragraph (k) to read as follows:

§ 79.2 Definitions.

* * * * *

(k) *Lead substitute gasoline additive for reducing valve seat wear* means any additive that is designed to reduce valve seat wear in engines designed to operate on leaded gasoline.

* * * * *

3. New subpart E consisting of §§ 79.40 through 79.44 is added to read as follows:

Subpart E—Lead Substitute Gasoline Additives for Reducing Valve Seat Wear Registration Procedures

Sec.

79.40 Notification by additive manufacturer.
79.41 Information and assurances to be provided by the additive manufacturer.
79.42 Testing of lead substitute gasoline additives for reducing valve seat wear.
79.43 Registration.
79.44 Termination of registration of lead substitute additives for reducing valve seat wear.

Subpart E—Lead Substitute Gasoline Additives for Reducing Valve Seat Wear Registration Procedures

§ 79.40 Notification by additive manufacturer.

Any manufacturer may elect to also register as a lead substitute gasoline additive for reducing valve seat wear, any additive registered in accordance with subpart C of this part or any additive proposed to be registered in accordance with subpart C of this part. Any manufacturer who wishes to register an additive as a lead substitute gasoline additive for reducing valve seat wear shall notify the Administrator in accordance with § 79.41. Each notification shall be signed by the additive manufacturer or his agent and shall be submitted on such forms as the Administrator will supply upon request.

§ 79.41 Information and assurances to be provided by the additive manufacturer.

(a) Each lead substitute notification submitted by an additive manufacturer shall include the following:

(1) The name of the additive manufacturer.

(2) The name of the previously registered additive or the name of the additive proposed to be registered in accordance with subpart C of this part.

(3) A summary of any valve seat wear testing which may have been performed by the additive manufacturer on the additive being registered as a lead substitute gasoline additive for reducing valve seat wear. Included in this summary should be a description of the test procedure, the reduction in valve seat wear due to the use of the additive, and any side effects caused by the additive, such as chamber deposits, contamination of lubricating oil, or abnormal cylinder wear.

(4) An explanation regarding the mechanism which allows the additive to reduce or eliminate valve seat wear.

(b) Fuels in which the use of the additive is recommended and the manufacturer's recommended range of concentration.

(c) Assurances that the additive manufacturer understands and agrees to pay a fee of not more than $20,000 to defray the costs of testing under this subpart.

(d) Assurances that the additive manufacturer will not represent, directly or indirectly, in any notice, circular, letter, or other written communication, or any written, oral, or pictorial notice or other announcement in any publication or by radio or television, that registration of the additive as a gasoline lead substitute for reducing valve seat wear constitutes endorsement, certification, or approval by any agency of the United States. Additive manufacturers may refer in an accurate manner in any communication to the test results published in the Federal Register under § 79.42(g).

§ 79.42 Testing of lead substitute gasoline additives for reducing valve seat wear.

(a) Any additive registered in accordance with § 79.41 shall be tested to determine the additive's effectiveness in reducing valve seat wear and the additive's tendencies to produce engine deposits and other adverse side effects.

(b) Testing shall be conducted in accordance with the test procedures in appendix A of this part.

(c) The additive manufacturer shall make available to the EPA an adequate supply of the additive for use in the test. In addition, the additive manufacturer shall provide a laboratory analysis of the additive being tested. The additive being tested shall be used at the prescribed treatment level and preparation conditions specified by the manufacturer.

(d) Testing shall start after the user fee of $20,000 has been received by the Administrator.

(e) The manufacturer shall submit a fee filing form supplied by the Agency for each test application and the complete amount of the fee in the form of a corporate check, money order, bank draft, or certified check, payable in U.S. dollars to the order of the U.S. Environmental Protection Agency. The filing form and accompanying fee will only be accepted for filing at the designated lock-box address indicated on the filing form. EPA will not be responsible for fees received in other than the designated location. To ensure proper identification and handling, the check and accompanying filing form shall indicate the manufacturer's corporate name and the name of the

lead substitute additive to be tested. Partial payments or installment payments will not be permitted. If a filing form were submitted with an insufficient remittance, the applicant will be notified and given the opportunity to either submit the difference or withdraw the application and receive a refund of any amount paid. Processing of an application and receive a refund of any amount paid. Processing of an application will not proceed until EPA receives notification from EPA Headquarters Accounting Operations Branch that full payment has been made. Once the fee is paid and testing initiated, there will be no fee refunds. Refunds before the tests have begun will be considered on a case-by-case basis.

(f) Testing shall be conducted at an independent laboratory selected by EPA.

(g) The test results shall be published by EPA in the **Federal Register** by company and additive name. The published results will not rank or otherwise rate the lead substitute additives.

§ 79.43 Registration.

(a) When the applicable provisions of this part have been complied with, the Administrator shall, within 30 days of completion of testing the additive, register the additive and notify the additive manufacturer of such registration.

(b) The Administrator shall maintain a list of additives registered as lead substitute gasoline additives for reducing valve seat wear, which shall be available to the public upon request.

§ 79.44 Termination of registration of lead substitute additives for reducing valve seat wear.

Registration may be terminated by the Administrator if the additive manufacturer requests such termination in writing.

4. A new appendix A is added to part 79 to read as follows:

Appendix A to Part 79—Test Procedure for Evaluating Lead Substitute Gasoline Additives for Reducing Valve Seat Wear

1. Scope

1.1 This test method is to determine an additive's effectiveness in reducing valve seat wear and the additive's tendency to produce engine deposits and/or other adverse side effects.

2. Summary of Method

Evaluate valve seat wear by testing an engine for 20 hours at 3500 rpm and 100 horsepower continuously on an engine dynamometer. Test the same type engine for engine deposits by operating it on a 96 hours deposit accumulation cycle. Characterize any deposits found by the Coordinating Research Council visual ratings procedures. CRC manual number 16, CRC carburetor and induction system rating manual should be used. CRC manual number 16 is incorporated by reference. It is available from CRC, 219 Perimeter Center Parkway, Suite 400, Atlanta, GA, 30346, and is also available for inspection as part of Docket A–91–12, located at the Air Docket, room M–1500, Waterside Mall, 401 M Street, SW., Washington, DC 20460. [This incorporation by reference will be submitted for approval to the Director of the **Federal Register** at final rulemaking.]

3. Valve seat wear test procedures

The recommended test procedure uses precise control of air-fuel mixture in each cylinder and emphasizes rapid testing with minimal costs. The major criteria of this test procedure are to show measurable and consistent valve seat recession (VSR) using unleaded fuel and minimal recession using unleaded fuel treated with 0.1 gram of lead per gallon of fuel. The non-lead additive being tested will be used at the prescribed treatment level and preparation conditions specified by the manufacturer.

3.1 Test Engine: General Motors 292 cubic-inch-displacement (CID) 6-cylinder engine (120 horsepower at 4,000 rpm). The engine will be equipped with low-wear valve guides. The air-fuel ratio must be precisely controlled for all cylinders.

3.2 Test Duration: 20 hours.

3.3 Valve Seat Material: Untreated cast-iron valve seat inserts. Hardness range should be 100 ± 2 Rockwell B hardness. Each insert will be tested for hardness at three places. Install inserts by heating heads to 400°F and cooling inserts with liquid nitrogen to obtain an approximate 0.010" "pinch." Replace the inserts after each fuel test.

3.4 Engine Duty Cycle: Operate the engine at 3,500 rpm at 100 hp continuously. Idle engine for a 10-minute period after engine starting and before the engine is shut down.

3.5 Air-fuel Distribution Control: The air-fuel mixture will be precisely controlled among all cylinders. Fuel flow will be monitored by in-line flow meters, and air flow will be monitored by a turbine meter. In addition, the exhaust manifold will be replaced by exhaust headers in order to completely isolate each exhaust port. The exhaust from each port will be sampled and the HC, CO, CO_2, NO_x, and O_2 concentration will be measured. The air-fuel ratio can be determined for each cylinder from the exhaust emission analyses.

The air-fuel ratio should be held constant at stoichiometric condition. The ratio should be controlled as precisely as possible for each cylinder. Variation should not exceed 0.5 air-fuel ratio units among the cylinders.

3.6 Base Fuel: Indolene.

3.7 Lubricating Oil: Use oil meeting General Motors' specifications for the engine. Drain and double flush the crankcase with oil after each fuel test. Conduct a spectrochemical analysis on the spent oil.

3.8 Exhaust Valves: The exhaust valves will be original equipment valves ground to a 45-degree seating surface as recommended by the manufacturer. Low-wear valve guides will be used. While valve stem wear and valve deformation are items of considerable interest, they are not expected to be significantly influenced in these brief tests. Therefore, measurements relating to valve stem and valve guide wear will not be addressed in this procedure.

3.9 Valve Rotators: Controlled positive rotation should be provided. The cylinders will have matched valve springs, with standard height and dampers so that differences in spring tension will not cause different wear rates among cylinders. Obtain a blueprint for the head hardware from General Motors.

3.10 Exhause Gas Recirculation and Engine Blowby: It is recognized that EGR and crankcase ventilations are commonly used. However, for these tests neither EGR nor crankcase ventilation vapors will be introduced into the intake system. The piston ring wear level of an engine can affect the amount of blowby and thus the amount of oil vapors introduced into the intake. As a result, the oil vapors from the blowby could effect valve seat lubrication, thus producing inconsistent results. In a similar manner, the exhaust from a "worn" engine can contain more lubricant than exhaust from a "tighter" engine. Hence, neither EGR nor crankcase ventilation will be used.

3.11 Intake Air Temperature: Intake air temperature to the engine will be maintained at 85 °F.

3.12 Intake Air Humidity: Intake air humidity will be monitored but not controlled.

3.13 Coolant Temperature: Coolant temperature will be maintained at 230 °F.

3.14 Oil Temperature. Oil temperature will be monitored but not controlled.

3.15 Exhaust Temperature: Exhaust gas temperature from each cylinder will be measured near the exhaust port using a thermocouple.

3.16 Ignition Timing: Ignition timing is expected to have a significant effect on VSR. Ignition timing will be set to the engine manufacturer's specification and remain unchanged during the test. Ignition timing will be measured at regular intervals.

3.17 Engine Break-In: Follow General Motors' recommendations for breaking in the engine. Breaking in the cylinder head when new valve-seat inserts are installed should consist of 1 hour operation at 3500 rpm and 100 hp. The break-in for the new valve seats should be done using the test fuel.

3.18 VSR Measurements: VSR measurements will be made by first removing the rocker arms and installing a jig over the valve spring and resting the jig on a flat machined head surface. The height difference between the top of the jig and the top of the valve will be measured using a calibrated depth gauge. The height difference will equate to VSR. (See figure 1 for a description of the measuring device, commonly known as a Fowler gauge.)

3.19 Measurement Intervals: VSR measurements will be made after break-in (base measurement), after 10 hours, and after 20 hours of operation, which will complete a valve-seat recession test. Measurement of temperatures, speed, power, will be

monitored continuously and recorded at 10-minute intervals. Exhaust products from each exhaust port will be measured at four-hour intervals. Ignition timing will be measured and recorded at four-hour intervals. If timing is found to be out of specification the test shall be terminated and started over after the proper adjustments are made.

3.20 Monitor engine performance parameters during the tests: Dynamometer reading will be recorded automatically every few minutes. Exhaust emissions will be measured for total hydrocarbons, carbon monoxide, carbon dioxide, oxides of nitrogen and oxygen content at four-hour intervals.

3.21 Visual observations of the engine at the end of the tests: At the completion of each additive test, the valve train, spark plugs, pistons and combustion chambers will be photographed in detail to record engine condition and the presence of engine deposits. Coordinating Research Council (CRC) visual ratings procedures should be used to characterize any deposits found. (CRC manual number 16, CRC carburetor and induction system rating manual should be used)

3.22 Calibrations: The dynamometer stand will be calibrated at the beginning of each test. Exhaust analysis equipment performance will be calibrated using zero and span gases at one-hour intervals. Other calibrations are part of the established routine of the experimental operation.

4. Deposit Accumulation Test Procedure

This test procedure is included to characterize any deposits that may be caused by non-lead additives that are marketed to reduce valve seat recession in engines designed for leaded gasoline. The non-lead additive being tested will be used at the prescribed treatment level and preparation conditions specified by the manufacturer.

4.1 Test engine and conditions will be the same as the valve wear test in section 3 except as noted below.

4.2 The following is a description of the procedure:

4.2.1 Engine cycle

Action	Time in seconds	
	From start	Cumulative
Begin	0	0
Accelerate to 3,000 rpm, 100 lb-ft	48	48
Decelerate to 2,000 rpm, 50 lb-ft	20	68
Accelerate to 3,000 rpm, 100 lb-ft	20	88
Continue at lap speed	44	132
Decelerate to 1,000 rpm, 0 lb-ft	40	172
Idle for 15 seconds	15	187
Accelerate to 3,000 rpm, 100 lb-ft	40	227
Continue at lap speed	32	259
Decelerate to 2,000 rpm, 50 lb-ft	20	279
Accelerate to 3,000 rpm, 100 lb-ft	20	299
Continue at lap speed	52	351
Decelerate to 2,000 rpm, 50 lb-ft	20	371
Accelerate to 3,000 rpm, 100 lb-ft	20	391
Continue at lap speed	16	407
Decelerate to 1,000 rpm, 0 lb-ft	40	447
Idle for 15 seconds	15	462
Accelerate to 3,000 rpm, 100 lb-ft	40	502
Continue at lap speed	8	510
Decelerate to 2,000 rpm, 50 lb-ft	20	530
Accelerate to 3,000 rpm, 100 lb-ft	20	550
Continue at lap speed	16	566
Decelerate to 1,000 rpm, 0 lb-ft	40	606
Idle for 15 seconds	15	621
Accelerate to 3,000 rpm, 100 lb-ft	40	661
Continue at lap speed	8	669
Decelerate to 1,000 rpm, 0 lb-ft	40	709
Idle for 15 seconds	15	724

Repeat cycle 32 times for an accumulation of approximately 6.5 hours.

4.2.2 Perform functional check after 32 cycles (6.5 hours). The following checks should be performed and recorded. Measure and record exhaust emission concentrations of total HC, CO, Co_2, NOx and O_2.

4.2.3 Repeat the 6.5 hour cycle five times for an accumulation of about 32 hours. Measure and record the valve seat recession after 32 hours. After each 6.5 hour cycle repeat 4.2.2.

4.2.4 Two more 32 hour cycles are to be completed and information gathered as required in 4.2.2 and 4.2.3.

4.3 The following conditions describing the operation of the engine will be measured and recorded on a regular basis throughout the test.

4.3.1 Exhaust Temperature(s).

4.3.2 Coolant temperature both in and out.

4.3.3 Oil temperature.

4.3.4 Fuel consumption.

4.3.5 Air intake temperature.

4.3.6 Torque.

4.3.7 Speed.

4.3.8 Brake specific air consumption.

4.3.9 Brake specific fuel consumption

4.3.10 Manifold pressure.

4.4 After 96 operating hours the engine should be examined for deposits and rated in accordance with the referenced Coordinating Research Council procedures.

4.5 Special precautions

4.5.1 At the time a maximum recession of 0.060 inch on any exhaust valve occurs, then the test is declared concluded.

4.5.2 A rapid increase in hydrocarbon or nitrogen oxides emissions indicates the need to take a valve seat recession measurement.

4.6 A final report consists of a data sheet with the following information.

4.6.1 The number of 6.5-hour cycles performed with the emissions determinations at each 6.5-hour interval.

4.6.2 The amount of valve seat recession shown at each 32-hour interval.

4.6.3 At the 96-hour completion list the color, grain, and quantity of the deposits.

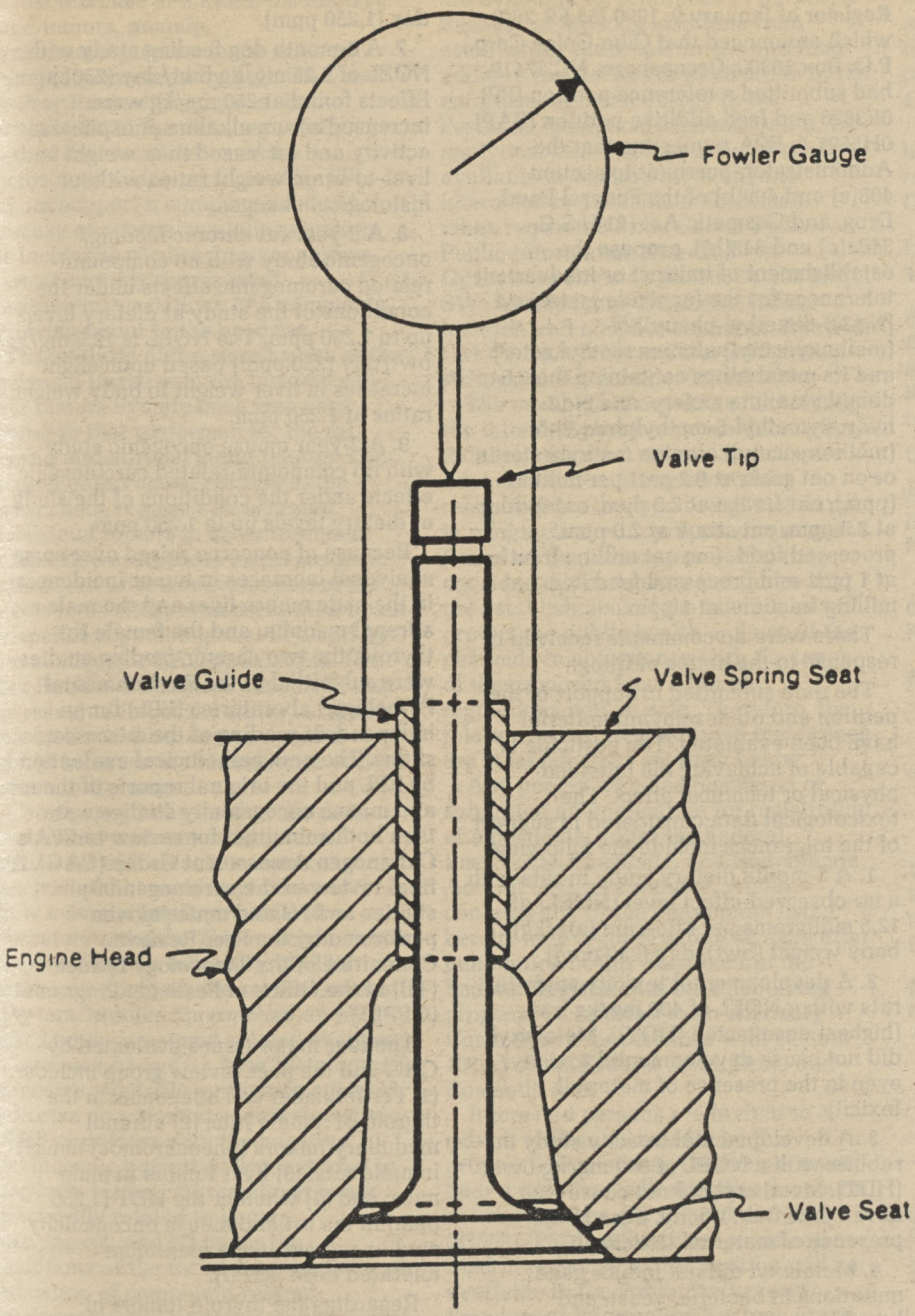
4.6.4 The valve weights determined during engine build and after the CRC rating procedures were performed.

4.6.5 Wash the valves in Stoddard solvent and determine deposit weights along with final valve weights.

4.6.6 Note any other effects of the test.

BILLING CODE 6560-50-M

FIGURE 1



Fowler gauge used for measurement of valve seat recession.

[FR Doc. 91–16763 Filed 7–18–91; 8:45 am]
BILLING CODE 6560–50–C

40 CFR Parts 180, 185, and 186

[PP 0E3826 and FAP 0H5591/P528; FRL-3934-6]

RIN 2070-AC18

Pesticide Tolerances for Metalaxyl

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes to establish an indirect or inadvertent tolerance for residues of the fungicide metalaxyl and its metabolites in or on oat grain at 0.2 part per million (ppm), oat forage at 2.0 ppm, oat fodder at 2.0 ppm, oat straw at 2.0 ppm, processed food item oat milling fractions at 1 ppm, and processed feed item oat milling fractions at 1 ppm. This regulation to establish the maximum permissible levels for indirect or inadvertent residues of metalaxyl in or on certain commodities was requested in petitions submitted by the Ciba-Geigy Corporation.

DATES: Comments, identified by the document control number, [PP 0E3826 and FAP 0H5591/P528], must be received on or before August 19, 1991.

ADDRESSES: 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. (703)-557-1900.

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 below, from 8 a.m. to 4 p.m., Monday and Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Susan T. Lewis, Product Manager (PM) 21, Registration Division (H7505C), 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 January 9, 1990 (55 FR 780), which announced that Ciba-Geigy Corp., P.O. Box 18300, Greensboro, NC 27419, had submitted a tolerance petition (PP) 0E3826 and feed additive petition (FAP) 0H5591 to EPA requesting that the Administrator, pursuant to section 408(e) and 409(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e) and 348(b)), propose the establishment of indirect or inadvertent tolerances for the fungicide metalaxyl [N-(2,6-dimethyl-phenyl)-N-(methoxyacetyl) alanine methyl ester] and its metabolites containing the 2,6-dimethylaniline moiety, and N-(2-hydroxymethyl-6-methylphenyl)-N-(methoxyacetyl) alanine methyl ester in or on oat grain at 0.2 part per million (ppm), oat forage at 2.0 ppm, oat fodder at 2.0 ppm, oat straw at 2.0 ppm, processed food item oat milling fractions at 1 ppm and processed feed item oat milling fractions at 1 ppm.

There were no comments received in response to the notice of filing.

The data submitted in support of the petition and other relevant material have been evaluated. The pesticide is capable of achieving the intended physical or technical effect. The toxicological data considered in support of the tolerances include the following:

1. A 3-month dietary study in rats with a no-observed-effect level (NOEL) at 12.5 milligrams per kilogram (mg/kg) body weight (bwt)/day (250 ppm).

2. A developmental toxicity study in rats with a NOEL of 400 mg/kg bwt (highest dose tested [HDT]). Metalaxyl did not cause developmental toxicity, even in the presence of maternal toxicity.

3. A developmental toxicity study in rabbits with a NOEL of 300 mg/kg bwt (HDT). Metalaxyl did not cause developmental toxicity, even in the presence of maternal toxicity.

4. Metalaxyl did not induce gene mutations in bacteria, yeast, and lymphoma cells in vitro with or without metabolic activation. The fungicide also caused no structural or numerical chromosomal aberrations in yeast, hamsters (in vivo nucleus anomaly assay), or mice (a dominant lethal assay). No DNA damage was observed in bacteria and no unscheduled DNA synthesis was noted in rat primary hepatocytes or human fibroblasts in vitro as the result of exposure to metalaxyl. These results suggest that metalaxyl is not genotoxic.

5. A mouse dominant-lethal study that was negative for mutagenicity.

6. A three-generation rat reproduction study with a NOEL of 62.5 mg/kg bwt/day (1,250 ppm).

7. A 6-month dog feeding study with a NOEL of 6.25 mg/kg bwt/day (250) ppm. Effects found at 250 mg/kg were increased serum alkaline phosphatase activity and increased liver weight and liver-to-brain weight ratios without histological changes.

8. A 2-year rat chronic feeding/oncogenic study with no compound-related carcinogenic effects under the conditions of the study at dietary levels up to 1,250 ppm. The NOEL is 12.5 mg/kg bwt/day (250 ppm) based upon slight increases in liver weight to body weight ratios at 1,250 ppm.

9. A 2-year mouse oncogenic study with no compound-related carcinogenic effects under the conditions of the study at dietary levels up to 1,250 ppm.

Because of concerns raised over some equivocal increases in tumor incidences in the male mouse liver and the male rat adrenal medulla, and the female rat thyroid, the two chronic feeding studies were submitted to the Environmental Pathology Laboratories (EPL) for an independent reading of the microscopic slides. The new pathological evaluation by EPL and the original reports of the rat and mouse oncogenicity studies were then both submitted for review to EPA's Carcinogen Assessment Group (CAG). A final review of the carcinogenicity studies and related material was performed by the Peer Review Committee of the Toxicology Branch (TB) of the Office of Pesticide Programs (OPP).

The four major issues evaluated by CAG and the peer review group include: (1) Perifollicular cell adenomas in the thyroid of female rats; (2) adrenal medullary tumors (pheochromocytomas) in male rats; (3) liver tumors in male mice; and (4) whether the HDT (1,250 ppm) in the rat and mouse oncogenicity studies represented a maximum tolerated dose (MTD).

Regarding the thyroid tumors in female rats, the peer review group concluded that the increased incidences of thyroid tumors in females of treated groups were not compound-related. This conclusion was based on the following: (1) There was no progression of benign tumors (adenomas) to malignancy (carcinomas); (2) there was no increase in hyperplastic changes; (3) there was no dose-response relationship; and (4) the two reevaluations of the microscopic slides by the pathologists at EPL and TB in OPP further did not confirm any apparent effects observed in the original report.

The issue of a possible treatment-related increase of adrenal medullary gland tumors, namely, pheochromocytomas, in the male rat was also reassessed by both CAG and the Peer Review Committee. Both concluded that the data, especially in view of the reevaluation of the microscopic slides performed by EPL, did not support a compound-related increase of adrenal medullary tumors; the incidence of pheochromocytomas more accurately represented spontaneous variations of a commonly occurring tumor in the aged rat.

The analysis of the significance of the equivocal increase in the incidence of liver tumors in male mice was very similar to that performed for the rat thyroid and adrenal gland tumors. The original pathological reading of the tissue slides reported an elevated increase of tumors in some treatment groups; however, these increases were not evident after a reevaluation of the microscopic slides was performed by an independent pathologist at EPL and by the reading of a CAG pathologist. The Peer Review Committee concurred that the reevaluation of the slides is reliable and does not show any compound-related increase in the incidence of liver tumors in the mouse.

The Agency believes that the data from the rat and mouse long-term studies are sufficient to support the conclusion that metalaxyl does not show a carcinogenic potential in laboratory animals. This conclusion is supported by the following: (1) The doses tested in both the rat and mouse long-term studies approached an MTD based upon compound-related changes in liver weight and/or liver histology; (2) extensive available mutagenic evidence indicates no potential genotoxic activity which correlates with the negative carcinogenic potential demonstrated in long-term testing; (3) metalaxyl is not structurally related to known carcinogens; and (4) under the conditions of the rat and mouse tests, no indication of compound-related carcinogenic effects was noted at any of the treatment doses, sexes, or species.

The reference dose (RfD) based on the 6-month dog feeding (NOEL 6.25 mg/kg bwt/day), and using a hundredfold safety factor, is calculated to be 0.060 mg/kg bwt/day. The theoretical maximum residue contribution from previously established tolerances and food additive regulations and the tolerances and food additive regulations established here is 0.010712 mg/kg bwt/day and utilizes 17.85 percent of the RFD.

The nature of the residue is adequately understood, and adequate analytical methods (capillary N/P GLC) are available for enforcement purposes. Because of the long lead time from establishing these tolerances and food additive regulations to publication of the enforcement methodology in the Pesticide Analytical Manual, Vol. II, the analytical methodology is being made available in the interim to anyone interested in pesticide enforcement when requested from: Calvin Furlow, Public Information Branch, Field Operations Division (H7506C), 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 246, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 557-4432.

The pesticide is capable of achieving the intended physical or technical effect. Existing meat and milk tolerances are adequate to cover any secondary residues from the feed use of metalaxyl in conjunction with proposed tolerances. Based on the information and data considered, the Agency concludes that the establishment of the tolerances will protect the public health and use of the pesticide in accordance with the terms of the proposed food additive regulations will be safe. Therefore, the tolerances and food additive regulations are established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the **Federal Register** that the rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulations. Comments must bear a notation indicating the document control number, [PP 0E3826 and FAP 0H5591/P528]. 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 food additive regulations or raising tolerance levels or food additive regulations 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 (40 FR 24950).

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

List of Subjects in 40 CFR Parts 180, 185, and 186

Administrative practice and procedures, Agriculture commodities, Food additives, Pesticides and pests, Reporting and recordkeeping requirements

Dated: July 9, 1991.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that chapter I of title 40 of the Code of Federal Regulations be amended as follows:

PART 180—[AMENDED]

1. In part 180:

a. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

b. Section 180.408(b) is amended in the table therein by adding and alphabetically inserting the following raw agricultural commodities, to read as follows:

§ 180.408 Metalaxyl; tolerances for residues.

* * * * *

(b) * * *

Commodity	Parts per million
* * * * *	
Oat, fodder	2.0
Oat, forage	2.0
Oat, grain	0.2
Oat, straw	2.0
* * * * *	

PART 185—[AMENDED]

2. In part 185:

a. The authority citation for part 185 continues to read as follows:

Authority: 21 U.S.C. 348.

b. Section 185.4000(b) is amended in the table therein by adding and alphabetically inserting the food commodity, to read as follows:

§ 185.4000 Metalaxyl.

* * * * *

(b) * * *

Foods	Parts per million
* * * * *	
Oat milling fractions	1.0
* * * * *	

* * * * *

PART 186—[AMENDED]

3. In part 186:

a. The authority citation for part 186 continues to read as follows:

Authority: 21 U.S.C. 348.

b. Section 186.4000(b) is amended in the table therein by adding and alphabetically inserting the feed commodity, to read as follows:

§ 186.4000 Metalaxyl.

* * * * *

(b) * * *

Feeds	Parts per million
* * * * *	
Oat milling fractions	1.0
* * * * *	

* * * * *

[FR Doc. 91–17369 Filed 7–18–91; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 261

[FRC–3901–9]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule and request for comments.

SUMMARY: On May 19, 1980, as part of its regulations implementing section 3001 of the Resource Conservation and Recovery Act (RCRA), EPA promulgated a series of criteria for listing wastes as hazardous. The Agency is today proposing to conform the language of the regulation to reflect the Agency's intent and consistent interpretation.

DATES: EPA will accept public comments on this proposal until September 17, 1991.

ADDRESSES: Those wishing to submit public comment for the record must send an original and two copies of their comments to the following address: RCRA docket Information Center (OS–305), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Place the docket #F–91–CLTP–FFFFF on your comments.

The OSW docket is located in room M2427 at EPA headquarters. The docket is open from 9 to 4 Monday through Friday, except for Federal holidays. Members of the public must make an appointment to review docket materials. Call (202) 475–9327 for appointments. Copies cost $0.15/page.

FOR FURTHER INFORMATION CONTACT: The RCRA/Superfund Hotline at (800) 424–9346 or at (202) 382–3000. For technical information, contact Mr. William A. Collins, Office of Solid Wastes (OS–332), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 382–4791.

SUPPLEMENTARY INFORMATION: On May 19, 1980, EPA promulgated regulations implementing Section 3001 of the Resource Conservation and Recovery Act (RCRA). Section 3001(a), among other provisions, requires the Agency to promulgate criteria for listing wastes as hazardous. The Agency's regulations to implement this section of the Act are codified at 40 CFR 261.11.

Section 261.11(a) (3) of the regulations set forth the criteria for listing toxic wastes. This provision stated that the Agency would list a waste as toxic if the waste contains any toxic constituent listed in appendix VIII of part 261 unless, after considering a series of enumerated factors, the Administrator determines that the waste is not capable of posing a substantial hazard to human health and the environment even if managed improperly. Appendix VIII contains a list of substances shown in scientific studies to be toxic, carcinogenic, mutagenic or teratogenic. The factors set out in the rule—drawn for the most part from Sections 1004(5) and 3001(a) of RCRA—included the nature of the toxic constituents, the concentration of toxic constituents in the waste, the migratory potential of the constituents and their mobility and persistence after migrating from a waste. Other factors were the plausible ways the waste could be mismanaged, the quantity of waste generated, damage incidents caused by past management of the waste, and action by other regulatory agencies regarding the waste or waste constituents.

In promulgating the regulations, EPA intended to evaluate, and in actual practice, has always evaluated, relevant waste factors in its specific listing actions at issue, and then made judgments as to whether wastes containing an appendix VIII constituent is capable of causing substantial harm if mismanaged. (See Listing Background Documents of: May 19, 1980, 45 FR 33084–33137; November 12, 1980, 45 FR 74884–74894; November 25, 1980, 45 FR 78524–78550; January 16, 1981, 46 FR 4614–4620; May 29, 1981, 46 FR 27473–27480; May 10, 1984, 49 FR 19922–19923; January 14, 1985, 50 FR 1978–2006; October 23, 1985, 50 FR 42936–42943; December 31, 1985, 50 FR 53315–53320; February 13, 1986, 51 FR 5327–5331, February 25, 1986, 51 FR 6537–6542; May 28, 1986, 51 FR 19320–19322; September 13, 1988, 53 FR 35412–35421; October 6, 1989, 54 FR 41402–41408; and December 11, 1989, 54 FR 50968–50979 (explaining the basis for listing the waste in 40 CFR 261.31, 261.32, and 261.33 based upon the criteria for listing in § 261.11(a) (3))). As originally written, however, the rule could be read to imply that wastes are hazardous if they contain an Appendix VIII constituent (conceivably in any concentration), and that the enumerated factors are to be used only to rebut the presumption.

As stated above, the Agency has never applied the rule in this way, and has always considered appropriate factors in determining whether to list wastes. Accordingly, On May 4, 1990 (55 FR 18726), the Agency amended the wording of the rule to fully reflect the Agency's proper and longstanding practice.

Since the technical amendment represented no change in EPA listing policy, it was promulgated without allowing an opportunity for public notice and comment. However, the Agency has since learned that some organizations oppose that policy, and favor a retention of the "presumption" they perceive in the May 19, 1980 rule. As stated above, EPA has never listed a waste on the basis of such a presumption. The Agency does not believe that the mere presence of an Appendix VIII constituent, no matter how small, by itself justifies the listing of a waste as hazardous. However, in the interest of a full public airing of the issue, the Agency obtained a judicial remand[1] of the May 4, 1990 amendment and is now proposing to amend § 261.11(a) (3) to state that wastes will be listed as hazardous if they contain one or more appendix VIII constituents and after considering the enumerated factors, the Administrator determines that the waste is capable of posing substantial harm if managed improperly.

As stated in the preamble to the May 4, 1990 amendment, the proposed change

[1] The remand was issued in the case of *EDF* v. *EPA*, No. 90–1387 (D.C. Cir.) on May 20, 1991.

in language is not intended to and will not affect existing Agency listing practices based upon the Agency's consistent interpretation of the 1980 regulatory language. Thus, EPA has and will continue to provide more or less detailed consideration of the factors, as well as to consider factors jointly, as appropriate. For the same reason, the remand of the technical correction does not signify any change in the Agency listing practice.

Dated: July 12, 1991.

William R. Reilly,

Administrator.

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, and 6922.

2. In § 261.11, paragraph (a)(3) introductory text is revised to read as follows:

§ 261.11 Criteria for listing hazardous waste

(a) * * *

(3) It contains any of the toxic constituents listed in appendix VIII and, after considering the following factors, the Administrator concludes that the waste is capable of posing a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of, or otherwise managed:

* * * * *

[FR Doc. 91–17122 Filed 7–18–91; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

Denial of Petition for Rulemaking Standard No. 108; William Walters

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

ACTION: Denial of Petition for Rulemaking.

SUMMARY: This notice denies a petition for rulemaking to amend Standard No. 108, to allow the center highmounted stop lamp to be activated under conditions when the service brakes are not applied. In the judment of the agency, the petitioner failed to show sufficient justification for amending the standard in a manner that would significantly alter the function of a proven safety device.

FOR FURTHER INFORMATION CONTACT: Kevin Cavey, Office of Rulemaking, NHTSA (202–366–5271).

SUPPLEMENTARY INFORMATION: Standard No. 108 requires the center highmounted stop lamp ("CHMSL") to be activated only when the brakes are applied. Further, the lamp must be steady-burning. William Walters ("Petitioner") of Merrillville, Indiana, has called the agency's attention to a device patented by Norman Dankert which causes the CHMSL to remain activated after the driver's foot is removed from the brake pedal, to flash when the turn signals are operated, and to illuminate when the transmission is in reverse. Petitioner has asked for appropriate amendments in Standard No. 108 to allow the device.

Petitioner claims that the device will enhance the CHMSL message by taking the "error" out of the existing CHMSL, and by using the lamp to provide additional information. According to Petitioner, two messages are presently sent by the CHMSL: When the lamp is off, the vehicle has joined the flow of traffic; and, when the light is on, the vehicle is stopped or slowing, and is a traffic "impedance."

Petitioner believes that there is "error" in the CHMSL message as it is presently sent. When the CHMSL is off, which is most of the time, the vehicle is not always joining the traffic flow. He claims that with good visibility and proper following distances this is not a problem. However, in poor visibility or traffic congestion, problems can emerge. As an example, Petitioner argues that in traffic congestion, as soon as the CHMSL goes off, trailing cars accelerate. This creates a jerking, stop-and-go effect in the forward traffic flow. Petitioner says that the device takes this "error" out of the message by keeping the CHMSL on until the accelerator is depressed. Thus, the CHMSL will not be off until the vehicle actually begins to join the forward traffic flow. Petitioner claims that this has a second desired effect in that it increases the warning time, specifically, that it provides an extra half-a-second for a following motorist to respond to and eliminate an accident.

Another message, according to Petitioner, could be sent in connection with the operation of the turn signals. When the turn signal is on and the accelerator pedal depressed, the CHMSL can be made to flash in conjunction with the turn signals. The message sent by the CHMSL in this case is that the vehicle has joined the flow of traffic and is changing lanes. If the flashing light suddenly became steady burning, it would mean the vehicle has suddenly begun to impede the forward traffic flow. Finally, according to Petitioner, a further refinement can be made in the flow impedance message. This would be to have the CHMSL on when the vehicle is in reverse, because a reverse maneuver impedes the flow of traffic.

Thus, the petition can be summarized as follows:

1. The CHMSL should stay on after a brake application or any other intentional activation, and remain on until the accelerator is depressed.

2. When the turn signals are activated, the CHMSL should be on when the accelerator is disengaged before brake pedal application.

3. The CHMSL should flash when the turn signals are on during acceleration.

4. The CHMSL should be on when the vehicle is in reverse.

The recommendation that the CHMSL stay on until such time as the operator actuates the accelerator would result in the CHMSL remaining on longer than presently occurs. Standard No. 108 requires the CHMSL to be operated solely as a stop lamp, going on when the vehicle operator depresses the brake pedal, and going out as soon as the brake pedal is released. This requirement is based upon agency research which has shown that the CHMSL should be an unambiguous signal and used solely as a "brake actuated" signal, operated only when the brake pedal is depressed.

The agency is not convinced that Petitioner's system will improve safety.

Petitioner's argument is supported only by conjecture and not by any safety data to show that the recommended system is any better than the existing CHMSL requirement. Because of this petition and the number of interpretive letters that NHTSA has provided over the years with respect to purported CHMSL "enhancements", HNTSA wishes to take this opportunity to review the history of the CHMSL performance requirements.

Approximately ten years ago, two large research programs were funded by NHTSA to evaluate the use of the CHMSL to reduce rear end collisions. These were performed by the Essex Corporation and the Allen Corporation. In addition, since the CHMSL became effective, NHTSA has conducted an evaluation of the CHMSL's effectiness, based upon real-world crash data. The major findings for each of these projects is provided below.

The Essex Study

The Essex Corporation of Alexandria, Virginia, performed research for NHTSA which showed that:

1. Passenger cars equipped with a single CHMSL at the approximate eye level of a following driver, had 54 percent less relevant rear-end collisions than a control group of similar vehicles without a CHMSL.

2. The reduction was achieved whether measured in terms of absolute numbers, or accident rate per million vehicle miles traveled.

3. The effectiveness of the single, steady burning light configuration increased during the night-time operation.

4. The mean cost to repair crash damage to vehicles equipped with this rear lighting system was much lower than repair costs for the control group.

The Allen Study

The Allen Corporation's research program was initiated by NHTSA to validate the results of the Essex Study. The object of the Allen field study was to evaluate the effect of a single CHMSL on rear-end collisions. In this study:

1. Accident and exposure (mileage) data were collected on a total of roughly 5,400 telephone company passenger cars; about 2,500 were equipped with the CHMSL. The remaining cars served as a control group. The vehicles were operated by seven companies of the Bell Telephone System, with vehicle locations ranging from New England to Florida, and in Illinois and California.

2. Data were collected from January 1, 1979, through December 1979, during which the vehicles ran a total of approximately 55 million miles.

3. The test group had 53 percent fewer relevant rear-end impacts than the control group. The difference was statistically significant beyond the 99 percent level of confidence. The results were in agreement with the Essex Study. Both of these studies considered only "relevant" rear-end accidents (where rear lighting would be a factor, as opposed to any and all rear-end collisions).

Together, the Essex and Allen studies established the steady burning, center high-mounted stop lamp as a cost-effective, collision reducing safety device. Based on the results of these studies, NHTSA initiated rulemaking which resulted in a requirement that all new passenger cars be equipped with a single steady burning CHMSL, effective September 1, 1985.

CHMSL Effectiveness Study

In 1989, NHTSA performed a study of CHMSL effectiveness based on 1987 accident data of vehicles manufactured with CHMSLs. The results of this study were statistically significant. The study found that a CHMSL-equipped car was 17 percent less likely to be struck in the rear while braking than a car without a CHMSL. On this basis, it was estimated that when all cars are equipped with a CHMSL, about 126,000 police-reported accidents ought to be prevented. Thus, NHTSA has concluded that the cost-effectiveness of the rule has been satisfactorily demonstrated.

The agency believes that modifying the CHMSL to perform a multifunction role as contemplated by Petitioner would cause it to lose the effectiveness that it now demonstrates. The reasons for this belief are:

1. The CHMSL should not be on during the time that the foot is removed from the brake pedal and before the accelerator is actuated because this can provide misleading information to following drivers. Research has shown that activation of a stop lamp by means other than application of the brake pedal provides a false signal because drivers do not always progress from the brake to the accelerator. For example, coasting on a downgrade would leave the CHMSL illuminated as the vehicle accelerated, giving the false signal that the brake was continually depressed. If petitioner's suggestion is adopted, following drivers familiar with today's CHMSL will still think this vehicle is braking when it is really coasting, and their reaction (and that of drivers following them) might be incorrect for the actual traffic situation.

2. The CHMSL should not flash when the turn signals are operated. Research has also shown that a steady burning stop lamp is more effective than a flashing one, and that a CHMSL used for more than one purpose, as petitioned for, is less effective than one which provides a single, unambiguous signal. Although the agency, as an accommodation to manufacturers to encourage early use of the CHMSL, once allowed CHMSLs to flash with the turn signals, this allowance was for a temporary period only, as the agency did not wish to reduce the effectiveness of either the CHMSL or the turn signal lamps.

3. The CHMSL should not illuminate when the vehicle is backing and the brakes not applied. All vehicles are required to have at least one white backup lamp to signal other drivers that the vehicle is in reverse gear, and will be backing. The simultaneous illumination of the CHMSL would confuse an observer who would not know whether the vehicle was braking or backing.

Given these considerations, if Petitioner's suggestions were adopted, the vehicle fleet would be a mix of vehicles with and without CHMSLs, and with multi-function CHMSLs. The risk of accidents could increase because of the confusion added by Petitioner's CHMSL and its multiple actions that drivers must decipher, after determining that it differs from the initial CHMSLs and is not a CHMSL which provides an unambiguous "brake-actuated" signal. Drivers must react quickly to traffic conditions and signals from other vehicles. Vehicle lighting systems which provide distinct, unambiguous information help drivers to react quickly and appropriately. Petitioner's CHMSL would not provide that unambiguous information.

For the foregoing reasons, NHTSA will not alter any aspect of the CHMSL without compelling evidence supporting such alteration. While numerous requests for interpretations have been received which describe schemes for altering the CHMSL performance, in every case, the basis for negative agency response has been the same: the CHMSL must present an unambiguous "brake" signal which is activated only during service brake application. The agency has been unwavering on this most basic safety aspect of the CHMSL, and sees no evidence in the petition that would lead it to change its position.

In accordance with 49 CFR part 552, the agency has completed its technical review of the petition, and has determined that there is no reasonable possibility that the requested amendment would be issued at the conclusion of a rulemaking proceeding. Therefore, the petition is denied.

Authority: 15 U.S.C. 1410a; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: July 16, 1991.

Stanley R. Scheiner,

Acting Associate Administrator for Rulemaking.

[FR Doc. 91-17244 Filed 7-18-91; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AB42

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Certain Populations of the African Elephant and Revision of Special Rule

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of extension of public comment period.

SUMMARY: The Service announces that the public comment period on the original notice of the proposed rule to reclassify most populations of the African elephant from threatened to endangered status will be extended by 5 months.

DATES: Comments must be received by December 15, 1991.

ADDRESSES: Written comments and materials concerning this proposal should be sent to the Chief, Office of Scientific Authority; Mail Stop: Arlington Square, room 725; U.S. Fish and Wildlife Service; Washington, DC 20240. Written comments and materials received will be available for public inspection, by appointment, from 8 am to 4 pm, Monday through Friday, in room 750, 4401 North Fairfax Drive, Arlington, Virginia, 22201.

FOR FURTHER INFORMATION CONTACT: Dr. Charles W. Dane, Chief, Office of Scientific Authority, at the above address, or by phone at (703) 358-1708 or FTS 921-1708.

SUPPLEMENTARY INFORMATION:

Background

In the **Federal Register** of March 18, 1991, (56 FR 11392-11401), the Fish and Wildlife Service issued a notice proposing to reclassify most populations of the African elephant *(Loxodonta africana)* from threatened to endangered status. The proposal would classify all African elephant populations as endangered wherever found, except those in Botswana, Zimbabwe, and South Africa, where they would remain threatened. The Service at that time also proposed: (1) Withdrawing its May 5, 1989, proposal (54 FR 19416) to amend its regulations found in 50 CFR 14.91, 14.92, and 17.21, and the African elephant special rule found in 50 CFR 17.40(e), (2) amending its regulations found in 50 CFR 17.21; and (3) revising the African elephant special rule found in 50 CFR 17.40(e).

The Service intends that any final rule adopted will be accurate and as effective as possible in the conservation of endangered or threatened species. Therefore, comments and suggestions concerning any aspect of this proposed rule are hereby solicited from the public, concerned governmental agencies within the United States, African range states, other interested countries, the scientific community, industry, private interests, and other parties. Comments are particularly sought concerning the following:

(1) Data about biological, commercial, environmental, or other threats (or lack thereof) to populations of African elephants within individual range countries.

(2) The management goals for elephants in individual range countries. This includes information about the size and sex-age structure of elephant populations desired in individual range countries and the carrying capacity of habitat for elephants within those range countries.

(3) Additional information about trends and present populations of elephants in individual range countries.

(4) Descriptions of the quality of wildlife and habitat management practices in range countries, including the degree of security afforded elephants and elephant habitats.

(5) The adequacy of laws and regulations for implementing an elephant conservation program including the control and monitoring of the take (where applicable) and the rigorous control of the illegal killing of elephants.

(6) The nature of the infrastructure present in range countries for implementing elephant conservation programs including, but not limited to, law enforcement, habitat protection and management, research, and education.

(7) The extent and success of efforts to control the illegal killing of elephants.

(8) Information on how economic benefits realized from elephant conservation programs are utilized to benefit wildlife management and local communities.

(9) Information on the factors that should be considered by the Service in its presumption that interstate transactions in non-antique African elephant ivory that was legally imported into the United States prior to the June 9, 1989, ban imposed pursuant to the African Elephant Coordination Act should be exempt from the general prohibition under most conditions.

The public comment period on the proposal was to close on July 16, 1991. The Fish and Wildlife Service has been notified that this deadline would not allow sufficient time for significant new information to be compiled, analyzed, and summarized so it could be submitted in a timely fashion for consideration in the formulation of any final rule. Furthermore, the Service intends to discuss information needs with specialists and range country representatives at the July meeting of IUCN African elephant and Rhinoceros Specialist Group and the African Elephant Coordination Meeting of range States. In addition, any proposals that may be submitted for consideration by the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora should be available in November, as well as results of special studies that the Service understands to be underway. The Service, therefore, is extending the written comment period on the proposed rule until December 15, 1991. Any further extension of the time period would prevent the Service from completing its decisionmaking within the statutory time period.

Authority: 16 U.S.C. 1531-1544.

Dated: July 12, 1991.

Sam Marler,

Acting Director.

[FR Doc. 91-17134 Filed 7-18-91; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 56, No. 139
Friday, July 19, 1991

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

Agricultural Stabilization and Conservation Service

Wool Advertising and Promotion

AGENCIES: Agricultural Stabilization and Conservation Service and Agricultural Marketing Service, USDA.

ACTION: Notice of referendum.

SUMMARY: The purpose of this notice is to announce that a referendum will be conducted during the period of August 19–30, 1991, among wool producers to determine if such producers are in favor of a proposed agreement between the American Sheep Industry Association (ASI) and the Secretary of Agriculture. Under the proposed agreement, the Department of Agriculture (USDA) would make deductions for the 1991 through 1995 marketing years from price support payments which are made to producers for shorn wool and wool on unshorn lambs under the National Wool Act of 1954, as amended (the Act). The amounts so deducted would be used by the ASI for advertising and sales promotion programs and for programs pertaining to the dissemination of information concerning wool, sheep, or the products thereof.

FOR FURTHER INFORMATION CONTACT: Harry D. Millner, Program Specialist, EOLPD, ASCS, USDA, P.O. Box 2415, Washington, DC 20013. Telephone (202) 475–3605.

SUPPLEMENTARY INFORMATION: This notice of referendum has been reviewed under United States Department of Agriculture (USDA) procedures established in accordance with provisions of Departmental Regulations 1512–1 and Executive Order 12291 and has been classified as "hot major." It has been determined that the provisions of this notice will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) Major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and

(3) Significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal assistance program to which this notice applies as found in the Catalog of Federal Domestic Assistance are: National Wool Act Payments; 10.059.

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since the Agricultural Marketing Service (AMS) and the Agricultural Stabilization and Conservation Service (ASCS) are not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

This program/activity is not subject to the provisions of Executive Order 12372 relating to intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Section 708 of the Act authorizes the Secretary of Agriculture to enter into agreements with, or to approve agreements entered between, marketing cooperatives, trade associations, or others engaged in the handling of wool, mohair, sheep, or goats or the products thereof for the purpose of developing and conducting advertising and sales promotion programs and programs for the development and dissemination of information on product quality, production management, and marketing improvement of wool, mohair, sheep, or goats or their products.

In order to defray the expenses for carrying out these activities, the agreements may provide for deductions to be made from price support payments which are paid to producers under the Act. However, as required by section 708 of the Act, no agreement providing for any deductions shall be come effective unless the agreement is approved in a referendum by at least a majority of the producers voting or by producers with at least a majority of the volume of production represented in the referendum. The approval requirement was changed by the Food, Agriculture, Conservation, and Trade Act of 1990 from a two-thirds requirement to a requirement for majority approval.

Wool producers approved agreements for advertising and sales promotion activities between the Secretary and ASI, formerly the American Sheep Producers Council, in the nine referendums conducted since 1954. The last agreement dated October 16, 1986, was effective for the 1986–1990 marketing years.

It is proposed that a new agreement be entered into between the Secretary and the ASI for the 1991–1995 marketing years. The proposed agreement will be similar to the agreement dated October 16, 1986.

The purpose of this notice is only to announce the period when the referendum will be conducted and certain eligibility requirements for producers to participate in such referendum in accordance with 7 CFR part 1270.

Notice of Referendum

1. *Period of Wool Referendum for the 1991, 1992, 1993, 1994, and 1995 marketing years.* In accordance with section 708 of the National Wool Act of 1954, as amended, the Agricultural Stabilization Conservation Service (ASCS) will conduct a referendum among wool producers to determine whether they approve of the proposed agreement between the American Sheep Industry Association, and the Secretary regarding advertising and sales promotion programs for wool, sheep, or the products thereof. The referendum will be conducted in accordance with the provisions of 7 CFR part 1270 during August 19–30 1991, inclusive. Voting will be conducted through county offices of the ASCS of the U.S. Department of Agriculture. Copies of the proposed agreement are available at ASCS county offices and will be mailed to individual producers.

2. *Eligibility requirements to participate in the Referendum.* Eligibility requirements for producers to

participate in the referendum shall be those contained at 7 CFR 1270.7.

Authority: 7 U.S.C. 1787.

Signed at Washington, DC on July 15, 1991.

Keith D. Bjerke,

Administrator, Agricultural Stabilization and Conservation Service.

Daniel Haley,

Administrator, Agricultural Marketing Service.

[FR Doc. 91-17225 Filed 7-18-91; 8:45 am]

BILLING CODE 3410-05-M

Animal and Plant Health Inspection Service

[Docket No. 91-092]

Procedures for Importing Animals Through the Harry S Truman Animal Import Center (HSTAIC)

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of application period and lottery for importation of animals through HSTAIC.

SUMMARY: We are giving notice of the date and location of the lottery for authorization for the use of the Harry S Truman Animal Import Center in calendar year 1992. We are also giving notice of the period during which applications for the use of HSTAIC will be accepted.

DATES: Applications for the use of HSTAIC in 1992, and accompanying deposits, must be received no earlier than September 1, 1991, and no later than September 15, 1991. The lottery for authorization to use HSTAIC during 1992 will be held October 2, 1991.

ADDRESSES: Completed applications and accompanying deposits must be sent to the Administrator, c/o Import-Export Animals Staff, Veterinary Services, APHIS, USDA, Room 764, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Application forms may be obtained by writing to the same address, or by calling the telephone number provided under the heading **"FOR FURTHER INFORMATION CONTACT."** The lottery will be held in the Epic Room, 7th Floor, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland.

FOR FURTHER INFORMATION CONTACT: Dr. Mark Teachman or Ms. Peggy Burke, IEAS, VS, APHIS, room 764, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782, (301) 436-8590.

SUPPLEMENTARY INFORMATION: The regulations in 9 CFR part 92, §§ 92.430, 92.431, 92.522, and 92.523 (referred to below as the regulations), set forth the conditions under which importers may qualify animals to enter the United States through the Harry S Truman Animal Import Center (HSTAIC) in Fleming Key, Florida.

Because the demand for quarantine space at HSTAIC has traditionally exceeded the space available, the regulations provide that a lottery will be held each year during the first 7 days of October, to determine the priority of applications for the following calendar year. To be included in the October lottery, applications must reach the Import-Export Animals Staff no earlier than September 1 and no later than September 15 of the year of the lottery. Please note that September 15th falls on a Sunday this year and that the Import-Export Animals Staff does not receive mail on Saturday or Sunday. Additionally, certain applications must include a deposit in the form of an irrevocable letter of credit, in the name of the applicant and in the amount of $50,000 payable to the United States Department of Agriculture, Animal and Plant Health Inspection Service. Those applications which must include this deposit are identified in the regulations.

The regulations provide that applications received will be placed in one of four categories, depending on the type of animal to be imported and the location from which the animal is exported. The categories are ranked in priority order, with applications in each category taking precedence over those in subsequent categories. In the event that none of the four categories receives more than one application, a lottery will not be held.

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102-105, 111, 134a, 134b, 134c, 134d, 134f, and 135; 31 U.S.C. 9701; 7 CFR 2.17, 2.51, and 371.2(d).

Done in Washington, DC, this 15th day of July 1991.

Robert Melland,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 91-17222 Filed 7-18-91; 8:45 am]

BILLING CODE 3410-34-M

Forest Service

Supplement to Final Environmental Impact Statement for Noxious Weed Control, Lewis and Clark National Forest, Cascade County, MT

ACTION: Notice of intent to supplement an environmental impact statement.

SUMMARY: The Forest Service will prepare a supplement to an Environmental Impact Statement (EIS) to analyze and disclose the environmental impacts associated with noxious weed control on the Lewis and Clark National Forest for the period 1992-1996. The Final Environmental Impact Statement (FEIS) approved in 1986 for noxious weed control, addressed the five year period 1986-1990. An amendment to the Record of Decision for the 1986 document addressed noxious weed control for 1991.

Preliminary scoping for this analysis by an interdisciplinary team from the Lewis and Clark National Forest has developed the following information in relation to the proposed action:

1. The management practices applied to weed infestations as prescribed by the FEIS have been effective where budget has permitted their application.

2. There have been no environmental effects observed, which have resulted from prescribed treatments applied during the 1986-1990 period, which were not predicted in the FEIS.

3. Within the selection of treatment regimens prescribed by the FEIS, no treatment or treatments have resulted in greater or lesser effectiveness than predicted.

4. Strategies such as eradication and containment have continued to prove effective where applied.

5. No new techniques have been developed which have been recommended for treatment of noxious weeds on the Lewis and Clark National Forest.

6. Three hundred twenty four acres of previously undetected noxious weed infestations have been discovered since the 1986 FEIS was published. Most of these acres will have been treated by the end of the 1991 field season, in accordance with the recommended integrated past management program.

7. An inventory of additional sites have been compiled, and it is anticipated that more new sites will be discovered during the 1992-1996 period.

8. The FEIS does not include direction on how to address new infestations which, for environmental or social reasons, do not meet the criteria for treatment under the FEIS.

9. The FEIS specifies that treatment performed, in keeping with the integrated pest management program, be monitored. However, the document does not prescribe specific standards for monitoring.

The Interdisciplinary Team has concluded, as a result of the above preliminary scoping, that the follwing significant issues should be addressed in relation to the proposed action:

1. The current inventory of known sites should be analyzed for conformity with the standards for treatment as prescribed by the FEIS and become part of the supplement.

2. Direction for addressing sites which do not meet standards for treatment in the FEIS will be developed and made part of the supplement.

3. Specific standards for monitoring will be developed and made part of the supplement.

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

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

DATES: Comments concerning the scope of the analysis should be received on or before August 14, 1991, to receive timely consideration in the preparation of the supplement to the FEIS.

ADDRESSES: Send written comments to John D. Gorman, Forest Supervisor, Lewis and Clark National Forest, 1101 15th Street North, Post Office Box 869, Great Falls, Montana 59403.

FOR FURTHER INFORMATION CONTACT: Bob Casey, Interdisciplinary Team Leader, Forest Supervisor's Office, Lewis and Clark National Forest, 1101 15th Street North, Post Office Box 869, Great Falls, Montana 59403 (406)–791–7759.

SUPPLEMENTARY INFORMATION: This supplement to the 1986 Noxious Weed Control FEIS will tier to the Lewis and Clark National Forest Land and Resource Management Plan of June, 1986, which provides goals and objectives, Forest-wide management standards and management area prescriptions are identified in the Plan to provide overall guidance and management practices in achieving those goals and objectives. The primary purpose and need for the proposed action is to treat noxious weed infestations on the Lewis and Clark National Forest during the period 1992–1996.

A range of alternatives was presented in the 1986 FEIS including the "no-action" alternative which defers noxious weed control activities. Other alternatives in the FEIS examined various levels and methods of treatment to identify projected effects on resources values resulting from their application in noxious weed control. New alternatives will be considered in the supplement in response to environmental issues.

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

The public is invited to visit with Forest Service officials during normal working hours prior to the issuance of the Record of Decision. However, two periods of time are identified for formal public comment on this analysis. The first public comment period is for 30 days following the publication of this notice and the second is for 45 days, during the formal review of the draft supplement to the FEIS.

The draft supplement to the FEIS is estimated to be filed with the Environmental Protection Agency (EPA) and available for public review in November, 1991. At that time the EPA will publish a notice of availability of the draft supplement in the **Federal Register**. The comment period on the supplement to the FEIS will be for 45 days from the date of publication.

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

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

After a 45-day public comment period, the comments received will be analyzed and considered by the Forest Service in preparing the final supplement to the FEIS. The supplement is scheduled to be completed by February 1992.

The Forest Service will respond in the final supplement to the FEIS to the comments received on the draft supplement. John D. Gorman, Forest Supervisor for the Lewis and Clark National Forest, the responsible official for this supplement to a FEIS, will make a decision regarding this proposal after considering the comments, responses, and environmental consequences discussed in the supplement as well as applicable laws, regulations, and policies. The decision and reasons for the decision will be documented in a Record of Decision.

Dated: June 28, 1991.

John D. Gorman,

Forest Supervisor, Lewis and Clark National Forest.

[FR Doc. 91–17206 Filed 7–18–91; 8:45 am]

BILLING CODE 3410–11–M

Soil Conservation Service

Boyd County Roadbanks Critical Area Treatment RC&D Measure, Kentucky

AGENCY: Soil Conservation Service.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy

Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Soil Conservation Service Guidelines (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Boyd County Roadbanks Critical Area Treatment RC&D Measure Plan, Boyd County, Kentucky.

FOR FURTHER INFORMATION CONTACT: Bill Milliken, 333 Waller Avenue, Lexington, Kentucky, 40504, telephone 606–233–2749.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Bill Milliken, state conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment. The planned works of improvement include shaping, seeding, fertilizing and mulching steep, unstable roadbanks. In addition, tile, gravel, and filter fabric will be installed to provide an outlet for excess drainage on slideprone critical areas.

A limited number of copies of the measure plan are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Bill Milliken, state conservationist.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the Federal Register.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation And Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Billy W. Milliken,

State Conservationist.

[FR Doc. 91–17167 Filed 7–18–91; 8:45 am]

BILLING CODE 3410–16–M

Lawrence County High School Critical Area Treatment RC&D Measure, Kentucky

AGENCY: Soil Conservation Service.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Soil Conservation Service Guidelines (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Lawrence County High School Critical Area Treatment RC&D Measure Plan, Lawrence County, Kentucky.

FOR FURTHER INFORMATION CONTACT: Bill Milliken, 333 Waller Avenue, Lexington, Kentucky, 40504, telephone 606–233–2749.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Bill Milliken, state conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment. The planned works of improvement include shaping the slide slopes of the gully, installing a rock chute, and establishing vegetation on disturbed areas. A limited number of copies of the measure plan are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Bill Milliken, state conservationist.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the Federal Register.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Billy W. Milliken,

State Conservationist.

COMMISSION ON CIVIL RIGHTS

Agenda and Public Meeting of the Indiana Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Indiana Advisory Committee to the Commission will be held from 6 p.m. until 9 p.m. on Wednesday, August 7, 1991, at the Indiana University School of Law/Indianapolis, 735 W. New York, Indianapolis, Indiana 46202. The purpose of this meeting is to discuss current issues, orient members, and plan future activities.

Persons desiring additional information should contact Committee Chairperson, Hollis E. Hughes, at (219) 293–9305 or Constance M. Davis, Regional Director of the Midwestern Regional Office, U.S. Commission on Civil Rights, at (312) 353–8311. Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, July 15, 1991.

Carol Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 91–17143 Filed 7–18–91; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 38–91]

Foreign-Trade Zone 83—Huntsville, Alabama Application for Expansion

An application has been submitted to the Foreign-Trade Zones Board by the Huntsville-Madison County Airport Authority, grantee of FTZ 83, requesting authority to expand its zone to include a site in Morgan County, Alabama, within the Huntsville Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on July 1, 1991.

FTZ 83 was approved on February 24, 1983 (Board Order 209, 48 FR 9052, 3/3/83), and expanded on October 30, 1989 (Board Order 447, 54 FR 46430, 11/3/89). It currently involves some 1,550 acres within the Huntsville-Madison County Airport Complex in Huntsville (Madison County), Alabama.

The grantee now requests authority to expand FTZ 83 to include a site (1,014 acres) within the Mallard Fox Creek Industrial Park located in Morgan County, northwest of Highway 72 and Red Hat Road, some 5 miles west of Decatur, Alabama. The park lies along the Tennessee River and is owned and operated by the Decatur-Morgan County Port Authority. It is being developed to provide industrial users with direct access to water transportation. No manufacturing authority is being sought

at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; David L. Willette, District Director, U.S. Customs Service, South Central Region, 150 North Royal, Suite 3004, P.O. Box 2748, Mobile, Alabama 36652; and, Colonel James P. King, District Engineer, U.S. Army Engineer District Nashville, PO Box 1070, Nashville, Tennessee 37202–1070.

Comments concerning the proposed expansion are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before September 8, 1991.

A copy of the application is available for public inspection at each of the following locations:

Office of the Port Director, U.S. Customs Service, Huntsville-Madison County Airport, 2850 Wall-Triana Highway, PO Box 6085, Huntsville, Alabama 35824.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th and Pennsylvania Avenue NW, Room 3716, Washington, DC 20230.

Dated: July 12, 1991.

John L. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 91–17249 Filed 7–18–91; 8:45 am]

BILLING CODE 3510–DS–M

International Trade Administration

[A–588–029]

Preliminary Results of Antidumping Duty Administrative Reviews and Intent To Revoke in Part: Fishnetting of Man-made Fibers From Japan

AGENCY: Import Administration, International Trade Administration, Commerce.

EFFECTIVE DATE: July 19, 1991.

FOR FURTHER INFORMATION CONTACT: Vincent Kane, Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC, 20230; telephone: (202) 377–2815.

PRELIMINARY RESULTS:

Case History

On July 26, 1990, the Department of Commerce (the Department) published in the **Federal Register** (55 FR 43152) the final results of its last administrative review of the antidumping finding on fishnetting of man-made fibers from Japan (37 FR 11560, June 9, 1972) covering the period June 1, 1988, through May 31, 1989.

In accordance with 19 CFR 353.22(a), petitioner and respondents requested that the Department conduct administrative reviews for the consecutive periods from June 1, 1983, through May 31, 1987. We published notices of initiation of these antidumping duty administrative reviews on February 12, 1986 (51 FR 5219), July 9, 1986 (51 FR 24883), July 17, 1986 (51 FR 25923), and July 17, 1987 (52 FR 27036) and indicated that the following companies and periods would be reviewed: Fukui Fish Net Company, Ltd. (Fukui) (1986/87); Mitsui & Co., Ltd. (Mitsui) (1986/87); Nagaura Net Company, Inc. (Nagaura) (1984/85, 1985/86, and 1986/87); Nichimen Corporation/Osada Fishing Net Co., Ltd. (Nichimen/Osada) (1986/87); Taito Seiko Company, Ltd. (Taito Seiko) (1985/86 and (1986/87); Yamagi Fishing Net Company, Ltd. (Yamagi) (1984/85, 1985/86, and (1986/87), and Toyama Fishing Net Manufacturing Co., Ltd. (Toyama) (1983/84, 1984/85, 1985/86, and (1986/87).

In April 1984, August 1986, and August 1987, we issued questionnaires to the appropriate companies, and in July 1984, November 1986, and October 1987, we received responses from these companies.

On November 15, 1990, the Department sent deficiency/supplemental questionnaires to the above companies. The deficiency/supplemental questionnaire responses from Nichimen and Taito Seiko were received in February and March of 1991. None of the other respondents responded adequately of the deficiency/supplemental questionnaire. See "Use of Best Information" section of this notice.

Although Nichimen responded for the periods 1984/85, 1985/86 and (1986/87, we limited our review to the 1986/87 period, since we had previously issued a Tentative Determination to Revoke in Part Antidumping Finding with respect to fishnetting produced by Osada and sold by Nichimen (49 FR 19558, May 8, 1984) and, in addition, had completed a subsequent review for the periods 1982/83 and 1983/84 which showed that margins were *de minimis* (54 FR 10264, March 30, 1988).

From June 10 through June 13, 1991, we conducted verification of Nichimen's response.

The Department is conducting these administrative reviews in accordance with section 751 of the Tariff Act of 1930, as amended ("the Act").

Scope of Review

The products covered by these reviews are fishnetting of man-made fibers from Japan. This merchandise is currently classified under subheadings 5608.11.00 and 5608.90.10 of the Harmonized Tariff Schedule (HTS) items. Prior to 1989, such merchandise was classified under subheadings 355.4520 and 355.4530 of the Tariff Schedules of the United States, Annotated (TSUSA). Although the TSUSA and HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

On December 29, 1986, the United States International Trade Commission (ITC) published its determination that an industry in the United States would not be materially injured or threatened with material injury, nor would the establishment of an industry in the United States be materially retarded, by reason of imports of salmon-gill fishnetting of man-made fibers from Japan covered by the antidumping finding, if that portion of the finding concerning salmon-gill fishnetting were to be revoked (51 FR 46947). The Department determined in the final results of a previous review of this finding (53 FR 10264, March 30, 1988) that the effective date of the revocation of the portion of the finding applicable to salmon-gill fishnetting is December 29, 1986, the date that the ITC's decision was published in the **Federal Register**.

Review Periods

The review periods are the consecutive periods from June 1, 1983, through May 31, 1987.

United States Price

For both Nichimen and Taito Seiko, we based the United States price on purchase price, in accordance with section 772(b) of the Act, because all sales used or purposes of our analysis were made directly to unrelated parties prior to importation into the United States, and because exporter's sales price methodology was not indicated by other circumstances.

Nichimen

We calculated purchase price based on c.& f. and c.i.f. prices to unrelated purchasers in the United States with deductions for containerization, charges, freight forwarding charges, export packing charges, ocean freight, and brokerage and handling.

For freight forwarding charges, we used an average shipping charge based on the 20 invoices examined during verification.

Taito Seiko

We calculated purchase price based on c.i.f. prices to unrelated purchasers in the United States with deductions for foreign inland freight, ocean freight, insurance, brokerage and handling.

Taito Seiko did not correctly report ocean freight charges. As a reasonable approximation for these charges, we converted the average charge per pound of ocean freight provided in Nichimen's public response to kilograms and applied it to Taito Seiko's U.S. sales transactions.

Foreign Market Value

In calculating foreign market value, the Department used home market prices, third country prices, or constructed value, as appropriate, as defined in section 773 of the Act.

Nichimen

In accordance with 19 CFR 353.48 and 19 CFR 353.49, foreign market value was based on c.&f. and c.i.f. prices to unrelated purchasers in third countries, since there were no sales of such or similar merchandise in the home market. Sales for export to Canada, Iceland and Norway accounted for the greatest volumes of comparable merchandise. We made deductions, where appropriate, for containerization charges, freight forwarding charges, export packing, handling, and ocean freight. We made adjustments for differences in packing and credit terms between the markets in accordance with 19 CFR 353.56. We also made adjustments, where appropriate, for physical differences in the merchandise in accordance with 19 CFR 353.57.

Taito Seiko

In accordance with 19 CFR 353.46, we calculated foreign market value based on delivered home market prices, delivered third country prices, or constructed value. Constructed value was used in those cases where the adjustment for physical differences in the merchandise exceeded 20 percent of the cost of manufacture of the fishnetting exported to the United States. We made deductions, where appropriate, for inland freight. We made adjustments, where appropriate, for differences in packing and credit terms between the two markets in accordance with 19 CFR 353.56. We also made adjustments, where appropriate, for physical differences in the merchandise in accordance with 19 CFR 353.57.

Use of best Information Available

Five firms failed to respond to our requests for additional information. Specifically, Fukui failed to supply full information on physical differences in the merchandise, the variable costs necessary to adjust for these physical differences, and the viability of the home market. Mitsui failed to provide information necessary to identify most similar merchandise sold in its third country markets and make appropriate adjustments for physical differences in the merchandise. For Nagaura, information relating to home market viability, packing costs, and adjustments for physical differences in the merchandise was inadequate. Toyama did not report complete sales information, and Yamagi failed to provide adequate information on adjustments for physical differences in the merchandise and the viability of its home market. In addition, all five firms failed to provide sales listings on computer tape, as required by 19 CFR 353.31(e)(3). Consequently, the Department, in accordance with section 776(c) of the Act, must resort to the use of best information otherwise available (BIA) for these five companies.

In deciding what to use as best information available, § 353.37(b) of the Department's regulations provides that the Department may take into account whether a party fails to provide requested information. When a company fails to provide the information requested in a timely manner, or otherwise significantly impedes the Department's review, the Department generally assigns to that company the higher of: (a) The highest rate for a responding firm with shipments during the period or (b) the highest rate for that company for any previous review or the original investigation. In this case we assigned non-responding companies their highest rate from prior reviews.

Preliminary Results of these Reviews

As a result of our review, we preliminarily determine that the following margins exist:

Manufacturer/ Exporter	Time period	Margin (percent)
Fukui	6/1/83—5/31/87	4.99
Mitsui	6/1/86—5/31/87	18.30
Nagaura	6/1/84—5/31/87	18.30
Nichimen/Osada	6/1/86—5/31/87	0.02
Taito Seiko	6/1/85—5/31/86	0.75
	6/1/86—5/31/87	3.14
Toyama	6/1/83—5/31/87	7.17
Yamagi	6/1/84—5/31/87	18.30

The Department will issue appraisement instructions concerning these firms directly to the Customs Service upon completion of these administrative reviews.

Furthermore, the following deposit requirements will be effective upon publication of our final results of these administrative reviews for all shipments of the subject merchandise from Japan entered, or withdrawn from warehouse, for consumption on or after that publication date, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed companies will be that established in the final results of these reviews; for merchandise exported by manufacturers or exporters not covered in these reviews but covered in a prior review, the cash deposit rate will continue to be at the rate published in the final results of the last administrative review for these firms; (2) the cash deposit rate for all other exporters/producers shall be 19.92 percent. This is the highest non-BIA rate for any firm included in these reviews and the most current non-BIA rate. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Intent To Revoke in Part

On March 8, 1984, we published a "Tentative Determination to Revoke in Part the Antidumping Finding" on fishnetting of man-made fibers from Japan produced by Osada Fish Netting Company, Ltd., and exported by Nichimen, based on the fact that sales by this firm were made at not less than fair value for a two-year period (49 FR 19558). Based on our review of a more current period, June 1, 1986, through May 31, 1987, we have concluded that Nichimen/Osada has continued its practice of selling the subject merchandise for export to the United States at not less than fair value. Should the final results of this administrative review confirm that Nichimen/Osada has not sold the subject merchandise at less than fair value, we will revoke in part the antidumping finding on fishnetting of man-made fiber from Japan with respect to Nichimen/Osada, in accordance with 19 CFR 353.54(f) (1985).

Public Comment

In accordance with 19 CFR 353.38, we will hold a public hearing, if requested, on September 13, 1991, at 10:00 a.m. in room 3708 to afford interested parties an opportunity to comment on these preliminary results. Interested parties who wish to request a hearing must submit a written request within ten days of the date of publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room B-099, 14th Street and Constitution Avenue NW., Washington, DC, 20230. Requests

should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reasons for attending; and, (4) a list of the issues to be discussed.

In addition, ten copies of the business proprietary version and five copies of the non-proprietary version of case briefs must be submitted to the Assistant Secretary no later than August 30, 1991. Ten copies of the business proprietary version and five copies of the non-proprietary version of rebuttal briefs must be submitted to the Assistant Secretary no later than September 6, 1991.

At the hearing, an interested party may make a presentation only on arguments included in that party's briefs. If no hearing is requested, interested parties still may comment on these preliminary results in the form of case and rebuttal briefs. Written argument should be submitted in accordance with 19 CFR 353.38 and will be considered, if received within the time limits specified in this notice.

These administrative reviews and notice are in accordance with sections 751(a)(1) of the Act and 19 CFR 353.22(c)(5).

Dated: July 12, 1991.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 91–17250 Filed 7–18–91; 8:45 am]

BILLING CODE 3510-DS-M

[A-508-604]

Industrial Phosphoric Acid From Israel; Final Results of Antidumping Duty Administrative Reviews

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative reviews.

SUMMARY: On March 7, 1991, the Department of Commerce published the preliminary results of its administrative reviews of the antidumping duty order on industrial phosphoric acid from Israel for the periods April 20, 1987 through July 31, 1988, and August 1, 1988 through July 31, 1989. The reviews cover two manufacturers/exporters of this merchandise to the United States, Negev Phosphates and Haifa Chemicals. We have now completed these reviews and determine the dumping margin for Negev to be zero for both periods. Based on the best information available, we determine the dumping margin for Haifa Chemicals to be 6.83 percent *ad valorem* for both periods.

EFFECTIVE DATE: July 19, 1991.

FOR FURTHER INFORMATION CONTACT: Gayle Longest or Paul McGarr, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On March 7, 1991, the Department of Commerce (the Department) published in the **Federal Register** the preliminary results of its administrative reviews of the antidumping duty order on industrial phosphoric acid from Israel (56 FR 9673). We have now completed these administrative reviews in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of Review

Imports covered by these reviews are shipments of industrial phosphoric acid (IPA). Through 1988, such merchandise was classifiable under Tariff Schedules of the United States (TSUS) item number 416.30. These products are currently classifiable under item number 2809.20.00 of the Harmonized Tariff Schedule (HTS). The TSUS and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

These reviews cover two manufacturers/exporters to the United States of the subject merchandise, Negev Phosphates and Haifa Chemicals, and the periods April 20, 1987 through July 31, 1988, and August 1, 1988 through July 31, 1989.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received comments from the petitioners, FMC Corporation and Monsanto, and the respondent, Negev.

Comment 1: Petitioners suggest that, because certain sales transactions in the Israeli market were made to one particular customer at lower prices than to other customers, there must be a relationship between that particular customer and Negev. Therefore, these transactions are not at arm's length and should not be included in the calculation of foreign market value.

Department's Position: Petitioners' allegation that Negev and its customer are related is based purely on speculation. However, in response to this allegation, Negev provided a statement from the Israeli Ministry of Industry and Trade listing the names of the owners and establishing that there was no relationship between this customer and Negev during the review period. Thus, we have no basis for excluding these sales from our analysis.

Comment 2: Petitioners question whether the contract date, which the Department used as the basis for the date of sale for all U.S. sales, appropriately establishes the U.S. sale date. Based on their knowledge of selling IPA in the United States, petitioners suspect that Negev's U.S. sales contracts contain cancellation or adjustment provisions which would be inconsistent with the idea of a binding contract. Therefore, the Department should review the sales contracts in order to determine if they are binding and a proper basis for the date of sale.

Department's Position: We disagree. Negev supplied us with date-of-sale information in the questionnaire response and stated that the date of sale was the date that price and quantity were set. The Department sent out a supplemental questionnaire requesting additional information to clarify certain portions of the response and to address comments raise by the petitioners. The supplemental questionnaire specifically requested Negev to describe which documents were used to establish date of sale. Negev fully responded to our questionnaires. It stated that terms of sale, includng price and quantity, were established in written contracts with its customer in the United States. Furthermore, they agreed to supply these documents to the Department for review at verification.

Under 19 CFR 353.36, there is no requirement that the Department verify every administrative review. We have determined that verification in these reviews was not necessary. Customer contracts are usually reviewed at verification. We do not generally require such customer-sensitive information in the questionnaire response unless there is evidence indicating that this information is necessary. Petitioner's argument that the contracts may not be binding is purely speculative. We have no reason to doubt Negev's submissions to the questionnaire response. Therefore, we used the contract date for U.S. sales as the date of sale.

Comment 3: Petitioners argue that, if Negev sells to the United States under a binding contract that establishes a date of sale, Negev must incur after-sale warehousing in order to meet the shipments specified under the contract. Therefore, the Department must reduce the U.S. price to adjust for after-sale warehousing expenses.

Department's Position: We disagree. According to Negev's submissions of February 13, 1989 and April 3, 1989, the company produces IPA at a constant rate and, although IPA is stored at the port of Ashdod, it is not designated for either domestic or export markets or a particular shipment. Thus, we did not allow any adjustments for the expenses related to Negev's storage facilities at Ashdod, because these are general fixed costs of the company and not variable costs which are directly related to the sales under review.

Comment 4: Negev contends that the Department should not have denied its claim for an adjustment for quality control costs. In Final Determination of Sales at Less Than Fair Value; Industrial Phosphoric Acid from Israel (52 FR 25440; July 7, 1987), the Department denied the claim for this adjustment because Negev was unable to establish that the tests were performed as a requirement of the sale and Negev, at that time, could not demonstrate, through documentary evidence, the calculation of the adjustment. However, during these review periods, Negev demonstrated that these costs were incurred and that they are required on each shipment. Accordingly, the Department should make an adjustment for the expenses associated with this cost on both U.S. and home market sales.

Department's Position: We agree. Accordingly, we have made a circumstance-of-sale adjustment for the difference between these expenses incurred for U.S. and home market sales.

Comment 5: Negev argues that the Department is required by 19 U.S.C. 1677a(d)(1)(D) and 19 CFR 353.41 to make an upward adjustment to U.S. price for countervailing duties on its IPA sales for both review periods. Furthermore, Negev contends that, if the Department issues final results in the antidumping duty reviews without first completing the countervailing duty administrative reviews for 1988 and 1989, the Department will be in violation of the U.S. countervailing duty law and its own regulations.

Department's Position: We agree that an upward adjustment to U.S. price should be made for countervailing duties assessed on export subsidies, and we adjusted our 1987 calculations for such countervailing duties. Although the Department has not completed countervailing duty administrative reviews for the later periods encompassed by these antidumping reviews, further adjustment for countervailing duties in 1988 and 1989 would not change the final results because we have found no dumping margins for both review periods. Therefore, delaying these reviews would have no purpose.

Comment 6: Negev argues that sales to related customers were not in the ordinary course of trade because these customers were required to buy from Negev and could not source competitively. Therefore, these sales to related companies should not be included in the calculation of foreign market value.

Department's Position: We disagree. We do not consider the fact that a customer has an exclusive sourcing arrangement a basis for considering sales not to be in the ordinary course of trade. Thus, they are properly part of our margin analysis.

Comment 7: Negev argues that it incurs different selling expenses in Israel and the United States because it sells to end-users in Isreael and to a distributor in the United States. Therefore, the Department should make an adjustment for sales at different levels of trade.

Department's Position: We disagree. Although Negev has quantified the difference in selling expenses between the two markets, it has not established that the difference is attributable to differences in levels of trade. Accordingly, we denied the adjustment.

Comment 8: Negev claims that, because it pays a commission on sales to its U.S. customer, a comparable adjustment to home market price for indirect selling expenses incurred in Israel is appropriate.

Department's Position: We disagree. The buyer of a product cannot receive a commission for its own purchase, as would a sales agent. In Final Determination of Sales at Less Than Fair Value; Industrial Phosphoric Acid from Israel (52 FR 25440; July 7, 1987), the Department determined that this expense was not a commission. We have no basis for changing that determination.

Comment 9: Negev claims that bad debts were incurred in the home market but not in the United States. Therefore, the Department should make an adjustment to foreign market value for bad debts.

Department's Position: We disagree. We consider these bad debt expenses to be indirect selling expenses. We note that these expenses were not identified with sales made during the period of review. In this review, we are using purchase price as the basis of U.S. price. As a result, indirect selling expenses are not considered in our analysis without a commission on U.S. sales. Since the Department determined that there was no commission on U.S. sales, no adjustment for indirect selling expenses was warranted (*see* 19 CFR 353.56(2)(b) and our response to Comment 8).

Final Results of Review

As a result of our review, we determine the dumping margins to be:

Manufacturer/ Exporter	Time period	Margin (percent)
NEGEV	4/20/87–7/31/88	0
	8/1/88–7/31/89	0
HAIFA	4/20/87–7/31/88	6.82
	8/1/88–7/31/89	6.82

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentage stated above. The Department will issue appraisement instructions directly to the Customs Service. Further, as provided for by section 751(a)(1) of the Tariff Act, the cash deposit of estimated antidumping duties will be waived for Negev. For any shipments of this merchandise manufactured or exported by the remaining known manufacturers and/or exporters not covered in this review, the cash deposit will continue to be at the rates published in the antidumping duty order for these firms (52 FR 31057; August 19, 1987). For any future entries of this merchandise from a new exporter, not covered in this or prior administrative reviews, whose first shipments occurred after August 1, 1989 and who is unrelated to the reviewed firm or any previously reviewed firm, no cash deposit shall be required. These deposit requirements and waiver are effective for all shipments of Israeli industrial phosphoric acid entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with sections 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: July 11, 1991.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 91–17251 Filed 7–18–91; 8:45 am]

BILLING CODE 3510–DS–M

[A-588-032]

Large Power Transformers From Japan; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administration review.

SUMMARY: In response to a request by the petitioner, the Department of Commerce has conducted an administrative review of the antidumping finding on large power transformers from Japan. The review covers exports of one manufacturer of this merchandise to the United States for the period from June 1, 1989, through May 31, 1990. The review indicates that no shipments of the subject merchandise took place during the review period. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: July 19, 1991.

FOR FURTHER INFORMATION CONTACT: Joseph Hanley or Laurie Lucksinger, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5253.

SUPPLEMENTARY INFORMATION: .

Background

On June 19, 1990, the Department of Commerce (the Department) published a notice of "Opportunity to Request Administrative Review" (55 FR 24816). The petitioner requested this administrative review on July 2, 1990. We initiated the review on July 26, 1990 (55 FR 30490), covering the period June 1, 1989, through May 31, 1990. The Department has conducted this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act). The final results of the last administrative review in this case were published in the **Federal Register** on June 26, 1991 (56 FR 29215).

Scope of the Review

Imports covered by the review are shipments of large power transformers; that is, all types of transformers rated 10,000 kVA (kilovolt/amperes) or above, by whatever name designated, used in the generation, transmission, distribution, and utilization of electric power. The term "transformers" includes, but is not limited to, shunt reactors, autotransformers, rectifer transformers, and power rectifier transformers. Not included are combination units, commonly known as rectiformers, if the entire integrated assembly is imported in the same shipment and entered on the same entry and the assembly has been ordered and invoiced as a unit, without a separate price for the transformer portion of the assembly. This merchandise is currently classifiable under the Harmonized Tariff Schedule (HTS) item numbers 8504.22.0, 8504.23.00, 6504.34.33, 8504.40.00, and 8504.50.00. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers one manufacturer/exporter of transformers, Fuji Electric Co., Ltd. (Fuji), during the period June 1, 1989, through May 31, 1990.

Preliminary Results of Review

Fuji reported that it made no shipments to the U.S. during the period of review. Therefore, we preliminarily determine to set the cash deposit rate at zero percent, equal to the final results of the last review period in which Fuji made shipments. For any future entries of this merchandise from an exporter or manufacturer not covered in this or any previous review, and who is unrelated to any reviewed firm, a cash deposit of zero percent shall be required. These deposit requirements are effective for all shipments of Japanese large power transformers entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: July 10, 1991.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 91-17252 Filed 7-18-91; 8:45 am]

BILLING CODE 3510-DS-M

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of opportunity to request administrative review of antidumping or countervailing duty order, finding, or suspended investigation.

BACKGROUND: Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party as defined in section 771(9) of the Tariff Act of 1930 may request, in accordance with § 353.22 or § 355.22 of the Commerce Regulations, that the Department of Commerce ("the Department") conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

OPPORTUNITY TO REQUEST A REVIEW: Not later than July 31, 1991, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in July for the following periods:

	Period
Antidumping Duty Proceedings:	
BRAZIL: Industrial Nitrocellulose, (A-351-604)	03/05/90-06/30/91
IRAN: Certain In-Shell Pistachios, (A-507-502)	07/01/90-06/30/91
JAPAN: Industrial Nitrocellulose, (A-588-812)	03/05/90-06/30/91
JAPAN: Malleable Cast-Iron Pipe Fittings, (A-588-605)	07/01/90-06/30/91
JAPAN: High Power Microwave Amplifiers and Components Thereof, (A-588-005)	07/01/90-06/30/91
JAPAN: Fabric Expanded Neoprene Laminate, (A-588-404)	07/01/90-06/30/91
JAPAN: Synthetic Methionine, (A-588-041)	07/01/90-06/30/91
THE FEDERAL REPUBLIC OF GERMANY: Solid Urea, (A-429-601)	07/01/90-06/30/91
THE FEDERAL REPUBLIC OF GERMANY: Industrial Nitrocellulose, (A-428-803)	03/05/90-06/30/91
THE REPUBLIC OF KOREA: Industrial Nitrocellulose, (A-580-805)	03/05/90-06/30/91
ROMANIA: Solid Urea, (A-484-601)	07/01/90-06/30/91
THE PEOPLE'S REPUBLIC OF CHINA: Industrial Nitrocellulose, (A-570-802) D03/05/90-06/30/91	
THE UNITED KINGDOM: Industrial Nitrocellulose, (A-412-803)	03/05/90-06/30/91
UNION OF SOVIET SOCIALIST REPUBLICS: Solid Urea, (A-461-601)	07/01/90-06/30/91
Suspension, Agreements:	
BRAZIL: Certain Forged Steel Crankshafts, (C-351-609)	01/01/90-12/31/90

	Period
Countervailing Duty Proceeding:	
EUROPEAN ECONOMIC COMMUNITY: Sugar, (C–408–046)	01/01/90–12/31/90
URUGUAY: Leather Wearing Apparel, (C–355–001)	01/01/90–12/31/90

In accordance with § 353.22(a) of the Commerce Regulations, an interested party may request in writing that the Secretary conduct an administrative review of specified individual producers or resellers covered by an order, if the requesting person states why the person desires the Secretary to review those particular producers or resellers. If the interested party intends for the Secretary to review sales of merchandise by a reseller (or a producer if that producer also resells merchandise from other suppliers) which was produced in more than one country of origin, and each country of origin is subject to a separate order, then the interested party must state specifically which reseller(s) and which countries of origin for each reseller the request is intended to cover.

Seven copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room B–099, U.S. Department of Commerce, Washington, DC 20230. Further, in accordance with § 353.31 of the Commerce Regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of "Initiation of Antidumping (Countervailing) Duty Administrative Review", for requests received by July 31, 1991.

If the Department does not receive by July 31, 1991, a request for review of entries covered by an order or finding listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute, but is published as a service to the international trading community.

Dated: July 12, 1991.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 91–17253 Filed 7–18–91; 8:45 am]

BILLING CODE 3510–DS–M

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of initiation of antidumping and countervailing duty administrative reviews.

SUMMARY: The Department of Commerce has received requests to conduct an administrative review of various antidumping and countervailing duty orders and findings with June anniversary dates. In accordance with the Commerce Regulations, we are initiating these administrative reviews.

EFFECTIVE DATE: July 19, 1991.

FOR FURTHER INFORMATION CONTACT: Roland L. MacDonald, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone (202) 377–2104.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce ("the Department") has received timely requests in accordance with § 353.22(a)(1), of the Department's regulations, for an administrative review of various antidumping and countervailing duty orders and findings with June anniversary dates.

Initiation of Reviews

In accordance with §§ 353.22(c) and 355.22(c) of the Department's regulations, we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings with June anniversary dates. We intend to issue the final results of these reviews not later than June 30, 1992.

Antidumping duty proceedings	Period to be reviewed
Canada:	
Oil Country Tubular Goods, A–122–506	
IPSCO, Inc.	6/1/90–5/31/91
Prudential Steel Ltd.	
Christensen Pipe Ltd.	
Canada:	
Red Raspberries, A–122–401	
Clearbrook Packers, Inc.	6/1/90–5/31/91
Jesse Processing Ltd.	
British Columbia Blueberry Co-Operative	
Universal Packers	
B&B Fruit Packing	
East Chilliwack Fruit Growers Cooperative	
Marco Estates/Landgrow	
Mukhtiar & Sons	
Pacific Coast Fruit Products	
Sabolay	
Valley Berries	
Germany:	
Cylindrical Roller Bearings and Parts Thereof, A–428–801	
Dr. Ing.-K. Busch GmbH	5/1/90–4/30/91
Ateliers Busch & Cie	
Italy:	
Industrial Belts, A–475–802	
Pirelli Trasmissioni Industriali S.p.A.	6/1/90–5/31/91
Japan:	
Large Power Transformers, A–588–032	
Fuji Electric	6/1/90–5/31/91
Hitachi Electric Corp.	
Toshiba Corp.	
Japan:	
Internal-Combustion, Industrial Forklift Trucks, A–588–703	
Toyota Motor Corp.	6/1/90–5/31/91
Japan:	
Industrial Belts, A–588–807	
Mitsuboshi Belting Ltd.	6/1/90–5/31/91
Japan:	
Fish Netting of Man-Made Fibers, A–588–029	
Nippon Kenmo Co.	6/1/90–5/31/91
Momoi Fishing Net Mfg. Co.	
The People's Republic of China:	
Tapered Roller Bearings and Parts Thereof, A–570–601	
Henan Machinery and Equipment Import & Export Corp.	6/1/90–5/31/91
Chin Jun Industrial Ltd.	
Harbin Bearing Factory	
Luoyang Bearing Factory	
Wafangdian Bearing Factory	

Antidumping duty proceedings	Period to be reviewed
Shanghai General Bearing Co., Ltd.	
Shanghai Rolling Bearing Factory	
Xiangyang Bearing Factory	
Chengdu General Bearing Factory	
Hailin Bearing Factory	
Guiyang Bearing Factory	
Haihong Bearing Factory	
Lanzhou Bearing Factory	
Xibei Bearing Factory	
Changzhi Bearing Factory	
Jining Bearing Factory	
Shenyang Bearing Factory	
Gongzhuling Bearing Factory	
Jiamusi Bearing Factory	
Hangzhou Bearing Factory	
Jiangxi Bearing Factory	
Liangshan Bearing Factory	
Yantai Bearing Factory	
Northwest Bearing Plant	
Huangshi Bearing Factory	
Guangxi Bearing Factory	
Chongging Bearing Factory	
Yunnan Bearing Factory	
Baoji Bearing Factory	
Xiangtan Bearing Factory	
Shaoguan Bearing Factory	
Xinjiang Bearing Factory	
The Second Bearing Factory of Xuzhou	
Yuxi Bearing Factory	
Changde Bearing Factory	
Chengdu Bearing Company	
Handan Bearing Factory	
Xingcheng Bearing Factory	
Premier Bearing & Equipment, Ltd.	
The China National Machinery and Equipment Import and Export Corporation	
China National Machinery Import and Export Corporation of Jilin Province	
Singapore:	
Industrial Belts, A-559-802	
Mitsuboshi Belting (Singapore) Pte. Ltd. ...	6/1/90-5/31/91
Countervailing Duty Proceedings:	
None	

Interested parties must submit applications for administrative protective orders in accordance with §§ 353.34(b) and 355.4(b) of the Department's regulations.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930 (19 U.S.C. 1675(a)) and 19 CFR 353.22(c) and 355.22(c) (1989).

Dated: July 11, 1991.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 91-17254 Filed 7-18-91; 8:45 am]

BILLING CODE 3510-DS-M

[C-351-604]

Brass Sheet and Strip From Brazil; Preliminary Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of preliminary results of countervailing duty administrative review.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on brass sheet and strip from Brazil for the period January 1, 1990 through December 31, 1990. There were no shipments of the subject merchandise during the review period. However, because of program-wide changes, we intend to change the cash deposit rate to zero. We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: July 19, 1991.

FOR FURTHER INFORMATION CONTACT: Elizabeth Levy or Michael Rollin, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On January 17, 1991, the Department of Commerce (the Department) published in the **Federal Register** a notice of "Opportunity to Request Administrative Review" (56 FR 1793) of the countervailing duty order on brass sheet and strip from Brazil (52 FR 698; January 8, 1987). On January 31, 1991, the Government of Brazil requested an administrative review of the order. We initiated the review, covering the period January 1, 1990 through December 31, 1990, on February 19, 1991 (56 FR 6621). The Department has now conducted this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of Review

Imports covered by this review are shipments of brass sheet and strip, other than leaded brass and tin brass sheet and strip. This merchandise is currently classifiable under item numbers 7409.21.00 and 7409.29.00 of the Harmonized Tariff Schedule (HTS). The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the period January 1, 1990 through December 31, 1990 and four programs.

The Government of Brazil reported that there were no shipments, and the United States Customs Service confirmed that there were no known unliquidated entries of the subject merchandise into the United States by exporters of brass sheet and strip from Brazil during the review period.

Analysis of Programs

Section 751(a) of the Tariff Act authorizes the Department, in the absence of any entries, shipments, or exports of the subject merchandise, to conduct an administrative review of an outstanding countervailing duty order in order to adjust the cash deposit rate when a foreign government has instituted a program-wide change (e.g., elimination or creation of a subsidy program). Final Results of Countervailing Duty Administrative Review: Carbon Steel Wire Rod From New Zealand, (56 FR 28,863 (1991)). We preliminarily determine that the Government of Brazil has instituted program-wide changes with respect to the following programs.

(1) Income Tax Exemption for Export Earnings

Under this program, exporters were ineligible for an exemption from the 30 percent nominal corporate income tax on the portion of their profits attributable to exports. The exporter calcuated the tax-exempt portion of profit based on the ratio of export revenue to total revenue.

Decree Law 7988 of December 28, 1989 reduced the benefit received with regard to the income tax exemption on export earnings.

Effective with the year of assessment 1990, all exports were subject to an income tax of 18 percent.

Decree Law 8034 of April 12, 1990 eliminated this tax exemption and established a prevailing tax rate of 30 percent for domestic and export earnings for the year of assessment 1991 (year basis 1990). For purposes of the cash deposit of estimated countervailing

duties, we preliminarily determine the benefit from this program to be zero.

(2) CACEX Preferential Working Capital Financing for Exports

This program was terminated, effective August 30, 1990, by Central Bank Resolution 1744. Loans under this program were suspended as of February 22, 1989 until the program's ultimate termination. For purposes of the cash deposit of estimated countervailing duties, we preliminarily determine the benefit from this program to be zero.

(3) Preferential Export Financing Under CIC–OPCRE 6–2–6 (formerly CIC–CREGE 14–11) of the Banco do Brasil.

As of September 20, 1988, interest rates applicable to CIC–OPCRE 6–2–6 loans have been equal to those of market rate loans. (See, Final Affirmative Countervailing Duty Determination; Steel Wheels from Brazil (54 FR 15523; April 18, 1989.)) For purposes of the cash deposit of estimated countervailing duties, we preliminarily determine the benefit from this program to be zero.

(4) Import Duty Exemption Under Decree-Law 1189

Brazilian Decree Law 7988, Article 7, of December 28, 1989, terminated this program. For purposes of the cash deposit of estimated countervailing duties, we preliminarily determine the benefit from this program to be zero.

Preliminary Results of Review

As a result of our review, we preliminarily determine that there were no shipments of the subject merchandise exported to the United States during the period January 1, 1990 through December 31, 1991. However, due to the termination of all programs under review, we preliminarily determine the net subsidy to be zero for purposes of the cash deposit rate of estimated countervailing duties.

Therefore, as provided for by section 751(a)(1) of the Tariff Act, the Department intends to instruct the Customs Service to waive the collection of cash deposits of estimated countervailing duties on all shipments of the subject merchandise from Brazil entered, or withdrawn from the warehouse, for consumption on or after the date of publication of the final results of this administrative review.

Parties to the proceeding may request disclosure of the calculations methodology and interested parties may request a hearing not later than 10 days after the date of publication of this notice. Interested parties may submit written arguments in case briefs on these preliminary results within 30 days of the date of publication. Rebuttal briefs, limited to arguments raised in case briefs, may be submitted seven days after the time limit for filing the case brief. Any hearing, if requested, will be held seven days after the scheduled date for submission of rebuttal briefs. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR 355.38(e).

Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client of employer becomes a party to the proceeding, but in no event later than the date the case briefs, under 19 CFR 355.38(c), are due.

The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any case or rebuttal brief or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: July 15, 1991.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 91–17255 Filed 7–18–91; 8:45 am]

BILLING CODE 3510–DS–M

[C–614–504]

Carbon Steel Wire Rod From New Zealand; Preliminary Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of preliminary results of countervailing duty administrative review.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on carbon steel wire rod from New Zealand for the period October 1, 1987 through September 30, 1988. We preliminarily determine that there were no shipments of the subject merchandise to the United States during the review period. Therefore, the rate of cash deposit of estimated countervailing duties will remain at zero, the rate established in the last administrative review. We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: July 19, 1991.

FOR FURTHER INFORMATION CONTACT: Al Jemmott or Paul McGarr, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On February 28, 1989, the Department of Commerce (the Department) published in the Federal Register a notice of "Opportunity to Request Administrative Review" (54 FR 8372) of the countervailing duty order on carbon steel wire rod from New Zealand (51 FR 7971; March 7, 1986). On March 20, 1989, respodnent, Pacific Steel Ltd., requested an administrative review of the order. We initiated the review, covering the period October 1, 1987 through September 30, 1988, on April 28, 1989 (54 FR 18320). The Department has now conducted this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act). We published the final results of the last administrataive review on June 25, 1991 (56 FR 28863).

Scope of Review

Imports covered by the review are shipments from New Zealand of coiled, semi-finished, hot-rolled carbon steel wire rod of approximately round solid cross-section, not under 0.20 inch nor over 0.74 inch in diameter, tempered or not tempered, treated or not treated, not manufactured or partly manufactured, and valued over or under 4 cents per pound. During the review period, such merchandise was classifiable under items 607.1400, 607.1710, 607.1720, 607.1730, 607.2200 and 607.2300 of the Tariff Schedules of the United States Annotated (TSUSA). This merchandise is currently classifiable under items 7213.31.30, 7213.31.60, 7213.39.00, 7213.41.30, 7213.41.60, 7213.49.00 and 7213.50.00 of the Harmonized Tariff Schedule (HTS). The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the period October 1, 1987 through September 30, 1988, and Pacific Steel Ltd. (PSL), the one known manufacturer/exporter of the merchandise subject to the countervailing duty order.

The Government of New Zealand reported that there were no shipments, and U.S. import statistics (IM–146) confirm that there were no known unliquidated entries of the subject merchandise into the United States during the review period by exporters of

carbon steel wire rod from New Zeland subject to the countervailing duty order.

Analysis of Programs

Section 751(a) of the Tariff Act authorizes the Department, in the absence of any entries, shipments, or exports of the subject merchandise, to conduct an administrative review of an outstanding countervailing duty order in order to adjust the cash deposit rate when a foreign government has instituted a program-wide change (e.g., elimination or creation of a subsidy program). Final Results of Countervailing Duty Administrative Review: Carbon Steel Wire Rod From New Zealand, (56 FR 28,863 (1991)). The Government of New Zealand (GNZ) instituted such a program-wide change by terminating, effective April 1, 1990, the Export Market Development Taxation Incentive (EMDTI) program—a tax-credit program found by the Department to confer countervailable benefits during the period of investigation in this proceeding. Therefore, for purposes of cash deposits of estimated countervailing duties, we preliminarily determine the benefit from this program to be zero for all firms.

However, because the cash deposit rate established in the last administrative review is already zero, further adjustments to the cash deposit rate to account for the elimination of the EMDTI program is unnecessary.

Preliminary Results of Review

As a result of our review, we preliminarily determine that there were no shipments of the subject merchandise to the United States during the review period. Furthermore, we preliminarily determine the total bounty or grant to be zero for purposes of the cash deposit of estimated countervailing duties.

Therefore, as provided for by section 751(a)(1) of the Tariff Act, the Department intends to instruct the Customs Service to waive cash deposits of estimated countervailing duties on shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

Parties to the proceeding may request disclosure of the calculations methodology and interested parties may request a hearing not later than 10 days after the date of publication of this notice. Interested parties may submit written arguments in case briefs on these preliminary results within 30 days of the date of publication. Rebuttal briefs, limited to arguments raised in case briefs, may be submitted seven days after the time limit for filing of case briefs. Any hearing, if requested, will be held seven days after the scheduled date for submission of rebuttal briefs.

Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR 355.38(e).

Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs, under 19 CFR 355.38(c), are due.

The Department will publish the final results of administrative review including the results of its analysis of issues raised in any case or rebuttal brief or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675 (a) (1)) and 19 CFR 355.22.

Dated: July 12, 1991.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 91-17256 Filed 7-18-91; 8:45 am]

BILLING CODE 3510-DS-M

[C-791-001]

Ferrochrome From South Africa; Final Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On March 21, 1991, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on ferrochrome from South Africa. We have now completed that review and determine the total bounty or grant to be zero for Feralloys, and 3.47 percent *ad valorem* for all other companies for the period January 1, 1989 through December 31, 1989.

EFFECTIVE DATE: July 19, 1991.

FOR FURTHER INFORMATION CONTACT: Dana S. Mermelstein or Barbara Tillman, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On March 22, 1991, the Department of Commerce (the Department) published in the **Federal Register** (56 FR 12170) the preliminary results of its administrative review of the countervailing duty order on ferrochrome from South Africa (46 FR 21155; April 9, 1981). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of Review

Imported products covered by this review are South African ferrochrome, which is currently classifiable under items 7202.41.00, 7202.49.10 and 7202.49.50 of the Harmonized Tariff Schedule (HTS). The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

This review covers the period January 1, 1989 through December 31, 1989, and six programs.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received case briefs from the Government of South Africa on behalf of respondents (Chromecorp Technology (Pty) Ltd., Consolidated Metallurgical Industries Limited (CMI), Middleburg Steel & Alloys (Pty) Ltd. (MS&A), and Samancor), Minerais, U.S., Inc. (Minerals), and the petitioners, Macalloy Corporation and Elkem Metals Company. We received rebuttal briefs from Minerais and the petitioners. On May 3, 1991, we returned a portion of the Government of South Africa's case brief in accordance with 19 CFR 355.31(a)(3), because it contained factual inforamtion untimely submitted.

Comment 1: Minerais argues that the Department should revoke the countervailing duty order on ferrochrome from South Africa, claiming the petitioners no longer have standing as interested parties under 19 U.S.C. 1671a(b) because "no U.S. manufacturer is producing ferrochrome for the commercial market today." Minerais further alleges that Elkem Metals is a wholly-owned, wholly-controlled, subsidiary of a Norwegian company, and appears to be using the countervailing duty law to prevent competition for its imports from Norway. For these reasons, the Department cannot allow companies with no legitimate stake in the results to use the countervailing duty law for private benefit.

Petitioners argue that, contrary to Minerais' assertions, petitioners are interested parties because they produced ferrochrome during the review period and continue to operate production facilities. Moreover, even if petitioners made no commercial sales, they would be interested parties as a matter of law because there is no requirement that a producer make commercial sales. Finally, petitioners argue that, contrary to Minerais' claim, the U.S. ferrochrome industry exists, and that they are acting on behalf of that industry.

Department's Position: Minerais' claims concerning petitioners' standing are based on factual information which was first presented to the Department in Minerais' case brief. Because the factual information relating to standing was untimely submitted pursuant to 19 CFR 355.31(c)(2), the Department was unable to consider the information for the purposes of this review.

In addition, based on information properly on the record, the Department cannot conclude that the countervailing duty order on ferrochrome from South Africa should be revoked. Minerais does not claim that petitioners did not have standing during the review period, rather Minerais contends that petitioners no longer produce ferrochrome for commercial purposes. Indeed, Minerais concedes that one of the petitioners produced ferrochrome during 1989, the review period. In addition, 19 CFR 355.2(i) does not limit "interested party" status to producers which produce only for commercial purposes. Finally, we do not consider foreign ownership to be dispositive of whether a U.S. producer has standing as an interested party. See, e.g., Initiation of Antidumping Duty Investigation; Certain Portable Electric Typewriters from Singapore (56 FR 22150; May 14, 1991).

Comment 2: Minerais argues that the countervailing duty order on ferrochrome from South Africa should have been revoked in 1989, pursuant to 19 CFR 355.25(d)(4), the so-called "sunset provision." Petitioners reply that, under the "sunset provision," proper notice is required prior to revocation and none was given.

Department's Position: We agree with petitioners. The Department cannot revoke a countervailing duty order without first publishing a "Notice of Intent to Revoke," which we only did in March 1990. In response to this notice, we received timely objections and requests for this administrative review from the petitioners.

Comment 3: The Government of South Africa argues that the Department should issue company-specific rates. The purpose of issuing a country-wide rate under 19 U.S.C 1671e(a)(2) is to lessen the administrative burden of issuing company-specific rates. In this case, there are only five companies, and the Department has already calculated an individual rate for each one in order to calculate the country-wide rate. In addition, because the differential among these rates is commercially significant, the rate applied to each company should reflect only the amount of assistance it obtained from the Government. A country-wide rate is therefore not a means of offsetting the subsidies received but of imposing a penalty for use of subsidies over the *de minimis* level.

Minerais and petitioners argue that the Department is required by 19 U.S.C. 1671e(a)(2) to issue a country-wide rate. The Department is only required to issue company-specific rates when there is a "significant differential," as defined by 19 CFR 355.20(d), in the benefits received by individual companies.

Department's Position: As stated in the preamble to 19 CFR 355.20(d), "[u]nlike the antidumping law, which is directed at company-specific activity, the countervailing duty law is directed at government or government-sponsored activity. Country-wide countervailing duty rates are well-suited to discourage such foreign subsidization." (54 FR 52325; December 27, 1988). Accordingly, the statute states that the Department shall presumptively apply a countervailing duty rate to all companies within the country. An exception is made, however, when a company has a rate that is "significantly different" from the country-wide rate. Only one company, Feralloys, Ltd., met the "significant differential" criteria set forth in 19 CFR 355.20(d). Therefore, Feralloys received its individual rate, which was zero, and we calculated an "all other" rate for the remaining companies. See, e.g., Final Results of Countervailing Duty Administrative Review; Certain Iron Metal Castings from India (56 FR 1976; January 18, 1991); Carbon Black from Mexico; Final Results of Countervailing Duty Administrative Review (55 FR 51745; December 17, 1990).

Comment 4: CMI urges the Department to use in its calculations a corrected figure for exports of subject merchandise to the United States. The petitioners urge the Department to reject this data as untimely under 19 CFR 355.31.

Department's Position: We agree with petitioner. Because CMI's factual information was first submitted in its case brief, after the publication of the preliminary results, we have rejected the data as untimely pursuant to 19 CFR 355.31.

Comment 5: Respondents argue that, with respect to Category D of the Export Incentive Scheme, allocating benefits received based on expenses incurred in a non-calendar-year fiscal year over 1989 exports distorts the benefits because the deductions for export marketing expenses claimed on exports during the fiscal year do not match the exports under review. Respondents also argue that the use of the nominal tax rate reported in the questionnaire response overstates the value of Category D benefits. Respondents urge the Department to use the effective tax rates supplied to the Department in their case brief. These effective rates account for tax incentives, benefits, and credits received by each company, and in all cases were considerably lower than the originally reported nominal tax rates.

Petitioners argue that the Department's standard practice is to allocate benefits to the review period in which they are realized. In the case of a tax benefit, the amount of the subsidy received cannot be known until after a company's tax return is filed. In addition, petitioners argue that respondents' argument for using the effective tax rate should be dismissed because it is based on factual information first submitted in respondents' case brief. Finally, petitioners allege that information provided in CMI's case brief suggests that CMI may have received other countervailable tax concessions during the review period, and they urge the Department to investigate any such tax benefits thoroughly.

Department's Position: The Department's standard practice is to recognize a benefit at the time it affects the cash flow of the recipient company. See, e.g. Final Negative Countervailing Duty Determination; Silicon Metal from Brazil (56 FR 26988; June 12, 1991), Final Affirmative Countervailing Duty Determination; New Steel Rail, Except Light Rail, from Canada (54 FR 31991, 31995; August 3, 1989), and Final Negative Countervailing Duty Determination; Standard Pipe, Line Pipe, Light-Walled Rectangular Tubing and Heavy-Walled Rectangular Tubing from Malaysia (53 FR 46904; November 21, 1988). See also, Notice of Proposed Rulemaking and Request for Public Comments, 19 CFR 355.48(b)(4) (54 FR 23366, 23384; May 31, 1989) (where the Department states that the cash flow effect occurs "in the case of a direct tax benefit . . . at the time a firm can calculate the amount of the benefit,

which normally will be the time at which the firm files its tax return"). Therefore, it is appropriate to calculate the Category D benefits based on the tax return filed during the review period, since the benefit is recognized in the year of receipt. Furthermore, it is appropriate to allocate Category D benefits over exports during the review period since the benefits from this program cannot be measured until that time.

We agree with petitioners that the information supporting respondents' argument for using the effective tax rate is based on factual information submitted after the publication of the preliminary results of this review. Moreover, our use of the nominal tax rate as reported in the questionnaire response is appropriate for calculating Category D benefits because the benefit to the company is measurable at the nominal tax rate, not at the effective (*i.e.*, average) rate derived from comparing tax paid to gross income.

Petitioners' allegations that CMI received other countervailable tax benefits are untimely and speculative. According to 19 CFR 355.39, the Department is required to investigate allegations only if a newly discovered practice appears to provide a subsidy, and if there is sufficient time remaining before the final results to timely complete an investigation of the discovered practice. We have no evidence properly on the record supporting petitioners' allegations or requiring the Department to investigate those practices in this review.

Comment 6: CMI argues that two programs, the Rail Rebate and the Housing Assistance for Key Personnel, are not countervailable because they benefit domestic as well as export shipments, and are available to a variety of industries in a number of different regional areas. Petitioners rebut this assertion claiming that, as regional subsidies, these programs are countervailable.

Department's Position: We agree with petitioners. Consistent with our longstanding practice, we have determined that benefits under these programs "are limited to enterprises or industries located in a specific region or regions of a country," and therefore provide countervailable subsidies. See, Final Negative Countervailing Duty Determination; Silicon Metal from Brazil (56 FR 26988; June 12, 1991) (see Department Response to Comment 2); Final Affirmative Countervailing Duty Determination; New Steel Rail, Except Light Rail, from Canada (54 FR 31991, 31994; August 3, 1989); and Final Affirmative Countervailing Duty Determination; Certain Atlantic Groundfish from Canada (51 FR 10041; March 24, 1986). See, also, section 355.43(b)(3) of the Department's proposed regulations (54 FR 23379).

Comment 7: MS&A argues that the 90-Day Bankers' Acceptance Rate is a more appropriate benchmark rate than the Term Lending Base Rate for calculating the benefit from its Industrial Development Corporation loan. Petitioners reply that the Department should reject MS&A's argument because it is based on benchmark information first submitted by MS&A in its case brief, which is untimely.

Department's Position: We agree with petitioners. Respondents' argument for using the 90 Day Bankers' Acceptance Rate as a benchmark is not supported by any evidence properly on the record in this administrative review.

Comment 8: Samancor argues that the Department should recalculate its Category A and D benefits based on revised figures submitted for the portion of these benefits relating to U.S. exports. Petitioners argue that the Department cannot revise its calculations of Samancor's Category A and D benefits because Samancor's claim is based on untimely submitted factual information.

Department's Position: We agree with petitioners. In responding to the Department's questionnaire, Samancor specifically stated that they "do not have details of amounts attributable to exports to the U.S.A." Accordingly, the Department used the reported total amounts of benefits and divided by total exports, to determine Samancor's Category A and D benefits. We cannot revise our methodology based on untimely submitted factual information.

Final Results of Review

After reviewing all of the comments timely received, we determine the total bounty or grant to be zero for Feralloys and 3.47 percent *ad valorem* for all other companies for the period January 1, 1989 through December 31, 1989. The change in the "all-other" rate from 3.33 percent *ad valorem* in the preliminary results of this review is due to the inclusion of a Category D benefit which had not been included in the calculations for the preliminary results.

The Department will instruct the Customs Service to liquidate, without regard to countervailing duties, shipments of the subject merchandise from Feralloys Limited, and to assess countervailing duties of 3.47 percent of the f.o.b. invoice price on shipments of the subject merchandise from all other firms exported on or after January 1, 1989 and on or before December 31, 1989.

The Department will also instruct the Customs Service to waive cash deposits of estimated countervailing duties, as provided by section 751(a)(1) of the Tariff Act, on any shipments of the subject merchandise from Feralloys, Inc., and to collect a cash deposit of estimated countervailing duties of 3.47 percent of the f.o.b. invoice price on shipments of the subject merchandise from all other firms that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement and waiver shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: July 11, 1991.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 91–17257 Filed 7–18–91; 8:45 am]

BILLING CODE 3510–DS–M

[C–401–056]

Viscose Rayon Staple Fiber From Sweden; Final Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On April 22, 1991, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on viscose rayon staple fiber from Sweden. We have now completed that review and determine the net subsidy during the period January 1, 1989 through December 31, 1989 to be 6.68 percent *ad valorem*.

EFFECTIVE DATE: July 19, 1991.

FOR FURTHER INFORMATION CONTACT: Britt Doughtie or Maria MacKay, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On April 22, 1991, the Department of Commerce (the Department) published in the **Federal Register** (56 FR 16326) the preliminary results of its administrative

review of the countervailing duty order on viscose rayon stable fiber from Sweden (44 FR 28319; May 15, 1979). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of Review

Imports covered by this review are shipments of Swedish regular viscose rayon staple fiber and high-wet modulus (modal) viscose rayon staple fiber. This merchandise is classifiable under item number 5504.10.0000 of the Harmonized Tariff Schedule (HTS). The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the period January 1, 1989 through December 31, 1989 and three programs: (1) Loans/Grants for Plant Creation; (2) Elderly Employment Compensation Program; and (3) Grant for Manpower Reduction and Conditional Loan. The only known Swedish exporter of this merchandise to the United States is Svenska Rayon AB.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received no comments.

Final Results of Review

As a result of our review, we determine the net subsidy to be 6.68 percent *ad valorem* during the period January 1, 1989 through December 31, 1989.

Therefore, the Department will instruct the Customs Service to assess countervailing duties of 6.68 percent of the f.o.b. invoice price on all shipments of this merchandise exported on or after January 1, 1989 and on or before December 31, 1989.

Further, the Department will instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 6.68 percent of the f.o.b. invoice price on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: July 9, 1991.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 91-17258 Filed 7-18-91; 8:45 am]

BILLING CODE 3510-DS-M

Short-Supply Determination: Certain Large Diameter Pipe

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice of short-supply determination on certain large diameter pipe.

SHORT-SUPPLY REVIEW NUMBER: 53.

SUMMARY: The Secretary of Commerce hereby grants a short-supply request for 8,300 net tons of certain large diameter pipe for the third quarter of 1991 under Paragraph 8 of the U.S.-Japan steel arrangement.

EFFECTIVE DATE: July 10, 1991.

FOR FURTHER INFORMATION CONTACT: Mark B. Brechtl or Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, room 7866, Pennsylvania Avenue and 14th Street NW., Washington, DC 20230, (202) 377-1386 or 377-0159.

SUPPLEMENTARY INFORMATION: On June 10, 1991, the Secretary of Commerce ("Secretary") received an adequate petition from Enron Corporation ("Enron") requesting a short-supply allowance for 11,200 net tons of American Petroleum Institute X-70 grade submerged arc welded large diameter steel pipe ("LDP"), 30 inches in diameter with a wall thickness of 0.30 inch, for the third quarter of 1991 under Paragraph 8 of the Arrangement Between the Government of Japan and the Government of the United States of America Concerning Trade in Certain Steel Products. The LDP is intended for use in the construction of the Transwestern Pipeline Expansion. Enron is requesting short supply for 8,300 net tons of LDP because no domestic producer will be able to meet its needs during the requested time period and because its potential Japanese supplier does not have sufficient regular export licenses available. Enron is also requesting short supply for 2,900 net tons of this LDP to be used as a "contingency quantity" in case its domestic supplier is unable to meet its delivery schedule. The Secretary conducted this short-supply review pursuant to section 4(b)(4)(A) of the Steel Trade Liberalization Program Implementation Act, Public Law No. 101-221, 103 Stat. 1886 (1989) (the "Act"), and § 357.102 of the Department of Commerce's Short-Supply Procedures. (19 CFR 357.102) ("Commerce's Short-Supply Procedures").

On June 10, 1991, the Secretary established an official record for this short-supply request (Case Number 53) in the Central Records Unit, room B-099, Import Administration, U.S. Department of Commerce at the above address. On June 17, 1991, the Secretary published a notice in the **Federal Register** (56 FR 27734) announcing a review of this request and soliciting comments from interested parties. Comments were required to be received no later than June 24, 1991, and interested parties were invited to file replies to any comments no later than five days after that date. In order to determine whether this product could be supplied by U.S. producers during the third quarter of 1991, the Secretary sent questionnaires to the three domestic LDP producers, Bethlehem Steel Corporation ("Bethlehem"), Berg Steel Pipe Corporation ("Berg"), and Napa Pipe Corporation ("Napa"). The Secretary received timely questionnaire responses from all three companies, rebuttal comments from Enron regarding Napa's response, and supplemental comments from Napa.

Questionnaire Responses

Berg and Bethlehem both stated that they are not able to supply Enron with the requested pipe during the third quarter of 1991. Napa stated that it could begin shipment to Enron by August 15, 1991, and deliver the entire amount of the request by August 31, 1991.

Enron's comments took issue with Napa's production claims. Enron disputed Napa's current production rate and questioned whether Napa's current mill schedule allows for production time of Enron's order.

Subsequently, Napa indicated that it could not supply the 8,300 net tons of the X-70 grade LDP due to a lack of available mill space. Napa asserted that it still could supply the 2,900 net tons of the requested LDP.

Analysis

The major question in this review is whether there is an actual supply shortfall for the requested product during the specified time period (delivery in the third quarter of 1991). This request is for two different quantities of X-70 grade submerged arc welded LDP, 30 inches in diameter with a wall thickness of 0.30 inch: 8,300 net

tons of LDP for which Enron claims there is no domestic producer during the requested time period; and 2,900 net tons of LDP to be used as a "contingency quantity" in case Enron's domestic supplier has difficulty meeting its delivery schedule.

Concerning the 8,300 net tons of X–70 grade LDP, no domestic LDP producer is able to produce and ship the requested product within the indicated time period. Therefore, a condition of short supply exists for this quantity during the third quarter of 1991.

Enron also seeks 2,900 net tons of "contingency" LDP in case its domestic supplier (Napa) is unable to meet its needs for this material on a timely basis. However, Napa has committed to supply this material by a specified date, and Enron has provided no evidence to indicate that this commitment will not be met. While Enron may have legitimate concerns regarding the contractual obligations of its domestic supplier, the short-supply procedures are not intended to guarantee a petitioner with material in anticipation of domestic mills failing to meet contractual obligations. Rather, the short-supply program exists to address market situations in which there is an insufficient supply of a particular product to meet demand. In this case, the information on the record indicates that Napa is a valid domestic supplier for the requested 2,900 net tons of LDP; therefore, a condition of short supply for this material does not exist.

Conclusion

Concerning the 8,300 net tons of X–70 grade submerged arc welded LDP included in this request, potential domestic suppliers have stated that they are unable to supply this material to Enron during the indicated time period, and Enron's potential Japanese supplier does not have sufficient regular export licenses available. However, Enron has failed to demonstrate that there is an insufficient supply of 2,900 net tons of the "contigency" tonnage to meet demand. Therefore, the Secretary determines that short-supply exists with respect to 8,300 net tons of the X–70 grade submerged arc welded LDP included in this request. Pursuant to section 4(b)(4)(A) of the Act, and § 357.102 of Commerce's Short-Supply Procedures, the Secretary grants Enron a short-supply allowance for 8,300 net tons of the X–70 grade submerged arc welded included in this request for the third quarter of 1991 under the U.S.-Japan steel arrangement.

Dated: July 10, 1991.

Majorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 91–17259 Filed 7–18–91; 8:45 am]

BILLING CODE 3510–DS–M

Short-Supply Review: Certain Steel Plate

AGENCY: Import Administration/ International Trade Administration, Commerce.

ACTION: Notice of short-supply review and request for comments: certain steel plate.

SUMMARY: The Secretary of Commerce ("Secretary") hereby announces a review and request for comments on a short-supply request for 21,782.6 net tons of certain steel plate for the fourth quarter of 1991 under Article 8 of the U.S.–EC steel arrangement.

SHORT-SUPPLY REVIEW NUMBER: 54.

SUPPLEMENTARY INFORMATION: Pursuant to section 4(b)(3)(B) of the Steel Trade Liberalization Program Implementation Act, Public Law No. 101–221, 103 Stat. 1886 (1989) ("the Act"), and Section 357.104(b) of the Department of Commerce's Short-Supply Procedures, (19 CFR 357.104(b)) ("Commerce's Short-Supply Procedures"), the Secretary hereby announces that a short-supply determination is under review with respect to certain steel plate for use in the manufacture of large diameter pipe (LDP). On July 10, 1991, Berg Steel Pipe Corporation submitted an adequate petition to the Secretary requesting a short-supply allowance under Article 8 of the Arrangement Between the European Coal and Steel Community and the European Economic Community, and the Government of the United States of America Concerning Trade in Certain Steel Products, for 21,782.6 net tons of certain American Petroleum Institute grade X–70 (modified) steel plate 130.297 to 130.966 inches in width and 0.417 to 0.630 inch in thickness, to be delivered during the fourth quarter of 1991. Berg is requesting a short-supply allowance because it believes this product is not produced in the United States and its potential foreign supplier has insufficient regular licenses available to supply the requested tonnage.

Section 4(b)(4)(B)(ii) of the Act and § 357.106(b)(2) of Commerce's Short-Supply Procedures require the Secretary to make a determination with respect to a short-supply petition not later than the 30th day after the petition is filed, unless the Secretary finds that one of the following conditions exist: (1) The raw steelmaking capacity utilization in the United States equals or exceeds 90 percent; (2) the importation of additional quantities of the requested steel product was authorized by the Secretary during each of the two immediately preceding years; or (3) the requested steel product is not produced in the United States. The Secretary finds that none of these conditions exist with respect to the requested product, and therefore, the Secretary will determine whether this product is in short supply not later than August 9, 1991.

COMMENTS: Interested parties wishing to comment upon this review must send written comments not later than July 26, 1991 to the Secretary of Commerce, Attention: Import Administration, room 7866, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street NW., Washington, DC 20230. Interested parties may file replies to any comments submitted. All replies must be filed not later than 5 days after July 26, 1991. All documents submitted to the Secretary shall be accompanied by four copies. Interested parties shall certify that the factual information contained in any submission they make is accurate and complete to the best of their knowledge.

Any person who submits information in connection with a short-supply review may designate that information, or any part thereof, as proprietary, thereby requesting that the Secretary treat that information as proprietary. Information that the Secretary designates as proprietary will not be disclosed to any person (other than officers or employees of the United States Government who are directly concerned with the short-supply determination) without the consent of the submitter unless disclosure is ordered by a court of competent jurisdiction. Each submission of proprietary information shall be accompanied by a full public summary or approximated presentation of all proprietary information which will be placed in the public record. All comments concerning this review must reference the above noted short-supply review number.

FOR FURTHER INFORMATION CONTACT: Richard O. Weible or Mark Brechtl, Office Of Agreements Compliance, Import Administration, U.S. Department of Commerce, room 7866, 14th Street and Constitution Avenue NW., Washington, DC 20230, (202) 377–0159 or (202) 377–4037.

Dated: July 15, 1991.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 91–17260 Filed 7–18–91; 8:45 am]

BILLING CODE 3510–DS–M

National Oceanic and Atmospheric Administration

Endangered Species; Application for Permit; Northeast Fisheries Center

Notice is hereby given that the Applicant has applied in due form for a Permit to take endangered species as authorized by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) and the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR parts 217–222).

1. *Applicant:* Patricia Gerrior, Woods Hole Laboratories, Northeast Fisheries Center, National Marine Fisheries Center, 166 Water Street, Woods Hole, MA 02543.

2. *Type of Permit:* Scientific Research.

3. *Name and Number of Species:*

Green *Chelonia mydas*.....10 (annually)
Loggerhead *Caretta caretta*..... 60 (annually)
Hawksbill *Eretmochelys imbricata*.....10 (annually)
Leatherback *Dermochelys coriacea*.....10 (annually)
Kemp's Ridley *Lepidochelys kempi*.....10 (annually)

4. *Type of Take:* Approximately fifty NMFS scientists or observers aboard a commercial fishing vessel will study turtles taken in various incidental commercial fishing operations. Turtles will be measured and photographed from the dorsal, ventral, and frontal perspectives. An annual take level of 10 individuals for species other than loggerheads and a take level of 60 loggerheads per year is estimated.

The primary goals of the proposed research are to determine the size and composition of populations of sea turtles found in the commercial fishing areas and, through tagging, to establish individual identities of turtles which will permit the resulting determination of growth rates, possible stock origins, and movement patterns. this data will be analyzed to assess commercial fishing impacts on listed sea turtles.

5. *Location and Duration of Activity:* The work conducted under this permit will take place off of U.S. and foreign commercial fishing vessels operating in the United States Exclusive Economic Zone off the mid-Atlantic states, on Georges Bank and in the Gulf of Maine. The permit to conduct this research is requested for five years.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC, 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 Highway, Silver Spring, Maryland 20910; and Director, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, Massachusetts 01930.

Dated: July 15, 1991.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 91–17191 Filed 7–18–91; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals; Application for Permit; Dr. Gerald L. Kooyman (P16L)

Notice is hereby given that the 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 parts 216).

1. *Applicant:* Dr. Gerald L. Kooyman, Scripps Institution of Oceanography, Physiological Research Laboratory, Scholander Hall A–004, La Jolla, CA 92093–0204.

2. *Type of Permit:* Scientific Research.

3. *Name and Number of Marine Mammals:* Five (5) California sea lions (*Zalophus californianus*).

4. *Type of Take:* Locally stranded and, rehabilitated or captive-born sea lions will be transferred from Sea World and maintained at Scripps Institute. They will be trained for open-ocean studies approximately .05 to 3 miles from shore, to dive to a target at various depths while heart rate, blood and muscle O_2 and temperature will be monitored by means of a submersible, attached microprocessor-recorder. During the cardiovascular experiments heart rates will be measured during dives using waterproof electrodes glued to the surface of the skin and connected to the submersible microprocessor. Blood chemistry to assess the degree of body O_2 store utilization will be obtained by placing a catheter percutaneously in the iliac sinus. O_2 stores will be determined after the field trials are complete. These studies will determine: (a) The breath-hold response of sea lions to deep (about 100m) diving; (b) the body O_2 stores diving MO_2 of sea lions; (c) the aerobic dive limit of sea lions; and (d) the nature of the management of O_2 stores in sea lions while diving to depth.

5. *Location and Duration of Activity:* Scripps Institute of Oceanography, San Diego, CA.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of commerce is forwarding copies of this application to the Marine Mammals Commission and the 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, National Marine Fisheries Service, U.S. Department of Commerce, 1335 East-West Hwy., room 7234, 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:

By appointment: Permit Division, Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Hwy., suite 7324, Silver Spring, Maryland 20910 (301/427–2289);

Director, Southwest Region, National marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731–7415 (213/514–6196).

Dated: July 11, 1991.

Richard H. Schaefer,

Director, Office of Fisheries Observation and Management.

[FR Doc. 91–17192 Filed 7–18–91; 8:45 am]

BILLING CODE 3510–22–M

Schedule of New and Revised Fees for Access to NOAA Environmental Data and Information and Products Derived Therefrom

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA)

announces a new schedule of the fees for the sale to the public of a variety of environmental data, information and products. NOAA will waive these fees as necessary to continue to participate in international data sharing arrangements and will continue to provide its data and information, at cost of reproduction and transmission, to other governmental entities and to universities and non profit organizations for non commercial use.

DATES: August 19, 1991.

FOR FURTHER INFORMATION CONTACT: Rodney Weiher (202) 377–0757.

SUPPLEMENTARY INFORMATION: Section 10201(a) of Public Law 101–508 amended section 409 of the Act of November 17, 1988 (15 U.S.C. 1534) to expand the scope of the fees for the sale to the public of environmental data, information, and products that NOAA is authorized to charge based upon "fair market value". Based on this authority, NOAA, as is set forth in the attached schedule, is increasing or instituting fees on the following products and services, beginning August 19, 1991.

A. *National Weather Service (NWS):*
1. Family of Services, excluding the Public Products Service (PPS).
2. Climate Analysis Center (CAC) Dial-up service.
3. NWS Radar Data (new charge).

B. *National Environmental Satellite, Data, and Information Service (NESDIS):*
1. GOES Tap.

C. *National Ocean Service (NOS):*
1. Geodesy Products.
2. Tidal, and other Ocean Science Products.

Setting "Fair and Equitable" Fees Based on "Fair Market Value": "Fair market value," as a legal concept, appears simple—it is the price that would be agreed upon by a willing seller and a willing buyer. In practice, it is an elusive concept at best. When dealing with a product of a type widely bought and sold in the market place in competition with many similar products, fair market value can be estimated with some confidence by experts knowledgeable in that market. However, the environmental data information and products ("the services") produced by NOAA are unique. There are few, if any, services currently sold in the market place that compete with those available from NOAA. Therefore, a fair market price cannot be readily quantified with the data available on the markets for NOAA's services.

Even a seller with a monopoly over a product (*e.g.*, the owner of a patented product) would be "willing" to enter the market to sell the product only in anticipation that the selling price would exceed the total costs by an amount that would allow a "reasonable" profit. In the case of these NOAA services, the total investment needed to acquire the ability to provide the services has been very substantial. For example, the cost of the satellites and the radars currently in use that are needed to produce a portion of the services exceeds hundreds of millions of dollars. An estimated fair market value (the minimum hypothetical price required in order to make the seller of NOAA's services a "willing seller") could be constructed by adding a portion of the capital costs and the transaction costs of providing the NOAA services listed in the attached schedule. The resulting fee for each of the services would be very high.

However, section 10201(b)(1) of Public Law 101–508 specifically limits the increase in revenues to the United States resulting from the increased fees to $2 million in each of fiscal years (FYs) 1991, 1992 and 1993, and $3 million for each of FYs 1994 and 1995. Thus, even though the statute directs that the fees be based on "fair market value," the statute also directs that the fees be capped at a level that collects no more than an additional $2 million per year through FY 1993 and $3 million per year for FYs 1994 and 1995. It should be noted that any new fees or fee increases for archived data of the National Environmental Satellite, Data, and Information Service do not count against the fee increase limit cap because section 409 of the Act of November 17, 1988 prior to the enactment of Public Law 101–508 already authorized NOAA to collect fair market value fees for such data.

Section 10201(b)(2) further mandates that increases in revenues to the United States be achieved through "fair and equitable increases in fees for services offered by the various programs of the National Oceanic and Atmospheric Administration." The legal requirement of "fair and equitable" in determining an appropriate level of fees suggests that the commercial value of the services to the recipient could be a factor. That concept is accepted internationally in determining appropriate fees for environmental data and information. It is also embedded in the requirement of section 409(b) of the Act of November 17, 1988 (15 U.S.C. 1534(b)) that data information and products that are to be "used for research and not for commercial purposes" shall be provided at cost.

The commercial value of the same service may vary considerably from user to user. At this time, NOAA does not have information about the type and extent of these uses sufficient to factor a recipient's use into its fee calculation. Therefore, the fees listed in the attached schedule do not take into account the recipients' uses of the services and their consequent commercial values to recipients. As is discussed in greater detail below, NOAA is conducting a market study to determine the nature and extent of the commercial value to various recipients of the services listed in the schedule. As is also discussed in greater detail below, NOAA contemplates adjusting the fees mended schedule of fees will differentiate among recipients' commercial uses of a NOAA service and provide an appropriate range of fees based upon use. In the agency's view, such a refinement could improve its response to the spirit of the law.

As discussed above, section 10201(b)(2) requires that the increase in revenues described in section 10201(b)(1) be achieved through fair and equitable increases in the fees for all services offered by the various programs of NOAA. To comply with this requirement, NOAA decided to increase each fee by an amount equal to the existing fee multiplied by a common factor which, when all such increases are summed together with the total revenues expected from the new $600 fee for radar data, given current demand, would result in across-the-board increased fee revenues of $2 million, the amount of revenue increases set forth in section 409, as amended. This common multiplier approach was chosen because it treats all commercial users of the various services listed in the schedule equitably and avoids placing a disproportionate burden on a single service and on a single group of users. The flexibility to raise or lower fees provided by the permissible range in supplemental fees will make a fine tuning of the fees possible should it such become necessary in light of experience.

As mentioned, for radar data, for which no fee has been previously charged, the annual fee is $600. In the context of the other fees, this reflects the value of the service.

Impact of the Fee Increases on Users

NOAA believes that the intent of Congress in enacting the fee legislation was to strike a balance between the requirement to generate additional revenue and the legitimate needs of the users to have access to NOAA's nearly exclusive stream of environmental data and products at a reasonable price. With respect to the fee for a single copy of a data set or product listed in the schedule, the relatively modest fee is not expected to diminish reasonable access

to any data set or product by small commercial entities or individuals. Many recipients of services that are available on an annual subscription basis resell a value-added service in a format tailored to the needs of client groupings served by the subscriber. The costs of new or increased fees in the schedule are expected to be passed by the subscriber to the end clients, some of whom may be small entities or individuals. It is unlikely that this will impair reasonable access by any client since it is likely that the subscriber will spread the cost of the new or increased fees over all end clients. It is possible that some current subscribers to NOAA services will choose not to continue to subscribe to one or more specific services. Any services no longer provided by marginal subscribers will be readily available to their former clients from those subscribers who elect to continue their subscriptions. Thus, NOAA believes that the balance intended by Congress is achieved in the fee levels in the schedule, particularly in view of NOAA's flexibility to adjust fees in light of experience.

Exceptions and Limitations

In accordance with section 409(g) of the Act of November 17, 1988 (15 U.S.C. 1534(g)) as amended by section 10201(a)(7) of Public Law 101–508, the authority to set fees based on "fair market value" does not apply to fees for nautical or aeronautical charts (the fees which are set as prescribed by 44 U.S.C. 1307), nor does its apply to fees for data or information achieved by NESDIS (fees which will be the subject of a subsequent announcement).

As required by section 409(b) of the Act of November 17, 1988 (15 U.S.C. 1534(b)), NOAA will continue to provide its services to other governmental entities and to universities and other nonprofit institutions at no more than cost, and will waive the fees as necessary to participate in international data sharing arrangements. The provision of such services to these recipients will include arrangements to assure such services will not be used for commercial purposes. Pursuant to section 409(b), NOAA is not charging "fair market value" fees for the provision of weather warnings, watches, and similar products and services essential to NOAA's mission. Thus, fees for the NOAA Weather, Wire and the Public Products Service—the official vehicles for providing watches and warnings—are not increased and are not included in the schedule.

Section 10201(b)(1) of Public Law 101–508 limits the revenues which can be realized from the fee increases to $2 million in FY 1991–1992 and $3 million in FY 1993–1994, and requires that these revenues be achieved through fair and equitable increases among the various NOAA products and services. NOAA believes that the revenues generated will be well within the target range and that the increases are as fair and equitable as possible. In the following schedule, the current fee (if any) plus a "supplemental fee" equals the "fair market fee" that will be charged as of August 19, 1991. However, NOAA is aware of the difficulty of trying to analyze all effects of these increases in advance or of definitively assessing the value of its data, information and products involved. Consequently, it is undertaking a market study of these effects and is providing some flexibility in the fee schedule to accommodate unexpected results since, under section 409(c) of the Act of November 17, 1988 (15 U.S.C. 1534(c)), the published schedule must remain in effect for three years.

The concept of fair and equitable fee increases is necessarily imprecise, and it is likely that some fees will need to be adjusted as NOAA gains experience with the new fee system, conducts market studies regarding its operation, and assesses how the marketplace reacts to the fees in the schedule. The fee may be adjusted, when appropriate, by increasing or decreasing the supplemental fee within the range indicated for each product or service. Decreases within the stated range may be instituted with immediate effect on the next billing. Increases would be instituted only after 30 days notice, would be within the supplemental fee range listed in the schedule, and would be subject to the terms of existing subscription agreements.

Section 409(c) of the Act of November 17, 1988 (15 U.S.C. 1534(c)) requires that the initial schedule published by NOAA shall remain in effect "without amendment" for a three-year period beginning on the date that fees under the schedule take effect. As noted above the law also contemplates that the annual revenues to the United States attributable to the fee increases will rise from $2 million in each of FYs 1991, 1992, and 1993 to $3 million in each of FYs 1994 and 1995. Therefore, the supplemental fee range in the schedule is sufficiently broad to accommodate the increases contemplated by the law for FYs 1994 and 1995 without amendment to the schedule.

NOAA interprets the "no amendment" provision to mean that for one full year from the date the fee increases go into effect, NOAA may not charge a supplemental fee for a listed service which exceeds the supplemental fee range listed in the attached schedule for that service. It is contemplated that from time-to-time, services in addition to those listed may be added to the schedule. Prices for such services not now listed on the schedule may be announced as an addendum to the schedule. Addenda for unlisted services would, in NOAA's view be consistent with the "no amendment" provision of the law which is designed to provide a measure of certainty over time for the prices of the listed services and not to foreclose the agency from adding services.

The fee schedule applies to listed services provided by NOAA on or after August 19, 1991, except for products and services covered by a subscription agreement in effect as of that date that extends beyond that date. In those cases, the increased fees will apply upon renewal of the subscription agreement or at the earliest possible amendment date pursuant to the contract.

Dated: July 12, 1991.

Gray Castle,

Deputy Under Secretary of Commerce for Oceans and Atmosphere.

SCHEDULE OF FEES FOR ACCESS TO NOAA, ENVIRONMENTAL DATA AND INFORMATION AND PRODUCTS DERIVED THEREFROM

Name of Product/Data/Publication/Information	Current Fee	Supplemental Fee	Fair Market Fee	Supplemental Fee Range	
				Low	High-
I. National Ocean Service					
A. National Geodetic Survey:					
Standard Geodetic Data (per page	$0.16	$0.38	$0.54	$0.26	$0.57
Non-Standard Special Requests for Geodetic Products (per hour)	24.37	57.51	81.88	40.26	86.27
Software Products (floppy, tape)	29.22	68.96	98.18	48.27	103.44
Computer Geoid Heights/Gravity Predictions (1 point)	7.33	17.30	24.63	12.11	25.95

SCHEDULE OF FEES FOR ACCESS TO NOAA, ENVIRONMENTAL DATA AND INFORMATION AND PRODUCTS DERIVED THEREFROM—Continued

Name of Product/Data/Publication/Information	Current Fee	Supplemental Fee	Fair Market Fee	Supplemental Fee Range	
				Low	High-
Digital Data/Contour Maps for Geoid Heights (1 degree x 1 degree area)	26.11	61.62	87.73	43.13	92.43
B. Marine Chart Branch:					
Non-Routine Cartographic work (per hour)	37.00	87.32	124.32	61.12	130.98
Bromide Print (photo print)	28.00	66.08	94.08	46.26	99.12
Bromide Print (additional copy)	19.00	44.84	63.84	31.39	67.26
Film Positive, 42' X 60'	46.00	108.56	154.56	75.99	162.84
Film Positive, 42' X 60' (add. copy)	31.00	73.16	104.16	51.21	109.74
Film Positive, 36' X 48'	39.00	92.04	131.04	64.43	138.06
Film Positive, 36' X 48' (add. copy)	26.00	61.36	87.36	42.95	92.04
NOS Hydrographic Manual, 4th Edition	28.00	66.08	94.08	46.26	99.12
AWOIS Printouts	45.00	106.20	151.20	74.34	159.30
Dipfile	208.00	490.88	698.88	343.62	736.32
Digital Shoreline	321.00	757.56	1,078.56	530.29	1,136.34
Photograph Certification	20.00	47.20	67.20	33.04	70.80
Research (per hour)	30.00	70.80	100.80	49.56	106.20
Photo Index	2.00	4.72	6.72	3.30	7.08
Loran-C Overlays	18.00	42.48	60.48	29.74	63.72
C. Photogrammetry Branch:					
Aerial Photograph: 9x9 B/W Contact paper Print	8.00	18.88	26.88	13.22	28.32
Aerial Photograph: 9x9 Duplicate Negative	10.00	23.60	33.60	16.52	35.40
Aerial Photograph: B/W Contact Film Positive	13.00	30.68	43.68	21.48	46.02
Aerial Photograph: B/W 2X Enlargement	28.00	66.08	94.08	46.26	99.12
Aerial Photograph: B/W 4X Enlargement	50.00	118.00	168.00	82.60	177.00
Aerial Photograph: 9x9 Color Contact Paper Print	12.00	28.32	40.32	19.82	42.48
Aerial Photograph: 9x9 color film Positive (diapositive)	17.00	40.12	57.12	28.08	60.18
Aerial Photograph: 2X color Enlargement	64.00	151.04	215.04	105.73	226.56
Aerial Photograph: 3X color Enlargement	99.00	233.64	332.64	163.55	350.46
Aerial Photograph: 4X color Enlargement	119.00	280.84	399.84	196.59	421.26
Published Frequency and Duration Analysis	68.00	160.48	228.48	112.34	240.72
Daily Sea Surface Water Temperature and Density (one month)	10.00	23.60	33.60	16.52	35.40
Daily Sea Surface Water Temperature and Density (one year)	33.00	77.88	110.88	54.52	116.82
Summary of Monthly Means of Extremes Surface Water Temperature and Density (complete series)	27.00	63.72	90.72	44.60	95.58
Summary of Monthly Means and Extremes Surface Water Temperature and Density (single type)	10.00	23.60	33.60	16.52	35.40
Certification of Water Level Data	154.00	363.44	517.44	254.41	545.16
Publications	3.00	7.08	10.08	4.96	10.62
F. Cst. & Est. Ocean. Branch:					
Standard Handling	6.00	14.16	20.16	9.91	21.24
Computer Prediction Set-Up	3.00	7.08	10.08	4.96	10.62
PC Diskette	4.00	9.44	13.44	6.61	14.16
Magnetic Tape (8.5 inches)	11.00	25.96	36.96	18.17	38.94
Magnetic Tape	15.00	35.40	50.40	24.78	53.10
Standard Miscellaneous Tidal Predictions Daily	1.30	3.07	4.37	2.15	4.60
Miscellaneous Tidal Predictions-Daily Hard Copy	10.00	23.60	33.60	16.52	35.40
Miscellaneous Tidal Predictions-Hourly Hard Copy	10.00	23.60	33.60	16.52	35.40
Miscellaneous Tidal Predictions-Hourly and Daily Hard Copy	11.00	25.96	36.96	18.17	38.94
Predictions-Diskette	19.00	44.84	63.84	31.39	67.26
Predictions-Hourly-Diskette	20.00	47.20	67.20	33.04	70.80
Predictions-Daily-Diskette	20.00	47.20	67.20	33.04	70.80
Prediction-Hourly and Daily Diskette	21.00	49.56	70.56	34.69	74.34
Tidal Predictions-Daily-8.5' Mag Tape	28.00	66.08	94.08	46.26	99.12
Tidal Predictions-Daily-10.5' Mag Tape	32.00	75.52	107.52	52.86	113.28
Tidal Prediction-Hourly-8.5' Mag Tape	29.00	68.44	97.44	47.91	102.66
Tidal Predictions-Hourly-10.5' Mag Tape	33.00	77.88	110.88	54.52	116.82
Tidal Predictions-Daily-8.5' Mag Tape	29.00	68.44	97.44	47.91	102.66
Tidal Predictions-Daily-10.5' Mag Tape	33.00	77.88	110.88	54.52	116.82
Tidal Prediction-Hourly and Daily-8.5' Mag Tape	28.00	66.08	94.08	46.26	99.12
Tidal Prediction-Hourly and Daily-10.5' Mag Tape	32.00	75.52	107.52	52.86	113.28
Standard Tidal Harmonic Constants	3.00	7.08	10.08	4.96	10.62
Standard Tidal Harmonic Constants-Hard Copy	9.00	21.24	30.24	14.87	31.86
Standard Tidal Harmonic Constants Diskette	14.00	33.04	47.04	23.13	49.56
Standard Tidal Harmonic Constants 8.5' Mag	23.00	54.28	77.28	38.00	81.42
Standard Tidal Harmonic Constants-10.5' Mag	27.00	63.72	90.72	44.60	95.58
Astronomical Data	4.00	9.44	13.44	6.61	14.16
Astronomical Data-Photostat	10.00	23.60	33.60	16.52	35.40
Asronomical Data-Diskette	17.00	40.12	57.12	28.08	60.18
Astronomical Data-8.5' Mag Tape	24.00	56.64	80.64	39.65	84.96
Astronomical Data-10.5' Mag Tape	28.00	66.08	94.08	46.26	99.12
Tidal Differences	3.00	7.08	10.08	4.96	10.62
Tidal Differences-Photostat	9.00	21.24	30.24	14.87	31.86
Tidal Differences-Diskette	16.00	37.76	53.76	26.43	56.64
Tidal Difference-8.5' Mag Tape	23.00	54.28	77.28	38.00	81.42
Tidal Difference-10.5' Mag Tape	27.00	63.72	90.72	44.60	95.58
Prediction Program	3.00	7.08	10.08	4.96	10.62
Standard Certification Preparation	15.00	35.40	50.40	24.78	53.10
Special Publication No. 98 or Supplement	9.00	21.24	30.24	14.87	31.86

SCHEDULE OF FEES FOR ACCESS TO NOAA, ENVIRONMENTAL DATA AND INFORMATION AND PRODUCTS DERIVED THEREFROM—Continued

Name of Product/Data/Publication/Information	Current Fee	Supplemental Fee	Fair Market Fee	Supplemental Fee Range	
				Low	High-
Tidal Equilibrium Arguments and Node Factors	3.00	7.08	10.08	4.96	10.62
Equilibrium Arguments and Node Factor	12.00	28.32	40.32	19.82	42.48
Equilibrium Arguments and Node Factors-Diskette	16.00	37.76	53.76	26.43	56.64
Equilibrium Arguments and Node Factors-8.5'	23.00	54.28	77.28	38.00	81.42
Equilibrium Arguments and Node Factors-10.5'	27.00	63.72	90.72	44.60	95.58
Standard Xerox or Photocopy	6.00	14.16	20.16	9.91	21.24
II National Weather Service					
A. Family of Services:					
Domestic Data Service (per yr.)	3,500.00	8,260.00	11,760.00	5,782.00	12,390.00
International Data Service (per yr.)	4,000.00	9,440.00	13,444.00	6,608.00	14,160
Numerical Product Service (per yr.)	10,000.00	23,600.00	33,600.00	16,520.00	35,400.00
Direct Connect Service (per yr.)	12,500.00	29,500.00	42,000.00	20,650.00	44,250.00
Direct Connect Service (per yr.)	12,500.00	29,500.00	42,000.00	20,650.00	44,250.00
Digital Facsimile (per yr.)	5,500.00	12,980.00	18,480.00	9,086.00	19,470.00
AFOS Graphics Service (per yr.)	20,500.00	48,380.00	68,880.00	33,866.00	72,570.00
B. Climate Analysis Center:					
Frequent User (-100+calls per yr.)	600.00	852.00	1,452.00	596.00	1,278.00
Moderate User (-52-99)	400.00	568.00	968.00	398.00	852.00
Light User (-12-51)	140.00	199.00	339.00	139.00	299.00
Casual User (-1-11)	48.00	68.00	116.00	48.00	102.00
C. Radar Data (per yr.)	0.00	600.00	600.00	420.00	900.00
III. NESDIS/NWS					
GOES Tap (per yr.)	100.00	236.00	336.00	165.00	354.00

[FR Doc. 91–17090 Filed 7–18–91; 8:45 am]
BILLING CODE 3510–12–M

National Technical Information Service

Prospective Grant of Exclusive Patent License

This is notice in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Technical Information Service (NTIS), U.S. Department of Commerce, is contemplating the grant of an exclusive license in the United States and certain foreign countries to practice the invention embodied in U.S. Patent Application Serial Number 7–451,953 entitled, "Hepatocellular Oncogene" to Triton Diagnostics, Inc. having a place of Business in Alameda, California. The Patent rights in this invention have been assigned to the United States of America.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The present invention relates to an oncoprotein specific for hepatocellular carcinomas and to a nucleotide sequence that codes for such a protein. The invention further relates to screening and diagnostic methodologies (and kits based thereon) that make use of the oncoprotein (or antibodies specific for same) and the nucleotide sequence.

The availability of the invention for licensing was published in the Federal Register of July 23, 1990.

A copy of the instant patent application may be purchased from the NTIS sales Desk by telephoning 1–800–553–NTIS or by writing to Order Department, NTIS, 5285 Port Royal Road, Springfield, VA 22161.

Inquiries, comments and other materials relating to the contemplated license must be submitted to Papan Devnani, Center for Utilization of Federal Technology, NTIS, Box 1423, Springfield, VA 22151. Properly filed competing applications received by the NTIS in response to this notice will be considered as objections to the grant of the contemplated license.

Stephen Gates,

Center for Utilization of Federal Technology, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 91–17171 Filed 7–18–91; 8:45 am]
BILLING CODE 3510–04–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textiles and Textile Products and Silk Blend and Other Vegetable Fiber Apparel Produced or Manufactured in the Philippines

July 15, 1991.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: July 22, 1991.

FOR FURTHER INFORMATION CONTACT: Kim-Bang Nguyen, 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 Reports posted on the bulletin boards of each Customs port or call (202) 535–6735. For information on embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being adjusted, variously, for swing and special shift.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 55 FR 50756, published on December 10, 1990). Also see 55 FR 51946, published on December 18, 1990.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 15, 1991.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 12, 1990, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textiles and textile products and silk blend and other vegetable fiber apparel, produced or manufactured in the Philippines and exported during the twelve-month period which began on January 1, 1991 and extends through December 31, 1991.

Effective on July 22, 1991, you are directed to amend further the December 12, 1990 directive to adjust the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and the Philippines:

Category	Adjusted twelve-month limit [1]
Group I	
237, 239, 331, 333/334, 335, 336, 338/339, 340/640, 341/641, 342/642, 345, 347/348, 351/651, 352/652, 359-S/659-S [2], 361, 363, 369-S [3], 431, 433, 443, 445/446, 447, 604, 631, 633, 634, 635, 636, 638/639, 643, 645/646, 647/648, 649, 650, 659-H [4] and 847, as a group.	340,264,998 square meters equivalent.
Sublevels in Group I	
331	959,542 dozen pairs.
338/339	1,555,372 dozen.
341/641	693,483 dozen.
351/651	405,255 dozen.
638/639	1,457,025 dozen.
659-H	852,577 kilograms.
Group II	
200-229, 300-326, 330, 332, 349, 350, 353, 354, 359-O [5], 360, 362, 369-O [6], 400-414, 432, 434-442, 444, 448, 459, 464-469, 600-603, 606-629, 630, 632, 644, 653, 654, 659-O [7], 665-670 and 831-859, as a group.	93,107,496 square meters equivalent.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1990.

[2] Category 359-S: only HTS numbers 6112.39.0010, 6112.49.0010, 6211.11.2010, 6211.11.2020, 6211.12.3003 and 6211.12.3005; Category 659-S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

[3] Category 369-S: only HTS number 6307.10.2005.

[4] Category 659-H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.

[5] Category 359-O: all HTS numbers except 6112.39.0010, 6112.49.0010, 6211.11.2010, 6211.11.2020, 6211.12.3003 and 6211.12.3005 (Category 359-S).

[6] Category 369-O: all HTS numbers except 6307.10.2005 (Category 369-S).

[7] Category 659-O: all HTS numbers except 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090, 6505.90.8090 (Category 659-H); 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020 (Category 659-S).

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 91-17248 Filed 7-18-91; 8:45 am]

BILLING CODE 3510-DR-F

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to the Procurement List commodities, military resale commodities and services to be furnished by nonprofit agencies employing the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: August 19, 1991.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51-2.6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities, military resale commodities and services listed below from nonprofit agencies employing the blind or other severely handicapped.

It is proposed to add the following commodities, military resale commodities and services to the Procurement List;

Commodities

Bracket, Eye, Nonrotary
3040-01-240-4456
Cover, Foxhole
4240-00-444-7118

Military Resale Item and No.

051 Pencil, Mechanical, Dual Action
052 Eraser, Dual Action
821 Can Opener, Compact
842 Tongs, Scissor
848 Whip, Plastic Handle
984 Cloth, Dust, Treated

Services

Commissary Shelf Stocking and Custodial, Fort Ord, California
Commissary Shelf Stocking, Custodial and Warehousing, Hanscom Air Force Base, Massachusetts
Food Service, Natick Research, Development and Engineering Center, Natick, Massachusetts
Grounds Maintenance, FAA Automated Flight Service Station, Juneau, Alaska
Janitorial/Custodial, Federal Building and Courthouse, Centre, Alabama
Janitorial/Custodial, Federal Building and Social Security Building, Gadsden, Alabama
Janitorial/Custodial, Federal Building, 105 South Sixth Street, Mount Vernon, Illinois
Janitorial/Custodial, Patterson Federal Building, Ward and Clark Street, Patterson, New Jersey
Janitorial/Custodial, Bismarck, North Dakota at the following locations:
Bismarck District Office, 707 North Bismarck Expressway
Bismarck Warehouse Garage, 700 North Bismarck Expressway

Janitorial/Custodial, Columbus, Ohio at the following locations:
Federal Building, 200 N. High Street
Parking Facilities, Spring and Pearl Streets
Janitorial/Custodial, Naval and Marine Corps Reserve Center, Building 540, Vienna, Ohio
Mailroom Operation, National Archives, 7th & Pennsylvania Avenue, NW., Washington, DC.

Beverly L. Milkman,

Executive Director.

[FR Doc. 91-17233 Filed 7-18-91; 8:45 am]

BILLING CODE 6820-33-M

CONSUMER PRODUCT SAFETY COMMISSION

Notification of Request for Extension of Approval of Information Collection Requirements—Amended Interim Safety Standard for Cellulose Insulation

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In accordance with provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), the Consumer Product Safety Commission has submitted to the Office of Management and Budget a request for extension of approval through July 31, 1994, of information collection requirements in the Amended Interim Safety Standard for Cellulose Insulation (16 CFR part 1209). The standard is intended to eliminate or reduce unreasonable risks of injury associated with flammable or corrosive cellulose insulation and prescribes requirements for flame resistance and corrosiveness of that product. Sale or distribution of cellulose insulation which does not meet the requirements of the standard violates section 19 of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2068). Additionally, section 14 of the CPSA (15 U.S.C. 2063) requires manufacturers of cellulose insulation to issue certificates of compliance with the standard which are based on a reasonable testing program. Regulations implementing the standard prescribe testing and recordkeeping requirements for a reasonable testing program to support certificates of compliance.

Additional Details About the Request for Extension of Approval of Information Collection Requirements

Agency address: Consumer Product Safety Commission, Washington, DC 20207.

Title of information collection: Amended Interim Safety Standard for Cellulose Insulation (16 CFR part 1209).

Type of request: Extension of approval.

Frequency of collection: Varies depending upon the individual manufacturer's production and the reasonable testing program in use.

General description of respondents: Manufacturers of cellulose insulation.

Estimated number of respondents: 100.

Estimated average number of hours per respondent: 25 per year.

Estimated number of hours for all respondents: 2,500 per year.

Comments: Comments on this request for extension of approval of information collection requirements should be addressed to Elizabeth Harker, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503; telephone: (202) 395-7340. Copies of the request for extension of information collection requirements are available from Francine Shacter, Office of Planning and Evaluation, Consumer Product Safety Commission, Washington, DC 20207; telephone: (301) 492-6416.

This is not a proposal to which 44 U.S.C. 3504(h) is applicable.

Dated: July 16, 1991.

Sheldon D. Butts,

Acting Secretary Consumer Product Safety Commission.

[FR Doc. 91-17247 Filed 7-18-91; 8:45 am]

BILLING CODE 6355-01-M

Privacy Act of 1974; Announcement of System of Records

AGENCY: Consumer Product Safety Commission.

ACTION: Announcement of system of records.

DATES: Comments must be received on or before September 17, 1991.

ADDRESSES: Comments should be sent to the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

FOR FURTHER INFORMATION CONTACT: Joseph F. Rosenthal, Office of the General Counsel, Consumer Product Safety Commission, Washington, DC 20207. Telephone: (301) 492-6980.

SUPPLEMENTARY INFORMATION: The Consumer Product Safety Commission is establishing a system of records within its Western Regional Center to manage the outreach activities, such as media interviews, speeches, or mailings, of the Western Regional Center's staff. The records will be used for internal management purposes by the Commission.

The system of records will become effective September 17, 1991, unless comments are received which justify a contrary determination.

The President of the Senate, the Speaker of the House of Representatives, and the Office of Management and Budget have been notified of this system.

Dated: July 11, 1991.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

CPSC-21

SYSTEM NAME:

Western Regional Center Outreach Tracking System—CPSC-21.

SYSTEM LOCATION:

Consumer Product Safety Commission, Western Regional Center, U.S. Customs House, 555 Battery St., room 415, San Francisco, California 9411-2390.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals contacted by staff of the Commission's Western Regional Center in connection with their assigned outreach activities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information about outreach activities conducted by the Western Regional Center's staff including the name and title of a contacted individual; the name, address and telephone number of a contacted organization; the topic and type of outreach activity involved, such as media interviews, speeches, or mailings; a narrative description of the outreach activity; and management information such as dates assigned and completed and the job classification, but not the name, of the staff member.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

15 U.S.C. 2054.

PURPOSE(S):

The Western Regional Center uses this system of records to manage its outreach workload, including budgetary analysis and the avoidance of duplicative assignments.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained by a computer database management system. Hard copy printouts of all or selected groups of records are made from time to time.

RETRIEVABILITY:

Records are retrievable by any field, including names of persons contacted.

SAFEGUARDS:

Access to the records is controlled by passwords. Computer records are accessible only by staff members of the Western Regional Center. Hard copy access is limited to Consumer Product Safety Commission staff.

RETENTION AND DISPOSAL:

Records are retained for five years and then purged.

SYSTEM MANAGER(S) AND ADDRESS:

Regional Director, Consumer Product Safety Commission, Western Regional Center, U.S. Customs House, 555 Battery St., room 415, San Francisco, California 9411–2390.

NOTIFICATION PROCEDURE:

Freedom of Information/Privacy Act Officer, Office of the Secretary, Consumer Product Safety Commission, 5401 Westbard Avenue, Washington, DC 20207.

RECORD ACCESS PROCEDURES:

Same as notification.

CONTESTING RECORD PROCEDURES:

Same as notification.

RECORD SOURCE CATEGORIES:

Information in these records comes from Western Regional Center staff who perform outreach activities.

[FR Doc. 91–17151 Filed 7–18–91; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Title, Applicable Form, and Applicable OMB Control Number: Affidavit in Support of Common-Law Marriage; AF Form 3117; OMB No. 0701–0094.

Type of Request: Reinstatement.

Average Burden Hours/Minutes per Response: 12 Minutes.

Responses per Respondent: 1.

Number of Respondents: 60.

Annual Burden Hours: 12.

Annual Responses: 60.

Needs and Uses: The retiree and claimant presented themselves as husband and wife, but were not legally married, so the claimant for annuity pay must state this fact. Defense Finance and Accounting Service (DFAS) legal staff must rule on whether the common-law marriage was recognized in the state the retiree resided in before any annuity is paid.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington Virginia 22202–4302.

Dated: July 16, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91–17212 Filed 7–18–91; 8:45 am]

BILLING CODE 3810–01–M

Office of the Secretary

Advisory Commission on Consolidation and Conversion of Defense Research and Development Laboratories; Meeting

AGENCY: Department of Defense (DoD) Advisory Commission on Consolidation and Conversion of Defense Research and Development Laboratories.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the provisions of Public Law 92–463, the "Federal Advisory Committee Act," notice is hereby given that the Federal Advisory Commission on Consolidation and Conversion of Defense Research and Development Laboratories will hold its next meeting, in two sessions, on July 31 through August 2, 1991, in Dayton, Ohio. The meetings on Wednesday, July 31, and on Thursday, August 1, will convene at 8:30 a.m. and adjourn at 5 p.m. These meetings will be held in the facilities of Wright Laboratory, Wright Patterson Air Force Base, and will be closed to the public.

The meeting on Friday, August 2, 1991, will be open to the public. It will convene at 8:30 a.m. and adjourn at 12 noon. This meeting will be held at: Wright University, Nutter Center, John W. Berry Room, 3640 Col Glenn Highway, Dayton, Ohio 45435.

The purpose of these meetings is to discuss technological factors involved in developing recommendations to the Secretary of Defense on consolidating, converting, or realigning various laboratories of the Department of Defense. The agenda for the meetings will consist of discussions of issues related to future military research and technology development. These matters constitute classified information that is specifically authorized by Executive Order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive Order. Accordingly, the Director of Defense Research and Engineering has determined, in writing, that the public interest requires that the first session of this meeting, on July 31, 1991, and August 1, 1991, be closed to the public because this session will be concerned with matters listed in section 552(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact: Dr. Michael Heeb, Executive Secretary to the DoD Advisory Commission on Consolidation and Conversion of Defense Research and Development Laboratories, 5109 Leesburg Pike, suite 317, Falls Church, VA 22041, Phone (703) 756–8969.

Dated: July 16, 1991.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer.

[FR Doc. 91–17213 Filed 7–18–91; 8:45 am]

BILLING CODE 3810–01–M

Defense Science Board Task Force on Anti-Submarine Warfare; Meeting

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Defense Science Board Task Force on Anti-Submarine Warfare will meet in closed session on 14 and 15 August, 1991, at Science Applications International Corporation (SAIC), San Diego, California.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting, the Task Force will receive briefings on current and planned ASW programs.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law No. 92–463, as amended (5 U.S.C. app. II, (1988)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly this meeting will be closed to the public.

Dated: July 16, 1991.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91–17211 Filed 7–18–91; 8:45 am]

BILLING CODE 3810–01–M

Department of the Air Force

Active Duty Service Determinations for Civilian or Contractual Groups

On July 2, 1991, the Secretary of the Air Force determined that the service of a group known as "Civilian Employees of the U.S. Navy Who Participated in the Defense of Bataan and Corregidor during the Period December 7, 1941 through May 6, 1942," would not be considered "active duty" under the provisions of Public Law 95–202.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 91–17146 Filed 7–18–91; 8:45 am]

BILLING CODE 3910–01–M

Acceptance of Group Application Under Public Law 95–202 and DODD 1000.20

U.S. Civilian Flight Crew and Aviation Ground Support Employees of United Air Lines (UAL), Who Served Overseas as a Result of UAL's Contract With the Air Transport Command During the Period May 15, 1942 to September 12, 1945

Under the provisions of section 401, Public Law 95–202 and DOD Directive 1000.20, the Department of Defense Civilian/Military Service Review Board has accepted an application on behalf of the group known as: "U.S. Civilian Flight Crew and Aviation Ground Support Employees of United Air Lines (UAL), Who Served Overseas as a Result of UAL's Contract With the Air Transport Command During the Period May 15, 1942, To September 12, 1945." Persons with information or documentation pertinent to the determination of whether the service of this group should be considered active military service to the Armed Forces of the United States are encouraged to submit such information or documentation within 60 days to the DOD Civilian/Military Service Review Board, Secretary of the Air Force (AFPC), Washington, DC 20330–1000. Copies of documents or other materials submitted cannot be returned. For further information, contact LtCol Dunlap, (703) 692–4747.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 91–17147 Filed 7–18–91; 8:45 am]

BILLING CODE 3910–01–M

Community College of the Air Force; Meeting

The Community College of the Air Force (CCAF) Board of Visitors will hold a meeting on Tuesday, November 22, 1991, at 8 a.m., in the Command Conference Room, Building 1444, Tyndall AFB, Florida. The meeting will be open to the public.

Purpose of the meeting is to review and discuss academic policies and issues relative to operation of the CCAF. Agenda items include: A Recruiting Service update; quality control procedures; tuition assistance, the enlisted promotion process, and policies affecting certificate and degree programs.

For further information contact Major Paul R. Brown, (205) 953–7937, Community College of the Air Force, Maxwell Air Force Base, Montgomery, Alabama 36112–6655.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 91–17144 Filed 7–18–91; 8:45 am]

BILLING CODE 3910–01–M

Department of the Army

Assistant Secretary of the Army (Civil Works): Request for Nominations to the Inland Waterways Users Board

AGENCY: Corps of Engineers (Civil Works), DoD.

ACTION: Notice.

SUMMARY: Section 302 of Public Law (Pub. L.) 99–662 established the Inland Waterways Users Board. The Board is an independent Federal advisory committee. Its eleven members are appointed by the Secretary of the Army. This notice is to solicit nominations for six appointments or reappointments to two-year terms that will begin January 1, 1991.

EFFECTIVE DATE: July 19, 1991.

ADDRESSES: Office of the Assistant Secretary of the Army (Civil Works), Department of the Army, Attention: Inland Waterways Users Board Nomination Committee, Washington, DC 20310–0103.

FOR FURTHER INFORMATION CONTACT: Dr. G. Edward Dickey, Acting Principal Deputy, (703) 697–4671.

SUPPLEMENTARY INFORMATION: The selection, service, and appointment of board members are covered by provisions of section 302 of Public Law 99–662. The substance of those provisions is as follows:

Selection. Members are to be selected from the spectrum of commercial carriers and shippers using the inland and intracoastal waterways, to represent geographical regions, and to be representative of waterway commerce as determined as determined by commodity ton-miles statistics.

Service. The Board is required to meet at least semi-annually to develop and make recommendations to the Secretary of the Army on waterways construction and rehabilitation priorities and spending levels for commercial navigation improvements, and report its recommendations annually to the Secretary and Congress.

Appointment. The operation of the Board and appointment of its members are subject to the Federal Advisory Committee Act (Pub. L. 92–463 as amended) and Departmental implementing regulations. Members serve without compensation but their expenses due to Board activities are reimbursable.

The considerations specified in section 302 for the selection of the Board members, and certain terms used therein, have been interpreted, supplemented, or otherwise clarified as follows:

Carriers and Shippers. The law uses the terms "primary users and shippers." Primary users has been interpreted to mean the providers of transportation services on inland waterways such as barge or towboat operators. Shippers has been interpreted to mean the purchasers of such services for the movement of commodities they own or control. Individuals are appointed to the Board, but they must be either a carrier or shipper, or represent a firm that is a carrier or shipper. For that purpose a trade or regional association is neither a shipper or primary user.

Geographical Representation. The law specifies "various" regions. For the purpose of selecting Board members, the waterways subjected to fuel taxes and

described in Public Law 95–502, as amended, have been aggregated into six regions. They are: (1) The Upper Mississippi River and its tributaries above the mouth of the Ohio; (2) the Lower Mississippi River and its tributaries below the mouth of the Ohio and above Baton Rouge; (3) the Ohio River and its tributaries; (4) the Gulf Intracoastal Waterway in Louisiana and Texas; (5) the Gulf Intracoastal Waterway east of New Orleans and associated fuel-taxed waterway east of New Orleans and associated fuel-taxed waterways including the Tennessee-Tombigbee, plus the Atlantic Intracoastal Waterway below Norfolk; and (6) the Columbia-Snake river System and Upper Willamatte. The intent is that each region shall be represented by at least one Board member, with that representation determined by the residence and principal place of business of the individual.

Commodity Representation. Waterway commerce has been aggregated into six commodity categories based on "inland" ton-miles shown in *Waterborne Commerce of the United States*. In rank order they are: (1) Farm and Food Products; (2) Coal and Coke; (3) Petroleum, crude and Products; (4) Minerals, Ores, and Primary Metals and Mineral Products; (5) Chemicals and Allied Products; and (6) All other. A consideration in this selection of Board members will be that the commodities carried or shipped by those individuals or their firms will be reasonably representative of the above commodity categories.

Reflecting preceding selection criteria, the present representation by Board members is as follows:

Members whose terms expire December 31, 1991, include three shipper representatives representing the Ohio River, Upper and Lower Mississippi river regions, and coal (2) and miscellaneous commodities, respectively; three carrier representatives representing the East Gulf region, Ohio River, Upper and Lower Mississippi River regions, and coal and ores, and grain, coal and ores, and grain, coal, petroleum and chemicals, respectively.

Members whose terms expire December 31, 1992, included two shipper representatives representing the Upper Mississippi River and Columbia River regions, and grain and other agricultural commodities; three carrier representatives representing the Ohio River and West Gulf regions, and coal, and grain, coal, petroleum, chemicals, and minerals and metals, and petroleum, respectively.

Nominations to replace members whose terms will expire December 31, 1991, may be made by individuals, firms, or association. Nominations should state the region to be represented and whether the nominee is to represent carriers or shippers. Information should be provided on the nominee's personal qualifications and the commercial operations of the carrier and/or shipper that the nominee is associated with. The latter information should show the actual or estimated ton-miles of commodities carried or shipped on inland waterways in a recent year (or years) using the waterway regions and commodity categories previously listed.

Nominations received in response to last year's Federal Register notice published August 2, 1990, have been retained for consideration for appointment along with nominations received in response to this Federal Register notice. Renomination is not required but may be desirable.

Deadline for Nominations: All nominations must be received at the address indicated in this notice not later than August 15, 1991.

Kenneth L. Denton,

Alternate Army Liaison Officer With the Federal Register.

[FR Doc. 91–17170 Filed 7–18–91; 8:45 am]

BILLING CODE 3710–02–M

Army Science Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: 06 August 1991.

Time: 0830–1600 hours each day.

Place: St. Paul's College, Lawrenceville, Virginia.

Agenda: The Army Science Board (ASB) Ad Hoc Subgroup on Initiatives to Improve HBCU/MIs Infrastructure will meet to receive briefings at the university level on how to best support the infrastructure of the HBCR/MIs. This meeting will be open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (703) 695–0781/0782.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 91–17148 Filed 7–18–91; 8:45 am]

BILLING CODE 3710–08–M

Performance Review Boards Membership

ACTION: Notice.

SUMMARY: Notice is given of the names of members of the Performance Review Boards for the Department of the Army.

DATES: This Notice is effective on July 15, 1991.

FOR FURTHER INFORMATION CONTACT: Jeanne Raymos, Senior Executive Service Office, Directorate of Civilian Personnel, Headquarters, Department of the Army, the Pentagon, room 2C670, Washington, DC 20310–0300.

SUPPLEMENTARY INFORMATION: Section 4314(c) (1) through (5) of title 5, U.S.C., requires each agency to establish, in accordance with regulations, one or more Senior Executive Service performance review boards. The boards shall review and evaluate the initial appraisal of senior executives' performance by supervisors and make recommendations to the appointing authority or rating official relative to the performance of these executives.

The members of the Performance Review Board for the Office of the Secretary of the Army are:

1. Mr. Milton H. Hamilton, Administrative Assistant to the Secretary of the Army, Office of the Secretary of the Army.
2. Mr. Daniel R. Gill, Director of Small and Disadvantaged Business Utilization Office, Secretary of the Army.
3. Mr. Douglas J. Sizelove, Operations Research Analyst for Command, Control, Communications and Intelligence.
4. Mr. William K. Takakoshi, Special Assistant to the Under Secretary of the Army, Office of the Under Secretary of the Army.
5. Mr. Morgan Rees, Deputy for Planning Policy and Legislation Office, Assistant Secretary of the Army (Civil Works).
6. Mr. Steven Dola, Deputy for Management and Budget Office, Assistant Secretary of the Army (Civil Works).
7. BG Robert Howard, Director, Operations and Support Office, Assistant Secretary of the Army (Financial Management).
8. Ms. Erin Hausman, Director, Management and Control Office, Assistant Secretary of the Army (Financial Management).
9. Mr. James E. DeWire, Deputy for Programs and Installation Assistance Office, Assistant Secretary of the Army (Installations, Logistics and Environment).
10. Ms. Patricia Hines, Deputy Assistant Secretary for Training and Education Office, Assistant Secretary of the Army (Manpower and Reserve Affairs).

11. Mr. Darrell Van Hipp, Jr., Deputy Assistant Secretary of the Army (Manpower and Reserve Affairs) Office, Assistant Secretary of the Army (Manpower and Reserve Affairs).

12. Mr. George E. Dausman, Deputy Assistant Secretary of the Army (Procurement) Office, Assistant Secretary of the Army (Research, Development and Acquisition).

13. Mr. Maurice R. Donnelly, Assistant Deputy for Plans and Programs Office, Assistant Secretary of the Army (Research, Development and Acquisition).

14. Mr. Anthony H. Gamboa, Deputy General Counsel (Acquisition), Office of the General Counsel.

15. Mr. Thomas W. Taylor, Deputy General Counsel (Installations and Operations) Office of the General Counsel.

16. BG Robert Gray, Deputy Director for Plans, Director of Information Systems for Command, Control, Communications and Computers.

17. Mr. Earl Holliman, Spectrum manager, Director of Information Systems for Command, Control, Communications and Computers.

18. Mr. Francis E. Reardon, Deputy Auditor General, Army Audit Agency.

19. Mr. Thomas Druzgal, Director, Audit Policy, Plans and Resources, Army Audit Agency.

20. Mr. Eric Orisini, Deputy Assistant Secretary of the Army (Logistics) Office, Assistant Secretary of the Army (Installations, Logistics and Environment).

The members of the Performance Review Board for the Chief of Staff, Army structures are:

1. BG Harold W. Nelson, Commander/ Chief, Military History Office, Chief of Staff.

2. Mr. E. B. Vandiver, III. Director, U.S. Army Concepts Analysis Agency Office, Chief of Staff.

3. MG Ira C. Owens, Assistant Deputy Chief of Staff for Intelligence Office, Deputy Chief of Staff for Intelligence.

4. Mr. James D. Davis, Assistant Deputy Chief of Staff for Intelligence (Management), Deputy Chief of Staff for Intelligence.

5. BG Richard G. Larson, Director of Transportation, Energy and Troop Support Office, Deputy Chief of Staff for Logistics.

6. Mr. Joseph P. Cribbins, Special Assistant to the Deputy Chief of Staff for Logistics, Chief, Aviation Logistics Office, Office, Deputy Chief of Staff for Logistics.

7. Ms. Billie W. Turmenne, Assistant Director of Supply Management, Office, Deputy Chief of Staff for Logistics.

8. MG Daniel R. Schroeder, Assistant Deputy Chief of Staff for Operations and Plans, Office, Deputy Chief of Staff for Operations and Plans.

9. Mr. John A. Riente, Technical Advisor to Deputy Chief of Staff for Operations and Plans, Office, Deputy Chief of Staff for Operations and Plans.

10. BG Jack Pellicci, Information Management Officer, Office, Deputy Chief of Staff for Personnel.

11. Dr. Zita Simutis, Director, Manpower and Personnel Research Laboratory, Office, Deputy Chief of Staff for Personnel.

12. Dr. William O. Davies, Technical Director, U.S. Army Strategic Defense Command.

13. Dr. Peter G. Pappas, Chief Scientist, U.S. Army Strategic Defense Command.

The members of the Performance Review Board for the Consolidated Commands are:

1. Mr. Michael F. Bauman, Deputy Director, U.S. Army Training and Doctrine Analysis Command.

2. MG James W. van Loben Sels, Chief of Staff, U.S. Army Training and Doctrine Command.

3. BG Paul Y. Chinen, Deputy Chief of Staff for Base Operations Support, U.S. Army Training and Doctrine Command.

4. Mr. Thomas Edwards, Assistant Deputy Chief for Training, U.S. Army Training and Doctrine Command.

5. MG Travis N. Dyer, Director of Personnel, J1, U.S. Army Forces Command.

6. Mr. William M. Wilkinson, Deputy Director, Resource Management, J8, U.S. Army Forces Command.

7. Mr. Thomas D. Collinsworth, Special Assistant for Transportation Engineering, Military Traffic Management Command.

8. Ms. Mary Lou McHugh, Senior Transportation Advisor, Military Traffic Management Command.

9. BG Hubert G. Smith, Commander, Military Traffic Management Command (Eastern Area).

10. Mr. Leonard Mabius, Senior Technical Director/ Chief Engineer, U.S. Army Information Systems Command.

11. Mr. Frederick Orr, Deputy Chief of Staff for Resource Management, U.S. Army Information Systems Command.

12. Mr. Archie Grimmett, Assistant Deputy Chief of Staff, Personnel (Civilian Personnel).

13. Mr. Larry C. Hanson, Assistant Deputy Chief of Staff, Resource Management, U.S. Army Europe, and Seventh Army.

14. BG Michael M. Schneider, Deputy Commander, U.S. Army Intelligence and Security Command.

The members of the Performance Review Board for the Army Acquisition Executive Performance Review Board are:

1. Mr. Anthony Valletta, Program Executive Officer, Standard Army Management Information Systems.

2. Mr. George Williams, Program Executive Officer, Fire Support.

3. Mr. Dale Adams, Program Executive Officer, Armaments.

4. Mr. George Singley III, Deputy Assistant Secretary for Research and Technology/Chief Scientists, Office, Assistant Secretary of the Army (Research, Development and Acquisition).

5. MG Peter M. McVey, Program Executive Officer, Armored Systems Modernization.

6. BG DeWitt T. Irby, Program Executive Officer, Aviation.

The members of the Performance Review Board for the U.S. Army Corps of Engineers are:

1. MG C.E. Edgar III, Deputy Chief of Engineers.

2. Mr. Kenneth R. Akers, Director of Engineering, Directorate of Military Programs, Headquarters, U.S. Army Corps of Engineers.

3. Mr. Jimmy Bates, Chief, Planning Division, Directorate of Civil Works, Headquarters, U.S. Army Corps of Engineers.

4. BG Gerald C. Brown, Commander, North Atlantic Division.

5. Mr. Don B. Cluff, Chief, Programs Division, Directorate of Military Programs, Headquarters, U.S. Army Corps of Engineers.

6. Mr. Arthur D. Denys, Director of Engineering, Southwestern Division.

7. Mr. John P. Elmore, Chief, Operations, Construction and Readiness Division, Directorate of Civil Works, Headquarters, U.S. Army Corps of Engineers.

8. Mr. Henry O. Everitt, Jr., Director of Engineering, Huntsville Division.

9. Mr. Barry J. Frankel, Director, Directorate of Real Estate, Headquarters, U.S. Army Corps of Engineers.

10. Mr. David L. Fulton, Director of Construction Operations, South Pacific Division.

11. Dr. James R. Hanchey, Director of Planning, Lower Mississippi Valley Division.

12. MG Arthur E. Williams, Director of Civil Works, Headquarters, U.S. Army Corps of Engineers.

13. Dr. Lewis R. Link, Technical Director, Cold Regions Research and Engineering Laboratory.

14. Dr. Robert B. Oswald, Jr. Assistant to the COE for Research and

Development and Director, Research and Development, Headquarters, U.S. Army Corps of Engineers.

15. Mr. Allen M. Carton, Deputy Director, Directorate of Military Programs, Headquarters U.S. Army Corps of Engineers.

The members of the Performance Review Board for the Office of the Surgeon General are:

1. MG Frederick N. Bussey, Deputy Surgeon General, Office of the Surgeon General.

2. MG Thomas R. Tempel, Assistant Surgeon General for Dental Services, and Chief, Army Dental Corps, Office of the Surgeon General.

3. BG Ronald R. Blanck, Director, Professional Services, and Chief, Medical Corps Affairs, Office of the Surgeon General.

4. Bhupendra P. Doctor, PHD, Director, Division of Biochemistry, Walter Reed Institute of Research.

5. Nelson S. Irey, M.D., Chairman, Department of Environmental and Drug Induced Pathology, Armed Forces Institute of Pathology.

6. Kamal G. Ishak, M.D., Chairman, Department of Hepatic Pathology, Armed Forces Institute of Pathology.

7. Fathollah K. Mostofi, M.D., Chairman, Department of Genitourinary Pathology, Armed Forces Institute of Pathology.

8. Florabel G. Mullick, M.D., Associate Director, Center for Advanced Pathology, Armed Forces Institute of Pathology.

9. Leslie H. Sobin, M.D., Associate Director, Center for Scientific Publications, Armed Forces Institute of Pathology.

10. James A. Vogel, PHD, Director, Exercise Physiology Division, U.S. Army Institute of Environment Medicine.

11. Samuel B. Formal, PHD, Chief, Department of Enteric Infections, Walter Reed Army Institute of Research.

The members of the Performance Review Board for the Army Materiel Command are:

1. MG Charles M. Murray, Deputy Chief of Staff for Supply, Maintenance, and Transportation, U.S. Army Materiel Command.

2. BG Melvin L. Byrd, Deputy Commander, U.S. Army Communications-Electronics Command.

3. BG Larry R. Capps, Deputy Commander, U.S. Army Missile Command.

4. BG Frank F. Henderson, Deputy Commander, U.S. Army Armament, Munitions and Chemical Command.

5. BG Dewitt T. Irby, Jr., Program Executive Office, Aviation, Office of the Under Secretary of the Army.

6. BG Thomas L. Prather, Jr., CG, U.S. Army Troop Support Command.

7. BG Richard Wharton, Jr., Assistant Deputy Under Secretary of Defense (Tactical Warfare Programs), Office of the Secretary of Defense.

8. Mr. Melvin E. Burcz, Program Executive Officer, Combat Support, Office of the Under Secretary of the Army.

9. Mr. Anthony V. Campi, Director, CECOM Research, Development and Engineering Center, U.S. Army Communications-Electronics Command.

10. Dr. Richard Chait, Chief Scientist, U.S. Army Materiel Command.

11. Dr. Jagdish Chandra, Director, Mathematical Science Division, ARO, US Army Laboratory Command.

12. Mr. Jerry L. Chapin, Deputy PEO, Close Combat Vehicles, Office of the Under Secretary of the Army.

13. Mr. Walter W. Clifford, Chief, Air Warfare Division, U.S. Army Materiel Systems Analysis Activity.

14. Mr. James B. Emahiser, Deputy to the Commander, U.S. Army Troop Support Command.

15. Mr. Victor J. Ferlise, Chief Counsel, U.S. Army Communications-Electronics Command.

16. Mr. Michael F. Fisette, Assistant Deputy for International Cooperative Programs, U.S. Army Materiel Command.

17. Kelly Grider, PHD, Director, Systems Simulation and Development, U.S. Army Missile Command.

18. Mr. Lester A. Griffin, Director for Product Assurance, U.S. Army Armament, Munitions, and Chemical Command.

19. Mr. Benjamin Halperin, Chief Counsel, ARDEC, U.S. Army Armament, Munitions and Chemical Command.

20. Mr. Spencer Hirshman, Associate Technical Director, ARDEC, U.S. Army Armament, Munitions, and Chemical Command.

21. Mr. Gary L. Holloway, Director, Test and Assessment, U.S. Army Test and Evaluation Command.

22. Mr. Thomas L. House, Technical Director, U.S. Army Aviation Systems Command.

23. Mr. Henry B. Jones, Director, Procurement and Production, U.S. Army Tank Automotive Command.

24. Robert W. Lewis, Technical Director, NRDEC, U.S. Army Troop Support Command.

25. Mr. Colin F. MacDonnell, Jr., Director, Concurrent Engineering, U.S. Army Communications Command.

26. Mr. Robert B. Macfarlane, Deputy Command Counsel, U.S. Army Materiel Command.

27. Mr. David Mills, Assistant Deputy Chief of Staff, SMT, U.S. Army Materiel Command.

28. Mr. Daniel M. McEneany, Director of Engineering, U.S. Army Aviation Systems Command.

29. Charles H. Murphy, Jr., PHD, Chief Launch and Flight Division, BRL, U.S. Army Laboratory Command.

30. Mr. Douglas R. Newberry, Director, Resource Management, U.S. Army Tank-Automotive Command.

31. Bennie H. Pinckley, PHD, Deputy PEO, Air Defense, Office of the Under Secretary of the Army.

32. Mr. Raymond G. Pollard, III, Technical Director, U.S. Army Test and Evaluation Command.

33. Ms. Renata Price, Deputy Director, ARDEC, U.S. Army Armament, Munitions, and Chemical Command.

34. Mr. Alfred D. Reeder, Director, Procurement, U.S. Army Missile Command.

35. Mr. Daniel J. Rubery, Logistics Director, U.S. Army Aviation Systems Command.

36. Mr. Michael Sandusky, Deputy Chief of Staff for Program Analysis and Evaluation, U.S. Army Materiel Command.

37. Mr. Donald W. Schmitz, Director of Acquisition, U.S. Army Aviation Systems Command.

38. Mr. Gary A. Tull, Acting Deputy Chief of Staff for Procurement, U.S. Army Materiel Command.

39. Mr. William T. Vomocil, Technical Director, U.S. Army Test and Evaluation Command.

40. Mr. Robert O. Weidenmuller Assistant Deputy Chief of Staff Resource Management, U.S. Army Materiel Command.

41. John D. Weisz, PHD, Director, AMC Human Engineering Laboratory, U.S. Army Laboratory Command.

42. Edward S. Wright, PHD, Director, Army Materiels and Technology Laboratory, U.S. Army Laboratory Command.

43. Mr. Morris J. Zusman, Technical Director, BRDEC, U.S. Army Troop Support Command.

Kenneth L. Denton,

Alternate Army Federal Register Liaison Officer.

[FR Doc. 91-17176 Filed 7-18-91; 8:45 am]

BILLING CODE 3710-08-M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Folsom Dam and Reservoir Operation Study, CA

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a DEIS.

SUMMARY: The action being taken is a study to identify and assess the significance of potential temporary measures to provide increased flood protection to portions of the Sacramento metropolitan area. Principal measures being evaluated include reservation of greater flood storage space within Folsom Reservoir. Temporary flood control measures could be implemented beginning in 1922 and lasting approximately 8 to 10 years.

FOR FURTHER INFORMATION CONTACT: Questions regarding this DEIS should be addressed to Mr. Robert Koenigs, Planning Division, Corps of Engineers, 1325 J Street, Sacramento, California 95814–2922, telephone (916) 557–6712.

SUPPLEMENTARY INFORMATION:

1. Proposed Action

The Corps of Engineers is conducting an investigation in cooperation with the U.S. Bureau of Reclamation to identify and assess potential temporary measures for providing increased flood protection to portions of the Sacramento metropolitan area for a period not to exceed 10 years. Prior investigations have shown that the area has significantly less flood protection along the American River than previously believed (63-year versus 120-year level of protection). Current investigations being conducted by the Corps of Engineers would not result in a long-term flood control plan being implemented for 8 to 10 years. Economic issues and concerns for the safety of residents of the Sacramento metropolitan area precipitated this investigation to identify potential temporary flood protection measures that can provide some measure of short-term increased flood protection.

2. Alternatives

Principal alternatives being evaluated are those that do not require construction and can be implemented quickly. These are discussed in the following paragraphs.

a. No action. The Sacramento metropolitan area would continue with the existing 63-year level of flood protection along the lower American River.

b. Seasonal reallocation of storage space within Folsom Reservoir from water supply, hydropower, and water quality purposes for use in providing increased flood control. This alternative would increase the amount of space allocated for seasonal flood control in Folsom (October–May) from 400,000 to 590,000 acre-feet.

c. Reallocation of more seasonal flood control storage within Folsom Reservoir plus possible use of storage space in one or more small, existing non-Federal reservoirs in the upper American River basin. This alternative would consider an increase in the seasonal flood control storage in Folsom to 500,000 acre-feet combined with possible use of storage space in small water supply and power generation reservoirs upstream from Folsom (French Meadows, Hell Hole, Loon Lake, Ice House, and Union Valley).

3. Scoping Process

a. The Folsom Dam and Reservoir Reoperation Study was initiated in 1989. A notice of intent to prepare a DEIS was published in the **Federal Register** on February 2, 1989. However, preparation of an EIS was subsequently postponed. Three public information meetings and two scoping workshops were conducted in the Sacramento metropolitan area in 1989 jointly with the American River Watershed Investigation. The meetings were held on 7, 8, and 9 February; the workshops were held on 14 and 15 February. No additional scoping meetings are planned.

b. Close coordination will be maintained with Federal, state, and local agencies, environmental organizations, and concerned individuals and groups. This is being accomplished through interagency meetings, public workshops on the draft report, and informal informational sessions with civic and community groups.

c. Significant issues that will be discussed in the DEIS include degree of flood protection offered by the alternatives; effects of Folsom reoperation on other units of the Bureau of Reclamation's Federal Central Valley Project; impacts on fish and wildlife resources, cultural resources, recreation, endangered species, vegetation (riparian and upland), esthetics, wild and scenic rivers, regional growth, land use, water quality, and air quality; reductions in hydropower generation and water supply; and cumulative impacts of other products.

d. The U.S Fish and Wildlife Service will provide a Fish and Wildlife Coordination Act Report to accompany the DEIS.

e. A 45-day review period will be allowed for all interested agencies and individuals to review and comment on the DEIS. All interested persons are encouraged to respond to this notice and provide a current address if they wish to be contacted about the DEIS. Any concerns or statements regarding the proposed action are also welcome.

4. Availability

The DEIS is scheduled to be available for public review and comment in early 1992.

Dated: July 9, 1991.

Laurence R. Sadoff,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 91–17152 Filed 7–18–91; 8:45 am]

BILLING CODE 3710–GH–M

Department of the Navy

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hearby given that the Naval Research Advisory Committee will meet on July 22 - 26, and July 29 - August 2, 1991, at the Naval Ocean Systems Center, San Diego, California. All sessions of these meetings will commence at 8:30 a.m. and terminate at 5 p.m. on July 22 - 26, and July 29 - August 1, 1991. The session on August 2, 1991, will commence at 8:30 a.m. and terminate at 11:15 a.m. All sessions of these meetings will be closed to the public.

The purpose of these meetings is to discuss basic and advanced research. The agenda of these meetings will include briefings and discussions related to Anti-Tactical Ballistic Missile Requirements in the 2010 Timeframe and Open Systems Architecture for Command, Control and Communications. These briefings and discussions will contain classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and are in fact properly classified pursuant to such Executive order. The classified and nonclassified matters to be discussed are so inextricably intertwined as to preclude opening any portion of these meetings. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of these meetings be closed to the public because they will be

concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

This notice is being published late because of administrative delays which constitute an exceptional circumstance, not allowing notice to be published in the **FEDERAL REGISTER** at least 15 days before the date of this meeting.

For further information concerning this meeting contact: Commander John Hrenko, USN, Office of the Chief of Naval Research, 800 North Quincy Street, Arlington, VA 22217-5000, telephone number (703) 696-4870.

Dated: July 11, 1991.

Wayne T. Baucino,

Lieutenant, JAGC, U.S. Naval Reserve, Alternate Federal Register Liaison Officer.

[FR Doc. 91-17164: Filed 7-18-91; 8:45 am]

BILLING CODE 3810-AE-F

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[FAR Case 91-38]

OMB Clearance Request for Examination of Records by Comptroller General/Audit

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of a revision to OMB Control 9000-0034.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve revision of a currently approved information collection requirement concerning Examination of Records by Comptroller General/Audit.

ADDRESSES: Send comments to Mr. Peter Weiss, FAR Desk Officer, OMB, Room 3235, NEOB, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy Olson, Office of Federal Acquisition Policy, GSA (202) 501-3221.

SUPPLEMENTARY INFORMATION:

A. Purpose

The Examination of Records by the Comptroller General clause and the two audit clauses, Audit—negotiation and Audit—Formal Advertising, implement the requirements of 10 U.S.C. 2313, 41 U.S.C. 254, and 10 U.S.C. 2306. The statutory requirements are that the Comptroller General and/or agency shall have access to, and the right to, examine certain books, documents and records of the contractor for a period of 3 years after final payment. The record retention periods required of the contractor in the clauses are for compliance with the aforementioned statutory requirements. The information must be retained so that audits necessary for contract surveillance, verification of contract pricing, and reimbursement of contractor costs can be performed. The revision raises the threshold for application of these clauses from $10,000 to the small purchase threshold (currently $25,000).

B. Annual Recordkeeping Burden

The annual recordkeeping burden is estimated as follows: Respondents, 19,142; Responses per respondent, 3.34; Total annual responses, 63,934, recordkeeping retention period, 3 years. Obtaining Copies of Proposals: Requester may obtain copies from the General Services Administration, FAR Secretariat (VRS), room 4041, Washington, DC 20405, telephone (202) 501 4755. Please cite OMB Clearance Request for Examination of Records by Comptroller General/Audit, OMB Control No. 9000-0034, in all correspondence.

Dated: July 10, 1991.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 91-17153 Filed 7-18-91; 8:45 am]

BILLING CODE 6820-SC-M

DEPARTMENT OF EDUCATION

[CDFA No. 84.240A]

Protection and Advocacy of Individual Rights Notice Inviting Applications for New Awards for Fiscal Year (FY) 1991

Purpose of Program: This program provides support to the States through their governors to establish systems for the protection and advocacy of rights of individuals with severe disabilities who are receiving services under title VII of the Rehabilitation Act of 1973, as amended, (Act) and who are not eligible for services provided by existing protection and advocacy or ombudsman programs or whose request for services cannot be addressed by client assistance programs funded under section 112 of the Act.

Eligible Applicants: An eligible applicant is the State through its governor. The governor shall designate a State agency to conduct the protection and advocacy system under section 731 of the Act that is independent of the designated State unit for vocational rehabilitation or any other agency that provides services under title VII of the Act.

Deadline for transmittal of Applications: August 19, 1991.

Deadline for Intergovernmental Review: August 29, 1991.

Applications Available: July 19, 1991.

Available funds: $976,000.

Estimated Range of Awards: $80,000–100,000.

Estimated Average Size of Awards: $90,000.

Estimated Number of Awards: 10

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 12 months.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 76, 77, 79, 80, 81, 82, 85, and 86.

Selection Criteria: In evaluating applications for grants under this program competition, the Secretary uses the EDGAR selection criteria in 34 CFR 75.210.

The regulations in 34 CFR 75.210 provides that the Secretary may award up to 100 points for the selection criteria, including a reserved 15 points. For this competition the Secretary distributes the additional 15 points as follows:

Extent of need for the project (34 CFR 75.210(b)(2)). Ten (10) additional points are added to this criterion for a possible total of 30 points.

Evaluation plan (34 CFR 75.210(b)(6)). Five (5) additional points are added to this criterion for a possible total of 10 points.

It is the policy of the Department of Education not to solicit applications before the publication of final priorities. However, in this case it is essential to solicit applications on the basis of the notice of proposed priority, published in the **Federal Register** on May 28, 1991 (56 FR 24122), because the Department's authority to obligate these funds will expire on September 30, 1991.

The comment period for the notice of proposed priority ended on June 27, 1991. Eighteen parties submitted comments. Minor changes are expected in the final priority based upon these comments, as follows:

Six commenters opposed limiting eligible applicants for the PAIR program to State agencies. Three commenters suggested that centers for independent living are the most appropriate entities to operate the PAIR projects and should not be excluded. In contrast, two commenters supported having the PAIR projects be independent from service providers under title VII of the Act.

Section 731(a) of the Act requires the Department to "make grants to States to establish systems to protect and advocate for the rights of individuals with severe handicaps" [emphasis added] under this program. Therefore, only a State, through its governor, may apply for a grant under this program. However, the State agency designated by the governor to conduct the PAIR program may, in accordance with EDGAR, award a subgrant or contract to a local public agency or private nonprofit agency or organization to operate the PAIR program, but only if the agency that receives the subgrant or contract does not receive any other funds under title VII of the Act.

Section 731(a) of the Act also requires that the PAIR system must be independent of any designated State unit that provides services under title VII to individuals receiving services under title VII. The legislative history of this provision (and its closely related counterpart, section 112) supports the view that Congress was concerned not only with the conflict of interest that exists when a designated State unit that has provided the services acts as the advocate for the individual who is dissatisfied with those services but also with the conflict of interest that exists when *any* agency that has provided the services acts as the advocate for the individual who is dissatisfied with those services. No changes are expected in the final priority based upon these comments.

Three commenters requested that the priority clarify the definition of the designated State unit that provides services under title VII. The term "designated State unit" is defined in section 7(3) of the Act. No change is expected in the final priority in response to this comment.

One commenter requested that the priority clarify whether or not the State agency that administratively houses the designated State unit that provides services under title VII, or another unit within the same State agency, can operate a PAIR project. The State provides the Department with an assurance that the State agency conducting the PAIR program is independent from the State unit that provides services under title VII of the Act. Should a question arise as to the eligibility of any applicant, eligibility will be determined on a case-by-case basis. No change is expected in the final priority in response to this comment.

One commenter recommended that the priority also prohibit the designation of a State employment agency to conduct the PAIR program in a State. Another commenter recommended that the governor designate a protection and advocacy agency or a client assistance program that is outside of the designated State unit for vocational rehabilitation to conduct the PAIR program. Section 731 of the Act states that the PAIR program must be independent from any designated State unit that provides services under title VII. There is no statutory basis for prohibiting a State employment agency from conducting the PAIR program. The Secretary believes that it would be inappropriate to suggest that a governor designate a particular agency or program to operate a PAIR project. No changes are expected in the final priority based upon these comments.

Two commenters expressed concern regarding the delays and administrative issues inherent in subcontracting with a State agency to operate the program. Section 731 of the Act is clear that the State must be the grantee and does not allow for the direct funding of a nonprofit agency or organization outside of State government. No changes are expected in the final priority based upon these comments.

Six commenters questioned the appropriateness of the eligibility requirements for services under the PAIR program. One commenter supported the proposed priority in limiting eligibility for PAIR services to those individuals with severe disabilities receiving services under title VII of the Act. Commenters also suggested that individuals who are seeking services under title VII or who are potentially eligible for title VII services should have access to PAIR program services. One commenter recommended that the PAIR projects serve all disability groups, and another commenter suggested that individuals with traumatic brain injuries (TBI) and individuals with human immunodeficiency virus infection/acquired immunodeficiency syndrome (HIV/AIDS) be eligible for PAIR services.

Section 731(a) of the Act clearly states that grants under the PAIR program must ensure the protection of the rights of "individuals *receiving* services" [emphasis added] under title VII. Congress could have, as it did quite clearly and specifically in section 112(a) of the Act authorizing the client assistance program, included "client applicants" within the population eligible for services under the PAIR program. However, it did not. Accordingly, the proposed priority limits eligibility for PAIR services only to those individuals with severe disabilities receiving services under title VII of the Act. In addition, services funded under the PAIR program must be available equally to all disability groups, including individuals with TBI and HIV/AIDS who are receiving services under title VII of the Act, and cannot be limited to individuals with a specific type or types of severe disability. No changes are expected in the final priority in response to these comments.

Two commenters questioned the use of funds for protection and advocacy services because they believe the funding for programs to provide independent living services to individuals with severe handicaps is inadequate to address the need. Two other commenters questioned whether this program is necessary since Client Assistance Programs already provide assistance to individuals receiving services under title VII of the Act, and complaint processes already exist under both the Fair Housing Amendments Act of 1988 and the Americans with Disabilities Act of 1990. Six commenters supported the priority and stated that this program will address a significant need in the States.

Congress specifically appropriated funds for the PAIR program for fiscal year 1991. These funds may not be used for other purposes. The priority clearly states that the PAIR projects must provide services to individuals whose request for protection and advocacy services cannot be addressed by Client Assistance Programs. No changes are expected in the final priority in response to these comments.

A commenter suggested that the PAIR projects be consumer-controlled and that each be required to establish a board having a majority of individuals with disabilities. Another commenter suggested that each PAIR project establish an advisory committee composed of a majority of individuals with severe disabilities or their families or guardians.

The Secretary agrees that consumer involvement is an important aspect that will enhance the effectiveness of the PAIR projects. However, as these projects will be pilot demonstrations, the Secretary does not want to prescribe a specific mechanism for consumer input, but is interested in evaluating the effectiveness of various mechanisms for consumer involvement. It is expected that the final priority will be revised in response to these comments and require an assurance that the applicant will involve individuals with severe disabilities in the development and implementation of these pilot projects.

Two commenters questioned the requirement for these projects to be statewide and comprehensive in scope.

These commenters also suggested that the projects be allowed to establish priorities for services. One commenter requested that the priorities be established with client input. Another commenter suggested that the PAIR projects focus on services in rural areas.

The Secretary agrees that it would be difficult to operate a statewide program in larger States based on the limited funds available for the PAIR projects. In addition, since these projects will be pilot demonstrations, it is not necessary for the projects to be statewide and comprehensive in scope. The Secretary does not want to prescribe any particular issue or focus for the projects, such as services in rural areas. The PAIR projects should determine the selected issue or issues to be addressed based upon the need in the State. However, this does not mean that a project funded under the PAIR program may deny protection and advocacy services to an individual based on the type or types of severe disability. It is expected that the final priority will be revised to eliminate the requirement for these projects to be statewide. In addition, it is expected that the final priority will be revised to allow projects to give priority to selected issues (e.g., housing or employment).

One commenter stated that it was confusing to require the PAIR projects to coordinate with and not duplicate the investigative and conciliation services funded under the Fair Housing Amendments Act of 1988. In addition, the commenter suggested that the priority clarify that the PAIR projects can provide protection and advocacy services to address complaints arising under section 504 of the Act. Three commenters supported the requirement that these projects coordinate with other existing systems.

The Secretary believes that the priority clearly states that the PAIR projects must build upon existing systems to carry out activities not already funded by other sources or to serve individuals not already served by other programs. The priority also clearly states that these pilot projects must assist individuals in pursuing remedies under the Rehabilitation Act of 1973, as amended, which would include remedies under section 504. No changes are expected in the final priority in response to these comments.

One commenter questioned the requirement that the PAIR projects utilize mediation to the maximum extent feasible prior to resorting to administrative or legal remedies. The commenter suggested that the priority be revised to require the use of various dispute resolution techniques instead of mediation. Another commenter supported the use of mediation.

The Secretary agrees that the use of various dispute resolution techniques prior to resorting to administrative or legal remedies is appropriate for the PAIR program. It is expected that the final priority will be revised to require an assurance that the PAIR program will utilize alternative dispute resolution techniques before proceeding to administrative or legal remedies.

One commenter supported the requirement for a self-evaluation of the project, but suggested that it would be helpful to require that the evaluation include an assessment of the extent of independent living services in the State and the ability of those services to meet the needs of citizens in the State who might be eligible for and require such services.

Section 731 of the Act provides no authority to require a grantee under the PAIR program to assess the extent and adequacy of independent living services in the State. Furthermore, the State Councils for Independent Living, mandated under section 706(a) of the Act, are required to develop five-year plans that include assessments of the need for independent living services within each State and recommendations for the development of new services and programs. No change is expected in the final priority in response to this comment.

One commenter suggested that the priority require PAIR projects to provide interpreter services for individuals who are deaf. All federally-funded programs must adhere to the requirements of section 504 of the Act and not deny services to any individual with a handicap who is otherwise eligible for such services. Section 504 requires that PAIR projects have available interpreters or other mechanisms to make their services available to individuals who are deaf or hearing impaired. Therefore, no change is expected in the final priority to address this comment.

One commenter stated that information on the amount of funds available and expected number of projects to be funded would be helpful in developing applications for this program. This information is contained in this notice.

Applicants should base their applications on the proposed priority, with the expected changes noted above.

In additional changes are made in the final priorities, applicants will be given an opportunity to revise or resubmit their applications.

For Applications or Information Contact: Victor Galloway, U.S. Department of Education, 400 Maryland Avenue SW., room 3316 Switzer Building, Washington, DC 20202–2649. To request an application or to receive further information, call (202) 732–1552 (voice and TDD).

Program Authority: 29 U.S.C. 774.

Dated: July 17, 1991.

Robert R. Davila,

Assistant Secretary, Office of Special Education and Rehabilitative Services.

[FR Doc. 91–17359 Filed 7–18–91; 8:45 am]

BILLING CODE 4000–01–M

Office of Elementary and Secondary Education

Drug-Free Schools and Communities Discretionary Grants Programs; Application Preparation Workshops

AGENCY: Department of Education.

ACTION: Notice of application preparation workshops.

SUMMARY: The Department of Education will conduct an application preparation workshop to assist prospective applicants in developing applications for the Drug-Free Schools and Communities discretionary grants programs for fiscal year 1992.

MEETING INFORMATION: The workshops will commence on September 19, 1991 and will run from 7:30 a.m.–5:30 p.m. (including workshop registration). There is no registration fee. Since space is limited and the number may vary with each site, pre-registration is strongly recommended. To pre-register and obtain specific information, contact the appropriate regional center workshop coordinator no later than August 21, 1991. Applicants are encouraged to attend the workshop in their region. The regional meetings are scheduled to be held as follows:

September 19: Portland, OR, at the Marriott Hotel, 1401 SW. Front, Portland, OR. Those who are interested in attending the workshop and who reside in one of the following States are encouraged to attend the Western Regional Workshop: AK, Amer Samoa, CA, Guam, HI, ID, MT, NV, CM, OR, Rep. of Palau, WA, WY. Interested persons should contact Evelyn Lockhart, Western Regional Center for Drug-Free Schools and Communities, 101 SW. Main Street, suite 500, Portland, OR 97204. Telephone: (503) 275–9475.

September 24: Andover, MA, at the Rolling Green Host Hotel, 311 Lowell St., Andover, MA. Those who are interested in attending the workshop and who reside in one of the following States are encouraged to attend the Northeast

Regional Workshop: CT, DE, ME, MD, MA, NH, NJ, NY, OH, PA, RI, VT. Interested persons should contact Larry McCullough, Northeast Regional Center for Drug-Free Communities, 12 Overton Avenue, Sayville, NY 11782. Telephone: (516) 589–7022.

September 24: Atlanta, GA, at the Ramada Atlanta Airport, 1419 Virginia Ave, Atlanta, GA 30337. Those who are interested in attending the workshop and who reside in one of the following States are encouraged to attend the Southeast Regional Workshop: AL, DC, FL, GA, KY, NC, PR, SC, TN, VA, VI, WV. Interested persons should contact Paula Flannery, Southeast Regional Center for Drug-Free Schools and Communities, Spencerian Office Plaza, University of Louisville, Louisville, KY 40292. Telephone: (502) 588–0052.

September 26: Oklahoma City, OK, Embassy Suites Hotel, 1815 South Meridian, Oklahoma City, OK 73108. Those who are interested in attending the workshop and who reside in one of the following States are encouraged to attend the Southwest Regional Workshop: AZ, AR, CO, KS, MS, NM, TX, UT. Interested persons should contact Debbie Blasiar, Southwest Regional Center for Drug-Free Schools and Communities, The University of Oklahoma, 555 Constitution, suite 138, Norman, OK 73037–0005. Telephone: (800) 234–7972.

September 26: Oak Brook, IL, Hyatt Regency Oak Brook, 1909 Spring Road, Oak Brook, IL 60521. Those who are interested in attending the workshop and who reside in one of the following States are encouraged to attend the Midwest Regional Workshop: IN, IL, IA, MI, MN, MO, NE, ND, SD, WI. Interested persons should contact Donna Wagner, Midwest Regional Center for Drug-Free Schools and Communities, 1900 Spring Road, Oak Brook, IL 60521. Telephone: (708) 571–4719.

FOR FURTHER INFORMATION CONTACT: Carol Chelemer, Division of Drug-Free Schools and Communities, U.S. Department of Education, 400 Maryland Avenue SW., Washington, DC 20202–6439. Telephone: (202) 401–1599. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

Dated: July 15, 1991.

John MacDonald,

Assistant Secretary, Elementary and Secondary Education.

[FR Doc. 91–17230 Filed 7–18–91; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Denver Support Office; Financial Assistance Award American Solar Energy Society

AGENCY: U.S. Department of Energy.

ACTION: Notice of acceptance of an unsolicited application for award of a financial assistance instrument.

SUMMARY: The Department of Energy announces that pursuant to 10 CFR 600.6(a)(2) it is making a discretionary financial assistance award based on acceptance of an unsolicited application meeting the criteria of 10 CFR 600.14(e)(1) to the American Solar Energy Society for the support of the 1991 International Solar World Congress. The purpose of the conference is to provide an opportunity for the various disciplines represented by solar technologies to share technical and scientific knowledge. The conference will feature over 1,000 abstracts by authors from 67 countries on passive and active solar, solar electric, solar thermal, solar fuels and chemicals, resource assessment, international and national programs and education.

The determination to make this award is based on the following information: A technical evaluation of the proposed project was performed pursuant to 10 CFR 600.14 (d) and (e). It was determined that the proposed project was meritorious and based on the importance of facilitating international forums on solar and renewable energy technologies. The probability of achieving the anticipated objectives was extremely high. The facilities and qualifications of the key personnel are appropriate. DOE knows of no other entity which is conducting or planning to conduct such an effort. This effort is considered suitable for noncompetitive financial assistance and a competitive solicitation would be inappropriate.

The DOE share for co-funding the conference is estimated at $40,000 and shall be used to pay for the reasonable cost of conference proceedings and consultants and experts as necessary for the conference. The anticipated term of the grant is August 1, 1991 through October 31, 1991.

FOR FURTHER INFORMATION CONTACT: Margaret Learmouth, Denver Support Office, U.S. Department of Energy, 1075 South Yukon St., Lakewood, CO 80226. (303) 969–7000 extension 230.

Issued in Chicago, Illinois on July 10, 1991.

Timothy S. Crawford,

Assistant Manager for Administration.

[FR Doc. 91–17266 Filed 7–18–91; 8:45 am]

BILLING CODE 6450–01–M

Energy Information Administration

Agency Information Collections Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of request submitted for review by the Office of Management and Budget.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act (Pub. L. No. 96–511, 44 U.S.C. 3501 et seq.). The listing does not include collections of information contained in new or revised regulations which are to be submitted under section 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) The sponsor of the collection (the DOE component or Federal Energy Regulatory Commission (FERC); (2) Collection number(s); (3) Current OMB docket number (if applicable); (4) Collection title; (5) Type of request, e.g., new, revision, extension, or reinstatement; (6) Frequency of collection; (7) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (8) Affected public; (9) An estimate of the number of respondents per report period; (10) An estimate of the number of responses per respondent annually; (11) An estimate of the average hours per response; (12) The estimated total annual respondent burden; and (13) A brief abstract describing the proposed collection and the respondents.

DATES: Comments must be filed on or before August 19, 1991. If you anticipate that you will be submitting comments but find it difficult to do so within the time allowed by this notice, you should advise the OMB DOE Desk Officer listed below of your intention to do so as soon as possible. The Desk Officer may be telephoned at (202) 395–3084. (Also, please notify the EIA contact listed below.)

ADDRESSES: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503. (Comments should also be addressed to the Office

of Statistical Standards at the address below.)

FOR FURTHER INFORMATION CONTACT: Jay Casselberry, Office of Statistical Standards, (EI–73), Forrestal Building, U.S. Department of Energy, Washington, DC 20585. Mr. Casselberry may be telephoned at (202) 586–2171.

SUPPLEMENTARY INFORMATION: The energy information collection submitted to OMB for review was:

1. Federal Energy Regulatory Commission
2. FERC–512
3. 1902–0073
4. Application for Preliminary Permit
5. Extension
6. On occasion
7. Mandatory
8. Individuals or households, State or local governments, Business or other for-profit, Non-profit Institutions, Small businesses or organizations.
9. 200 respondents
10. 1 response
11. 77 hours per response
12. 15,400 hours
13. To carry out the requirements of sections 4F, 5 and 7 of the Federal Power Act. Those sections direct the Commission to issue preliminary permits to maintain priority application for license while the permittee conducts feasibility studies and preliminary application data collections.

Statutory Authority: Sec. 5(a), 5(b), 13(b), and 52, Pub. L. No. 93–275, Federal Energy Administration Act of 1974, 15 U.S.C. 764(a), 764(b), 772(b), and 790a.

Issued in Washington, DC, July 12, 1991.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 91–17267 Filed 7–18–91; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Project Nos. 5276 and 9705]

Niagara Mohawk Power Corp. and Bakers Falls Corp.; Notice of Availability of Environmental Assessment

July 12, 1991.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the applications for major license for the proposed Hudson Falls Project and the Bakers Falls Project located on the Hudson River in Saratoga and Washington Counties, near the towns of Moreau and the village of Hudson Falls, New York, and has prepared an Environmental Assessment (EA) for the proposed project. In the EA, the Commission's staff has analyzed the potential environmental impacts of the proposed project and has concluded that approval of the proposed project, with appropriate mitigative measures, would not constitute a major Federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, Room 3308, of the Commission's offices at 941 North Capitol Street NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 91–17180 Filed 7–18–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CP86–492–006 and CP88–494–000]

Moraine Pipeline Co.; Notice of Settlement Conference

July 11, 1991.

Take notice that on August 6, 1991, a Settlement Conference will be convened at the offices of the Federal Energy Regulatory Commission, located at 825 N. Capitol St., Washington, DC, 20426. The Settlement Conference will begin at 1 p.m. in a room to be announced.

Moraine Pipeline Company has stated that it and Wisconsin Natural Gas Company have reached agreement concerning the resolution of the annual throughput issue and have drafted a proposed stipulation and agreement. This agreement will be discussed at the conference.

All intervenors and other interested parties should file by August 1, 1991, the name of the person who will represent it at the Settlement Conference with: The Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426.

A copy of the filing should also be made with the following staff contact: Berne L. Morsley, Market Analysis Branch, PR–21.2, room 7300–M, 825 North Capitol Street, NE., Washington, DC 20426.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 91–17188 Filed 7–18–91; 8:45 am]

BILLING CODE 6717–01–M

Ozark Gas Transmission System; Notice of Filing

[Docket No. RP84–53–014]

July 11, 1991.

Take notice that on July 8, 1991, Ozark Gas Transmission System ("Ozark"), 1700 Pacific Avenue, Dallas, Texas 75201, filed with the Commission the following tariff sheet to Ozark's FERC Gas Tariff, Original Volume No. 1:

Seventh Revised Sheet No. 5

Ozark states that this tariff sheet, which supersedes the Substitute Sixth Revised Sheet No. 5, is filed pursuant to the settlement in the reference docket, which was approved by Commission order issued on June 5, 1991. The revised tariff sheet would reduce Ozark's commodity charge under its Rate Schedule T–1 to $0.061. Consistent with the settlement, Ozark has proposed an effective date of January 1, 1991. Ozark also has asked for a waiver of any Commission regulations necessary to permit the tariff sheet to become effective on that date. Ozark states that a copy of this filing has been served on each of its T–1 firm shippers, as well as upon the Public Service Commission of the State of New York.

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 Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before July 18, 1991. 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. 91–17186 Filed 7–18–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP89–185–006]

Panhandle Eastern Pipe Line Co.; Notice of Filing

July 11, 1991.

Take notice that on May 30, 1991, Panhandle Eastern Pipe Line Company (Panhandle) submitted for filing a report which reflects the Deferred Purchase Gas Account Balance on March 31, 1991, in accordance with § 25.33(a) of the

General Terms and Conditions of its FERC Gas Tariff, Original Volume No. 1.

Panhandle states that the balance of Panhandle's Deferred Purchased Gas Cost Account on March 31, 1991, including prior period adjustments and refunds during the effectiveness of the Seasonal Sales Program, was $28,812,954. Panhandle states that consistent with the requirements of § 25.33(a)(ii) Panhandle has absorbed the underrecovery and has reflected in its filing in Docket No. TQ91–2–28–000 an Account No. 191 balance of zero and no deferred surcharge.

Panhandle states that copies of the letter and report are being served on all parties, jurisdictional sales customers 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, D.C. 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests should be filed on or before July 18, 1991. 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. 91–17187 Filed 7–18–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. TQ91–5–43–000 and TM91–8–43–000]

Williams Natural Gas Co.; Notice of Proposed Changes in FERC Gas Tariff

July 11, 1991.

Take notice that Williams Natural Gas Company (WNG) on July 9, 1991 tendered for filing Second Revised Third Revised Sheet Nos. 6, 6A and 9 to its FERC Gas Tariff, First Revised Volume No. 1.

WNG states that the purpose of this filing is to resubmit its Quarterly PGA which was filed June 28, 1991 in Docket Nos. TQ91–3–43–000 and TM91–7–43–000 and rejected by Commission letter order issued July 3, 1991.

WNG states that pursuant to the Purchased Gas Adjustment in Article 18 of its FERC Gas Tariff, it proposes a reduction of $.4606 per Dth in the Cumulative Adjustment as measured from its annual PGA filing and decreases in transportation fuel rates and in gathering fuel rates to be effective August 1, 1991.

WNG states that pursuant to Article 26 of its FERC Gas Tariff, the above referenced tariff sheets reflect a revised TOP Volumetric Surcharge for the period August 1, 1991 through October 31, 1991 of $.0396 per Dth.

WNG states that copies of its filing were served on all jursidictional purchases and interested state commissions.

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 §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before July 18, 1991. 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 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. 91–17189 Filed 7–18–91; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 3976–3]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before August 19, 1991.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382–2740.

SUPPLEMENTARY INFORMATION:

Office of Administration

Title: Requirements for Generators, Transporters, and Disposers Under the RCRA Hazardous Waste Manifest System (EPA No. 0801.08; OMB No. 2050–0039). This ICR is a renewal of an existing information collection.

Abstract: The Agency is renewing the Hazardous Waste Manifest ICR without substantive changes and with a new requested expiration date of September 30, 1994. Approval of the current ICR and manifest form expires on September 30, 1991. Existing supplies of the manifest form with the expiration date of September 30, 1991 may continue to be used until supplies are exhausted.

EPA adopted the manifest system pursuant to its directive under the Resource Conservation and Recovery Act (RCRA), as amended, to protect human health and the environment. RCRA establishes a national program to improve waste management by regulating the management of wastes from "cradle to grave." The manifest is a control and transport document that accompanies the waste from its generation point to its destination point. Among other things, the manifest lists the wastes that are being shipped and the treatment, storage, or disposal facility (TSDF) to which the wastes are bound. These requirements are intended to ensure that hazardous waste designated for delivery to an off-site TSDF actually reaches its destination. Thus, the manifest system serves as a self-enforcing mechanism that requires generators, transporters, and operators of TSDFs to participate in an active hazardous waste tracking system. This system does not ordinarily involve intervention on the part of EPA unless hazardous wastes are not tracked to their designated point of disposal.

Burden Statement: The public reporting burden for this collection of information is estimated to average 1 hour per response for reporting and recordkeeping.

Respondents: Generators, Transporters and Handlers of Hazardous Waste.

Estimated Number of Respondents: 3,102.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 3,102.

Frequency of Collection: As needed.

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223Y), 401 M Street SW., Washington, DC 20460
and

Troy Hillier, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th St. NW., Washington, DC 20503.

Dated: July 12, 1991.

David Schwarz,

Acting Director, Regulatory Management Division.

[FR Doc. 91–17239 Filed 7–18–91; 8:45 am]

BILLING CODE 6560–50–M

[FRL–3976–7]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before August 19, 1991.

FOR FURTHER INFORMATION CONTACT: Dr. Ambika Bathija at EPA, (202) 382–7438.

SUPPLEMENTARY INFORMATION: .

Office of Solid Waste

Title: RCRA Section 3007 Questionnaire.

Abstract: EPA's Office of Solid Waste (OSW) is planning to conduct surveys of various industries during the rest of this fiscal year through FY 1992 (September, 1992), primarily for the purpose of conducting various industries studies to develop hazardous waste listing determinations as part of a rulemaking under sections 3001 and 3004 of the Resource Conservation and Recovery Act (RCRA).

These surveys will collect data on the following:

- Plant identification—name, location, mailing address, EPA hazardous waste identification number, and facility representative.
- Feedstock information—chemical and physical identification of feedstocks and raw materials.
- Product information—all manufactured products and annual production volumes.
- Process information—unit operations, products, intermediates, co-products and by-products, relevant operating conditions.
- Residuals characterization—identify point of generation in the process/unit operation, annual generation volume, compounds known to be present in the residual, typical concentrations of compounds found in the residual.
- Residual management—identify onsite and/or offsite management methods for residuals generated by the process.

The EPA Office of Solid Waste has compiled a list of industries to be surveyed in the future. This list is based on Congressional mandates and court orders. The information collected will be used primarily to determine if wastes from the specific industries should be listed as hazardous. In addition, this information will be used to support other RCRA activities including developing engineering analyses, background documents, and economic impact analyses in support of new listings; provide baseline data for regulatory impact analyses; the development of additional hazardous waste characteristics; and the development of treatment standards under the land disposal restrictions regulations.

Depending on the size and scope of the industry, the information collection will consist of either a census or a representative sample of all the facilities that are included in the specific industries.

Burden Statement: The average burden imposed by the survey is approximately 26.7 hours per respondent. This figure includes the time required for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The industries to be surveyed:

Carbamate Pesticides
Organobromines
Solvents
Petroleum Refining
Chlorinated Aromatics
Dyes and Pigments
Coke and By-products
Wood Preserving/surface protection

Respondents: Facilities in industries identified by the EPA Office of Solid Waste

Estimated No. of Respondents: 429

Number of Responses per Respondent: 1.2

Estimated Total Annual Burden on Respondents: 13,745

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–2234), 401 M Street, SW., Washington, DC 20460.
and
Troy Hillier, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th St., NW., Washington, DC 20503

David Bussard,

Director, Characterization and Assessment Division.

[FR Doc. 91–17364 Filed 7–18–91; 8:45 am]

BILLING CODE 6560–50–M

[FRL–3974–9]

Acid Rain Provisions

AGENCY: Enviornmental Protection Agency.

ACTION: Notice of availability.

SUMMARY: This notice is to inform the public and interested utility units that EPA is making available for review the National Allowance Data Base (NADB) version 2.0 and accompanying technical support documents (the National Allowance Data Base Technical Support Document, called the NADB Technical Support Document, and the Final Report—Development of Annualized SO_2 Emission Conversion Factors, called the Annualization Report). A form for submittal of data change requests has also been prepared and is included as a table in the NADB Technical Support Document. Comments on EPA's interpretations and methodologies for data elements are requested, as well as comments on specific data values.

Under the Clean Air Act, as amended by the Clean Air Act Amendments of 1990, Phase I allowance allocations are listed in the Act itself (subject to minor adjustments) and are effective for 1995 to 2000, while EPA must calculate initial allocations of allowances for affected utility units (section 403(a)(1)) for Phase II. Phase II allowances must be calculated according to equations in the Act and are effective for calendar year 2000 and thereafter. Units outside of the 48 contiguous States and the District of Columbia are not affected by the Acid Rain Title.

In calculating these allowances, section 402 of the Act provides that EPA will use the 1985 National Acid Precipitation Assessment Program (NAPAP) Emissions Inventory, Version 2, National Utility Reference File (NURF) and Energy Information Administration (EIA) Form 767 for certain information, such as baselines and emission rates, that are necessary for the calculations of allowances.

However, section 402 also allows EPA to modify or amend the database on its own initiative or upon request. EPA made a modified database—the National Allowance Data Base, version 1.0—available to utilities in November, 1990. Since November, EPA has refined that database based on information submitted by utilities. The database cited today is version 2.0 and will be further modified based on comments received in response to this notice. The final database (version 2.1) will be completed by December 31, 1991 and will be used to calculate allowances under Title IV.

EPA will not accept comments regarding changes to the database following the close of this comment period, except where the data sought was not available during the comment period. Also, EPA does not expect to make changes to the database on its own initiative after it is finalized this year. Units that are eligible for allowances but fail to have necessary data included in the database before its finalization will not receive allowances. This strict deadline is necessary for the proposal of allowance allocations in December, 1991. Also, not all units listed in the database will be eligible for allowances. A complete discussion of unit eligibility for allowances will be included in the preamble for the proposed allowance allocations, to be published in December, 1991.

At this time, EPA does not foresee uses of this database other than for allowance allocations and the operation of the Acid Rain program (such as, determining reductions in unit utilization for the purposes of section 408(c) of the Act) but encourages all units likely to be affected by the Acid Rain provisions to ensure that all data are complete and correct. Any fossil fuel-fired unit that, in 1985, served a generator that produced electricity for sale or presently serves a generator that sells electricity for sale is likely to be affected by the Acid Rain provisions, although units that went into commercial operation before November 15, 1990 and serve generators under 25 megawatts are generally not affected.

DATES: All comments and/or proposed changes must be submitted in writing and in duplicate to EPA Air Docket No. A–91–36, 401 M Street SW., Washington, DC 20460 by September 3, 1991. The data change request form should be submitted to EPA with all requests for data changes.

Comments received on this notice will be available for reviewing and copying from 8:30 a.m. to 12 p.m. and 1:30 p.m. to 3:30 p.m., Monday through Friday, excluding Federal holidays, in room M–1500, Waterside Mall, 401 M Street SW., Washington, D.C.

ADDRESSES: The database, file structure, and technical support documents are available through EPA's Office of Air Quality Planning and Standard's electronic bulletin board, accessible through (919) 541–5742.

Also, copies of the database (available in disk format or hardcopy), technical support documents, and data change request form may be ordered by calling (703) 218–2716, available 24 hours daily during the comment period, or by writing to: U.S. Environmental Protection Agency, Acid Rain Division, ANR–445, 401 M Street, SW., Washington, DC 20460 Attn: database.

Serving Maine, New Hampshire, Vermont, Massachusetts, Rhode Island and Connecticut: U.S. Environmental Protection Agency, Region 1 (APS), J.F. Kennedy Federal Bldg., Room 2203, Boston, MA 02203, Attn: Bob Judge.

Serving New York and New Jersey: U.S. Environmental Protection Agency, Region 2 (2AWM–AP), Jacob Javitz Federal Bldg., 26 Federal Plaza, New York, NY 10278 Attn: Grace Musumeci.

Serving Pennsylvania, Delaware, Maryland, West Virginia, the District of Columbia and Virginia: U.S. Environmental Protection Agency, Region 3 (3AT11), 841 Chestnut Bldg., Philadelphia, PA 19107, Attn: David Campbell.

Serving Kentucky, North Carolina, Tennessee, South Carolina, Georgia, Alabama, Mississippi and Florida: U.S. Environmental Protection Agency, Region 4, 345 Courtland Street, NE., Atlanta, GA 30365, Attn: Beverly Hudson.

Serving Michigan, Wisconsin, Minnesota, Ohio, Indiana and Illinois: U.S. Environmental Protection Agency, Region 5 (5–AE–26), 230 South Dearborn Street, Chicago, IL 60604, Attn: David Schulz.

Serving Arkansas, Oklahoma, Louisiana, Texas and New Mexico: U.S. Environmental Protection Agency, Region 6 (6T–AN), First Interstate Bank Tower, 1445 Ross Avenue, Suite 1200, Dallas, TX 75202–2733, Attn: Joe Winkler.

Serving Iowa, Nebraska, Missouri and Kansas: U.S. Environmental Protection Agency, Region 7, 726 Minnesota Avenue, Kansas City, KS 66101, Attn: Lisa Haugen.

Serving North Dakota, South Dakota, Montana, Wyoming, Colorado and Utah: U.S. Environmental Protection Agency, Region 8, 999 18th Street, Suite 500, Denver, CO 80202–2405, Attn: Larry Svoboda.

Serving Nevada, California and Arizona: U.S. Environmental Protection Agency, Region 9 (A–2–3), 75 Hawthorne Street, San Francisco, CA 94105, Attn: Morris Goldburg.

Serving Idaho, Washington and Oregon: U.S. Environmental Protection Agency, Region 10, (AT082), 1200 Sixth Avenue, Seattle, WA 98101, Attn: Sharon Wilson.

For their members:

American Public Power Association, 2301 M Street, NW., 3rd floor, Washington, DC 20037, Attn: Larry Mansueti.

Edison Electric Institute, 701 Pennsylvania Avenue, NW., 5th floor, Washington, DC 20004, Attn: John Kinsman.

National Coal Association, 1130 17th Street, NW., Washington, DC 20036, Attn: Jerry Karaganis.

National Rural Electric Cooperatives Association, 1800 Massachusetts Avenue, NW., Washington, DC 20036, Attn: Rae Cronmiller, Environmental Counsel, State and Territorial Air Pollution Program Administrators/ Association of Local Air Pollution Control Officials (STAPPA/ALAPCO), 444 North Capitol Street, NW., Washington, DC 20001, Attn: William Becker.

Utility Air Regulatory Group, 2000 Pennsylvania Avenue, NW., Suite 9000, Washington, DC 20036, Attn: Lynn Johnson.

FOR FURTHER INFORMATION CONTACT: T. Larry Montgomery, Acid Rain Division; telephone (202) 475–8190, (FTS) 475–8190; or Kathy Barylski, Acid Rain Division; telephone (202) 475–7242, (FTS) 475–7242. The mailing address is US EPA, Acid Rain Division (ANR–445), 401 M Street SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION:

A. Background

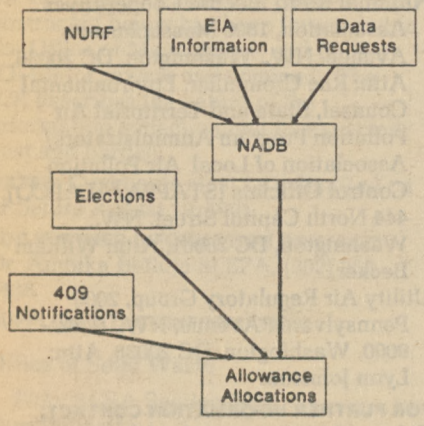
Acid rain occurs when sulfur dioxide (SO_2) and nitrogen oxide (NOx) emissions are transformed in the atmosphere and return to earth in rain, fog or snow. Acid rain damages lakes, harms forests and buildings, contributes to reduced visibility, and is suspected of damaging health.

The acid rain control program adopted in Title IV of the Clean Air Act Amendments of 1990 will result in a permanent 10 million ton reduction in sulfur dioxide (SO_2) emissions from 1980 levels. Title IV is implemented in two phases. Phase I runs from 1995 to 2000 and affects units serving 261 generators which are specifically listed in the Act. Phase II begins in 2000, is permanent,

and affects most utility units that emit SO_2.

To be in compliance with Title IV of the Act, affected sources must limit their SO_2 emissions to a level specified in the Act and may not emit more tons of SO_2 than they hold in allowances. An allowance provides the unit with the authority to emit one ton of SO_2. (Note, however, that sources affected by Title IV must continue to comply with other applicable requirements of the Act.) The Act provides a method for EPA to allocate allowances to sources, although not all sources will be allocated allowances. Through an innovative market approach, these allowances are transferable, allowing market forces to govern their ultimate use.

B. Development of Allowance Data and Allocations



1. NURF

The National Utility Reference File (NURF) was originally developed by EPA to support the National Acid Precipitation Assessment Program's (NAPAP) utility modeling activities. NURF was created through the merger and reconciliation of the 1985 NAPAP Annual Emissions Inventory, version 2, and Energy Information Administration (EIA) Form 767. In 1985, the Annual Emissions Inventory was more complete than EIA Form 767, resulting in EPA's emphasis on the emissions inventory in developing the NURF.

The NURF is a "snapshot" of 1985 utility data and includes data elements such as fuel quantity, fuel cost, fuel quality (including heating value, sulfur content, and ash retention), year on-line, retirement year, regulatory information (including SO_2 emission limit and NO_x emission limit), pollution control information (including SO_2 control efficiency, NO_x control efficiency, and planned scribber installation), SO_2 emissions and emission rate, NO_x emissions and emission rate, and ownership information.

However, the NURF was not designed as a regulatory database, but rather for atmospheric modeling, emissions forecasting, and assessment. Also, in the NURF, a "unit" is synonymous with a generating turbine, whereas the Acid Rain provisions define, in section 402(15), "unit" to be a "fossil fuel-fired combustion device," most commonly, a boiler.

2. EIA Information

Within the Department of Energy, the Energy Information Administration collects a wide variety of information directly from utilities. Forms 767 and 860 provide much of the information necessary for the development of allowance allocations, including plant location, boiler-generator configuration, nameplate capacity, summer net dependable capability, heat input for 1985–1987, fuel use for 1985–1987, 1989 generator heat rate, and 1985 generator generation. The advantage of EIA over NURF information is that EIA forms differentiate boiler-specific data and generator-specific data. This has aided EPA in splitting plant information into specific boiler-generator pairs.

3. Data Requests

In November, 1990, the first version of the National Allowance Data Base (NADB) was made available to utility companies for corre factual errors. Many companies made requests for data changes and provided documentation to support such changes.

4. NADB

The National Allowance Database (NADB) version 1.0 was derived from information already available to EPA, including the NURF and information contained on various EIA forms, particularly Form 767. The first version of the database, together with information received from utilities in response to that version, formed the basis for version 2.0. The final NADB is expected to be version 2.1 and will be based on version 2.0 and comments received on version 2.0 during the comment period.

Also, the NADB includes information from other data and information sources. Data on non-routine maintenance outage hours were obtained from the North American Electric Reliability Council (NERC) Generating Availability Data System (GADS); boiler sulfur dioxide (SO_2) regulatory category and 1985 boiler SO_2 emission limit are from EPA/Office of Air Quality Planning and Standards' (OAQPS) preliminary state implementation plan (SIP) limit data base.

5. Elections for Allowance Allocations

Supplementing the data collection effort are statutory requirements for the making of "elections" for allowance calculations and notifications to EPA required by the Act. "Elections" are choices to be made by utilities, operating companies, and state Governors, regarding certain allowance calculation methods. Utility elections are required for calculations under sections 404(h), 405(d)(4), and 405(g)(2). Guidance for section 405 elections was noticed in the **Federal Register** at 56 FR 10427, March 12, 1990. Certain States must also make an election under section 406(a). Guidance for this election was noticed in the **Federal Register** on June 25, 1991 at 56 FR 28891. The section 404(h) elections were due by March 1, 1991; section 405 elections by March 31, 1991; and section 406 elections will be due by June 30, 1991. Because changes in the NADB could affect utility and State election decisions, EPA will, in December, upon publication of the final database, provide an opportunity for utilities and States to reconsider their elections, if changes in the NADB would have a substantial effect upon their election. If the utility or State fails to make an election under section 405 or 406, EPA is required to determine which calculation method would be most beneficial, in terms of allowances allocated.

6. Section 409 Notifications

Also, utilities considering repowering under section 409 were required to notify EPA by March 31, 1990. "Repowering" involves the installation of certain clean coal technology. Section 409 is designed, through allowance allocations and an extension of emission limitation requirements, to provide an incentive for higher emitting coal plants to meet their emissions limitations through repowering. Guidance was made available through a **Federal Register** notice at 56 FR 12529, March 26, 1990.

7. Allowance Allocations

The final NADB, in conjunction with all the elections and notifications, will be used to determine the allowance allocations for each existing affected unit for Phase II. Draft allocations for calendar years 2000 and 2010 will be made available by December 31, 1991 and will be finalized by December 31, 1992. Because the number of utility units

that repower affects allowance allocations for all Phase II affected units and because the actual number of units that will repower will not be known until December 31, 1997 (the deadline for repowering demonstrations under section 409), the allowance allocations will be revised in 1998, as provided in section 403(a)(1) of the Act.

C. Essential Data Elements

Table 1—essential data elements—is designed to assist utilities and interested parties in prioritizing their data review efforts. The four data elements listed—baseline, heat 60 or 65, 1985 actual emission rate, and 1985 allowable emission rate—are the data elements almost exclusively used in the allowance allocation equations provided in the Act. The Table shows, by section number in the Act, which of the four data elements apply to the allowance calculation required by the section.

TABLE OF ESSENTIAL DATA ELEMENTS

Section No.	Basic or bonus allowances	Baseline	Heat 60 or 65 [1]	1985 actual E.R.	1985 allowable E.R.	Other data elements	Comments
404(h)(ii)	Basic		X			1989 average E.R.	
405(b)(1)	Basic	X					
405(b)(2)	Bonus	X	X				
405(b)(3)	Basic	X		X	X		
405(b)(4)	Basic		X			Actual and Allowable E.R. first full year after conversion.	
405(c)(1)	Basic	X					
405(c)(2)	Basic	X		X	X		
405(c)(3)	Basic	X		X	X		For 2000–2009 after 2009.
405(c)(3)	Basic	X					
405(c)(4)	Bonus	X	X				
405(c)(5)	Basic	X					
405(d)(1)	Basic	X			X		
405(d)(2)	Basic	X		X	X		
405(d)(3)(A)	Bonus		X		X		
405(d)(3)(B)	Bonus		X	X	X		
405(d)(4)	Basic		X		X		
405(d)(5)	Basic	X					
405(e)	Basic	X		X	X		
405(f)(1)	Basic	X			X		
405(g)(1)	Basic		X		X		
405(g)(3)	Basic		X		X		
405(g)(4)	Basic		X		X		
405(g)(5)	Basic		X			1987 allowable E.R.	
405(h)(1)	Basic	X		X			
405(h)(2)	Bonus	X					
405(h)(3)	Basic	X					After 2009.
405(j)	Basic		X	X	X		
409(c)(1)		X				1995 SIP limit, 1995 actual E.R.	Similar to basic allowances.
409(c)(2)		X					
409(c)(3)		X					
410(c)		X		X	X		

Where "E.R." is an abbreviation for SO_2 emission rate, in lb/mmBtu.
[1] Note that the Heat 65 is calculated from the Heat 60. Only the Heat 60 is in the NADB.

The first column distinguishes whether the section requires calculation of "basic" or "bonus" Phase II allowances. "Basic" allowances are those allowances that are permanent, that is, begin in 2000 and continue to be allocated as long as the program is effective. At this time, no end-date for the program is foreseen. "Bonus" allowances are designed to phase-in the program and are effective from 2000 to 2009, inclusive.

"Baseline" is defined in section 402(4) as the average of the 1985, 1986 and 1987 annual fuel consumption.

"Heat 60" is the boiler fuel consumption at 60 percent capacity. For multi-header units, the boiler fuel consumption is apportioned between the generators it serves. Similarly, "Heat 65" is the fuel consumption at 65 percent capacity.

"1985 actual E.R." is the annual average emission rate for 1985. It is derived by dividing the 1985 annual actual SO_2 emissions by the total fuel consumed in 1985 by the unit.

"1985 allowable E.R." is the annualized federally enforceable emission rate for 1985. Many units have their State Implementation Plan (SIP) limits (which are federally enforceable) based on an averaging period of less than one year. Section 402(18) requires EPA to develop annual equivalent emissions limits for all 1985 emissions limits which are not expressed in pounds per million British Thermal Unit (lb/mmBtu) on an annual basis, as discussed further below.

At this time, EPA makes no determinations as to which units are eligible for allowances or which sections of the Act control a particular affected unit's allowance allocations. Such determinations will be made following completion of the database and will be available in December 1991 with the proposed allowance allocations.

D. Discussion of Specific Data Elements

A brief discussion of specific data elements is set forth below. More information on these data elements is available in the NADB Technical Support Document.

1. Identification

Unlike the NURF or the first version of the NADB, this version includes a

unique identification number for each boiler-generator pair. Such unique identifiers are necessary for "multi-header" situations, that is, where boiler(s) feed multiple generators and/or generator(s) are fed by multiple boilers. The allowance allocation equations include data elements that are boiler-based and elements that are generator-based. Therefore, unique boiler-generator combinations are necessary to correctly compute allowance allocations.

2. Baseline

Section 402(4) of the Act defines "baseline" as the annual quantity of fuel consumed by an affected unit, in terms of million British Thermal Units (mmBtu). Section 402(4) then goes on to require that the baseline, for units that were in commercial operation in 1985, be calculated as the annual average fuel consumption (in mmBtu) during calendar years 1985, 1986, and 1987, as recorded on EIA Form 767. For units that did not file Form 767 in those years, the baseline is required to be that listed in the NURF or in a corrected database developed by the Administrator.

3. Outage Hours

Section 402(4) also provides the Administrator discretion to adjust baseline calculations due to continuous periods of four months or more during which the unit was shutdown and for accidents which caused prolonged outages. In order to treat all four month periods equally, EPA will use the hourly equivalent—2920 hours.

Under the statute, the Administrator has the discretion not to adjust baselines for any reason or, at the other extreme, to adjust baselines for all outages, even those driven by economic rather than operational concerns, in which the unit was off-line for more than four months continuously. However, EPA understands Congress' purpose in passing the Amendments was to allocate allowances which would reflect the unit's normal operation. EPA recognizes the need for baseline adjustments for units that faced substantial forced non-routine maintenance outages during the baseline period because such outages do not reflect normal operations. EPA also believes units that were off-line for long periods due to planned non-routine maintenance should not be penalized for their planning (and their efforts to avoid forced outages). Therefore, EPA proposes to adjust baselines for forced and planned non-routine maintenance outages.

EPA does not believe that adjusting baselines for economically motivated outages (where units are shut down because purchasing power was cheaper than producing power at the unit) is appropriate, because such economically motivated outages were, in fact, "normal" operation for 1985 to 1987 for such units. Also, baseline adjustments for such outages would, in essence, result in a double allocation of allowances—allowances to the units carrying the load and to the units capable of but not carrying the load.

EPA recognizes that several Congressional colloquies address the adjustment of baselines for a few units when the unit outages were due to economic circumstances. EPA will consider those colloquies, to the extent that the statute may be ambiguous and the colloquies are not inconsistent with the statutory language or broader Congressional intent, when allocating allowances in our December 1991 proposed rule.

4. Generator On-line Date

The month and year for the generator on-line date are included in the database. These data are important to determine the applicability of various portions of the Act, because they represent the date on which the generator commenced commercial operations, that is, the generation of electricity for sale.

5. Heat Rate

The value represented as the "heat rate" is the tested full load heat rate as reported to EIA. This value does not represent the actual 1989 heat rate.

6. Allowable Emission Rate

This data element represents the most stringent 1985 federally enforceable sulfur dioxide (SO_2) emission limit identified as applicable to that boiler, in terms of pounds of SO_2 per million British Thermal Unit of heat input (lb/mmBtu). These data are for the purposes of this database only and do not, by publication in this database, alter any 1985 local, State or Federal emissions limitations applicable to such units, nor does EPA intend this database to imply any change in EPA policy concerning compliance averaging under State Implementation Plans or permits issued under such plans.

7. Annualization Factors

Section 402(18) requires EPA to annualize units' 1985 allowable emission limits. Most emission limits are expressed and enforced on a shorter term basis (also called the averaging period) than annually. Variability of sulfur in fossil fuels and, in some cases, scrubber performance, result in variations in emissions rates when averaged over a longer period. Because of such variations, meeting an emissions limit with an averaging period of less than one year would require a lower annual average emission rate. In general, the shorter the averaging period is, the lower the resulting annualized emission rate.

EPA assembled a database of continuous emissions monitoring data on 23 coal-burning utility units and analyzed the variability characteristics of SO_2 emissions from coal-burning units subject to the Acid Rain provisions. This database and the analyses are discussed in depth in the Final Report—Development of Annualized SO_2 Emission Conversion Factors (also called the Technical Support Document on Annualization). An initial analysis categorized the units into three categories: (1) Units burning low sulfur coal (less than 1% sulfur content) and which are not equipped with flue gas desulfurization (FGD) (6 units), (2) units burning low sulfur coal and which are equipped with FGD (7 units), and (3) units burning high sulfur coal (greater than 1% sulfur content) and which are equipped with FGD (10 units). Estimated annualization factors for units burning low sulfur coal with FGD and units burning high sulfur coal with FGD were similar and, so, the two groups were combined for the final analysis.

EPA recognizes that 23 coal-burning units, 6 of which burn high sulfur coal, is a limited data set, but believes that the data are representative of the types of units affected by the Acid Rain provisions. In order to develop annualization factors, EPA calculated annualization factors for various averaging periods and for two compliance levels (1 exceedance per year and 1 exceedance in ten years) from the monitoring data available. Factors for each averaging period were then plotted and fit to a statistical "beta" distribution. From that beta distribution, factors representing various cumulative probabilities (that is, where a given percentage of units would have a conversion less than or equal to that factor) could be calculated. EPA chose the 1 exceedance in ten years rate in order to more closely reflect the actual permit requirement of no exceedances and the 99 percent probability level to be conservative considering the possibility of statistical error due to the relatively small data set.

The database lists the most stringent federally enforceable limit for each unit and the corresponding annualization factor. Some units have several enforceable limits, such as a short term

average and a long term average. In order to properly reflect the enforceability of such limits and provide consistent treatment of units, EPA believes that the most stringent enforceable limits must be used for this program and, when necessary, annualized.

EPA's inclusion of annualization factors for each unit is performed to establish a complete data set. Certain allowance calculations will not require the use of these factors, and EPA will identify and propose which calculations require the use of annualization factors, as part of the Phase II allocations.

Note that annualization is explicitly required for 1985 allowable emission rates that are not expressed on an annual basis in pound per million British Thermal Units (lb/mmBtu). Thus, for units' whose most stringent 1985 federally enforceable permit limit is expressed on an annual basis in lb/mmBtu, the factor would be unity (1).

8. Actual Emission Rate

This data element has been derived from dividing the 1985 boiler SO_2 emissions by the 1985 boiler total heat input. This value may also be derived from 1985 continuous emissions monitoring data, but, in any case, the emissions, heat input and emission rate must be mathematically consistent.

The 1985 boiler SO_2 emissions is calculated from the quantity of fuel burned and the quality of that fuel. The percent sulfur in the fuel is essential to the equation. Also, ash retention is critical, and is incorporated into factors in EPA's *Compilation of Air Pollutant Emission Factors* (commonly called AP42). In general, the equation will be:

$$SO_2 \text{ emitted} = \%\text{ sulfur in fuel} \times \text{AP42 factor} \times \text{fuel quantity} \times \frac{(1 - \%\text{ scrubber efficiency})}{100}$$

9. Heat Input at 60 Percent Capacity

The most accurate way of ascertaining the heat input at 60 percent capacity requires the use of each individual unit's operating curve (that is, heat input versus generation). However, such data are unavailable and, even if such data were available, such a process would be excessively time-consuming.

Instead, EPA has chosen a less data intensive way of determining the heat input at 60 percent capacity by basing such value on 60 percent of the maximum generating capability. The most readily available data that best represents the maximum generating capability is the net dependable summer capability.

E. Procedures for Requesting Data Changes or Additions

1. Submittal of Documentation

For all requests for data changes or additions, unit owners or operators should submit to EPA the completed data change request form, shown at Appendix 1, and the necessary documentation as discussed below for each data element. Requests for changes to information from EIA forms should be submitted to EIA simultaneously. Because EIA forms are certified, requested changes must be supported by additional documentation. Such additional documentation should, where available, include filings with State regulatory authorities or with the North American Electric Reliability Council (NERC). Requests for changes received before the end of the comment period of September 3, 1991, will be considered.

2. Documentation Requirements for Each Data Element and EPA Decisions Regarding Requests for Data Changes

EPA will consider making supplements (additions) and corrections to the database if the request for the action is precise, consistent with other data and well-documented. Regarding changes to information included on EIA forms, EPA will defer to EIA's determinations as to the appropriateness of such requests. EIA forms are certified for submittal. Because of certification and the historical nature for most of the data, EIA requires a substantial showing in order to change information. EIA requires submittal of "corrected" forms and additional documentation. EIA will only change such data if supported by such documentation and if the requested data are reasonable, as considered in EIA's best professional judgment. For information in the database that was not from EIA forms, EPA will only change such data if supported by documentation and if the request is reasonable, as considered in EPA's best professional judgment. For supplemental data requests, EPA will look at the supporting documentation and the reasonableness of the request when evaluating whether to add such data to the database. Pursuant to section 402(4)(C), EPA's decisions as to whether or not to correct the database, as well as any corrections that EPA makes, are not subject to judicial review.

In order to finalize the database in a timely manner, EPA will not accept requests for data corrections following the comment period, except when the utility can demonstrate that the correct data were unavailable during the comment period. No data will be changed or added after publication of the final database in December, 1991. Units eligible for allowances will be allocated allowances based on the data contained in the final database. Units eligible for allowances will not be allocated allowances if the final database does not include the information necessary to calculate such allowances.

Documentation requirements and decision-making for each data element are as follows:

1. *Boiler-Generator Sequence Number.* Not subject to comment. EPA will change the sequence numbers as the number of boiler-generator pairs changes.

2. *State Name.* Submit revised EIA Form 860 and documentation. If the plant is not covered by Form 860, submit documentation, such as State regulatory records. If the plant is covered by Form 860, EPA will defer to EIA's determination. If the plant is not covered by Form 860, EPA will consider such change if supported by adequate documentation.

3. *Plant Name.* Submit revised EIA Form 860 and documentation. If the plant is not covered by Form 860, submit documentation, such as State regulatory records. If the data are from EIA Form 860, EPA will defer to EIA's determination. If the plant is not covered by Form 860, EPA will consider such change if supported by adequate documentation.

4. *Boiler Identification Code.* Submit revised EIA Form 767 and documentation. If the plant is not covered by Form 767, submit other EIA forms or utility records that list this element. If the data are from EIA Form 767, EPA will defer to EIA's determination. If the plant is not covered by Form 767, EPA will consider such change if supported by adequate documentation.

5. *Generator Identification Code.* Submit revised EIA Form 860 and documentation. If the plant is not covered by Form 860, submit other EIA forms or utility records that list this element. If the data are from EIA Form 860, EPA will defer to EIA's determination. If the plant is not covered by Form 860, EPA will consider such change if supported by adequate documentation.

6. *Operating Utility Name.* Submit revised EIA Form 861 and documentation. If Form 861 is not applicable, submit operating utility records that substantiate the request. If the data are from EIA Form 861, EPA will defer to EIA's determination. If Form 861 is not applicable, EPA will consider such change if supported by adequate documentation.

7. *Operating Utility Code.* Submit

revised Form 861 and documentation. If Form 861 is not applicable, submit operating utility records that substantiate the request. If the data are from EIA Form 861, EPA will defer to EIA's determination. If Form 861 is not applicable, EPA will consider such change if supported by adequate documentation.

8. *EPA Region.* No documentation for this element is necessary. EPA will ensure that this element is consistent with the State name element.

9. *County Name.* Submit revised EIA Form 860 and documentation. If the plant is not covered by Form 860, submit documentation such as State regulatory records. If the data are from EIA Form 860, EPA will defer to EIA's determination. If the plant is not covered by Form 860, EPA will make such change if supported by adequate documentation.

10. *DOE ORIS Plant Code.* This element is fixed by DOE.

11. *Phase I Allowances.* This element is fixed at the value listed in Table A of the Clean Air Act Amendments of 1990.

12. *1985 Boiler Total Heat Input.* Submit information which reports all fuels used in 1985 and heat content of those fuels. Relevant documents would include EIA Form 767, fuel use records, State regulatory records, etc. EPA will consider such change if supported by adequate documentation and if the request is reasonable. Note that values for data element numbers 12, 13, and 33 must be mathematically consistent.

13. *1985 Boiler SO_2 Emissions.* This value may be based on fuels burned or upon emissions data. If the unit bases the calculation on fuels burned, submit equation used, percent sulfur in fuel, ash retention of fuel (recorded in AP42), and any other data used. 1985 fuel use records need to show percent ash in fuel. In 1985 emissions were based on monitoring, submit monitoring data or State or independent emissions inventory. EPA will consider such change if supported by adequate documentation and if the request is reasonable. Note that values for data element numbers 12, 13, and 33 must be mathematically consistent.

14. *Boiler SO_2 Regulatory Category.* Submit State or Federal regulatory records. Adequately documented requests will be considered. EPA's Office of Atmospheric and Indoor Air Programs, Acid Rain Division, together with the Office of Air Quality Planning and Standards will determine, based on best professional judgment, what constitutes adequate documentation.

15. *Boiler SO_2 Scrubber Flag.* Submit information that reports scrubber existence and use, such as state regulatory documents or plant operating and engineering records. EPA will consider such change if supported by adequate documentation and if request is reasonable.

16. *1985 Boiler SO_2* mission Limit. Submit 1985 regulatory documentation, such as SIP or permit. Adequately documented requests will be considered. EPA's Office of Atmospheric and Indoor Air Programs, Acid Rain Division, together with the Office of Air Quality Planning and Standards will determine, based on best professional judgment, what constitutes adequate documentation.

17. *SO_2 Emission Limit Annualization Factor.* These factors are supported by the Annualization Report. A unit's factor is dependent upon the emission limit averaging period. EPA will ensure that a unit's annualization factor is consistent with that unit's emission limit averaging period. These factors may change if substantial comments on EPA's methodology results in revisions.

18. *1985 SO_2 Emission Limit Averaging Period.* Submit 1985 regulatory documentation, such as SIP or permit. Adequately documented requests will be considered. EPA's Office of Atmospheric and Indoor Air Programs, Acid Rain Division, together with the Office of Air Quality Planning and Standards will determine, based on best professional judgment, what constitutes adequate documentation.

19. *1989 Generator Nameplate Capacity.* Submit revised EIA Form 860 and documentation. If the plant is not covered by Form 860, submit documentation such as State regulatory records or NERC filings. If the data are from EIA Form 860, EPA will defer to EIA's determination. If the plant is not covered by Form 860, EPA will consider such change if supported by adequate documentation.

20. *Generator Summer Net Dependable Capacity.* Submit revised EIA Form 860 and documentation. If the plant is not covered by Form 860, submit documentation such as State regulatory records or NERC filings. If the data are from EIA Form 860, EPA will defer to EIA's determination. If the plant is not covered by Form 860, EPA will consider such change if supported by adequate documentation.

21. *Generator Month-on-Line.* Submit revised EIA Form 860 and documentation. If the plant is not covered by Form 860, submit documentation such as State regulatory records, NERC filings, etc. If the data are from EIA Form 860, EPA will defer to EIA's determination. If the plant is not covered by Form 860, EPA will consider such change if supported by adequate documentation.

22. *Generator Year-on-Line.* Submit revised EIA Form 860 and documentation. If the plant is not covered by Form 860, submit documentation such as State regulatory records. If the data are from EIA Form 860, EPA will defer to EIA's determination. If the plant is not covered by Form 860, EPA will consider such change if supported by adequate documentation.

23. *1985 Boiler-Generator Average Total Heat Input (Baseline).* Submit revised EIA Form 767 for 1985, 1986, and 1987 and documentation. If the plant is not covered by Form 767, submit utility records that list heat inputs for these three years. If the data are from EIA Form 767, EPA will defer to EIA's determination. If the plant is not covered by Form 767, EPA will calculate the baseline using adequately documented fuel consumption for 1985 through 1987.

24. *Consecutive Number of Planned and Forced Outage Hours.* Submit 1985, 1986, and 1987 utility records of outage periods and documentation of maintenance during those periods. EPA will consider requested outage hours of over 2920 hours if such request is adequately supported to show the number of consecutive outage hours and that forced or planned non-routine maintenance was the cause of such outage hours.

25. *Primary Fuel Indicator.* If the unit is covered by EIA Forms 767 or 860 for 1985–1987, submit such revised forms and documentation. If the unit is not so covered, submit utility fuel records for 1985–1987. For units covered by EIA Forms 767 or 860 for 1985–1987, EPA will defer to EIA's determination. If the unit is not so covered, EPA will consider such change if supported by adequate documentation.

26. *1980–1989 Percent Gas Fuel Share.* If the unit is covered by EIA Form 759, submit revised 759 Forms for relevant years and documentation. If the unit did not submit Form 759 during the 1980's, submit utility fuel data for each year of the 1980's. For units covered by EIA Form 759, EPA will defer to EIA's determination. If the unit did not submit Form 759 during the 1980's, EPA will consider such change if supported by adequate documentation.

27. *1989 Generator Heat Rate.* If the unit is covered by Form 860, submit a revised Form 860 for 1989 and documentation. For units not so covered, submit 1989 utility documentation or State regulatory documents which list this element. For units covered by Form 860, EPA will defer to EIA's determination. For units not so covered, EPA will consider such change if supported by adequate documentation.

28. *1985 Generator Generation.* For units which submitted 1985 Form 767, submit a revised 1985 Form 767 and

documentation. For units that did not submit such form, submit 1985 utility records or State regulatory documents which list such data. For units which submitted 1985 Form 767, EPA will defer to EIA's determination. For units that did not submit such form, EPA will consider such change if supported by adequate documentation.

29. *Total Capacity of Fossil-Steam Units of the Operating Utility.* For all units which submitted Form 860 in 1989, submit revised form and documentation. For units that did not submit such forms, submit nameplate capacity data as listed above (element number 18) for all units operated by that unit's operating company in 1989. For all units which submitted Form 860 in 1989, EPA will defer to EIA's determination. For units that did not submit such forms, EPA will consider such change if supported by adequate documentation.

30. *Maximum of the Average Heat Inputs for Any Combination of Three Consecutive Years from 1980–1989.* Units not affected by Section 405(i) of the Act need not submit data. For units likely affected by Section 405(i), submit revised Forms 767 for 1980 to 1989 and documentation. Documentation may include utility records. For units that submit revised Forms 767 for 1980 to 1989, EPA will defer to EIA's determinations.

31. *Representative Year SO_2 Emission Rate.* If a unit has available Form 767 fuel quality and quantity data, EPA may calculate a revised RY–ER based on revised Form 767 and documentation. If the unit did not submit Form 767, the unit should submit fuel quantity and quality (percent sulfur and ash retention data). Where representative year (1986 if available, or 1987, in alternate, if available) monitoring data are available, the unit may submit monitoring data or State or independent emissions inventories. If EIA agrees to revised Form 767 fuel quality and quantity data, EPA will calculate a revised RY–ER based on revised Form 767. If the unit did not submit Form 767, EPA will, in its best professional judgment, determine the appropriate emission rate based upon adequate documentation from the unit.

32. *Municipally Operated Flag.* For units which submit Form 861, submit any revisions to that Form and documentation. For units that are not subject to Form 861, submit operating agreement which lists operator. For units which submit Form 861, EPA will defer to EIA's determinations. For units that are not subject to Form 861, EPA will consider such change if supported by adequate documentation.

33. *1985 Boiler SO_2 Emission Rate.* This value is calculated from the 1985 boiler total heat input and 1985 total SO_2 emissions. EPA will revise this value when changes are made to the input values. This value is calculated from the 1985 boiler total heat input and 1985 total SO_2 emissions. Note that values for data element numbers 12, 13 and 33 must be mathematically consistent.

34. *1985 Annualized Boiler SO_2 Emission Limit.* This value is calculated from the 1985 boiler SO_2 emission limit and that emission limit annualization factor. EPA will revise this value when changes are made to the input values.

35. *Generator Heat Input at 60 Percent Capacity.* This value is calculated from the heat rate and the generator summer net dependable capability. EPA will revise this value when changes are made to the input value.

36. *Boiler-Generator Heat Input at 60 Percent Capacity.* This value is a calculated sharing of the generator heat input at 60 percent capacity for multi-header units based on the 1985–1987 baseline values. EPA will revise the value when changes to the input values are made.

F. Regulatory Impact Analysis

There is no regulatory impact per se from this database. Economic impacts arise upon the allocation of allowances. A regulatory impact analysis has been prepared for the entire Acid Rain program, including the allowance system.

G. Regulatory Flexibility Act

This database has no effect per se on small entities. Most small utility units (serving generators under 25 megawatts) are not affected units under Title IV, unless they specifically choose to become affected units under Section 410 of the Act. However, EPA does encourage small units to correct data errors and provide supplementary data.

H. Paperwork Reduction Act

The information collection requirements of this Notice have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.* An Information Collection Request has been prepared and a copy may be obtained from Wanda Haxton, Information Policy Branch, EPA, 401 M Street SW., Washington, DC 20460 or by calling (202) 382–2709.

The reporting burden is on the operators of fossil fuel-fired electric generators that are or may be subject to the Acid Rain provisions. The estimated total burden is 10,241 hours based on 2500 operators.

Comments regarding the Information Collection Request and this burden estimate, including suggestions for reducing this burden, may be sent to Chief, Information Policy Branch, PM–223, EPA, 401 M Street SW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503, marked "Attention: Desk Officer for EPA." The notice of availability for the final database will respond to any OMB or public comments on the information collection requirements contained in this Notice.

Dated: July 11, 1991.

William K. Reilly,

Administrator.

APPENDIX 1.—DATA CHANGE REQUEST FORM

Data element	Present value	Requested value
1. Boiler-generator sequence number		
2. State name		
3. Plant name		
4. Boiler ID		
5. Generator ID		
6. Operating utility name		
7. Operating utility code		
8. EPA region		
9. County name		
10. DOE ORIS plant code		
11. Phase I allowances		
12. 1985 boiler total heat input		
13. 1985 boiler SO_2 emissions		
14. Boiler SO_2 regulatory category		
15. Boiler SO_2 scrubber flag		
16. 1985 boiler SO_2 emission limit		
17. SO_2 emission limit annualization factor		
18. 1985 SO_2 emission limit averaging period		
19. 1989 generator nameplate capacity		
20. 1989 summer net dependable capability		
21. Generator month on-line		
22. Generator year on-line		
23. 1985–1987 boiler-generator average total heat input (baseline)		
24. Consecutive number of planned and forced outage hours		
25. Primary fuel indicator		
26. 1980–89 gas fuel share		
27. 1989 generator heat rate		
28. 1985 generator generation		
29. Operating utility total fossil-fuel capacity		
30. Maximum of average heat inputs for any 3 consecutive years 1980–89		
31. Representative year SO_2 emission rate		
32. Municipally operated		
33. 1985 boiler SO_2 emission rate		
34. 1985 annualized boiler SO_2 emission limit		
35. Generator heat input at 60% capacity		

APPENDIX 1.—DATA CHANGE REQUEST FORM—Continued

Data element	Present value	Requested value
36. Boiler-generator heat input at 60% capacity		

For explanation of each data element, see the Technical Support Document.

Documentation must be submitted for each requested change. Submit to: U.S. Environmental Protection Agency, Air Docket No. A–91–36, 401 M Street SW., Washington, DC 20460.

[FR Doc. 91–16970 Filed 7–18–91; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–3975–9]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared July 1, 1991 through July 5, 1991, pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382–5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 6, 1991 (56 FR 14096).

Draft EISs

ERP No. D–COE–K36100–HI, Rating EC2, Kawainui Marsh Flood Control Project, Coconut Grove Residential Area, Implementation, Island of Oahu, City and County of Honolulu, HI.

Summary: EPA has environmental concerns regarding sediment contaminants, wetlands fill, wildlife and marsh dynamics. The final EIS should more closely examine and minimize nutrient and sediment.

ERP No. D–FAA–B51014–MA, Rating EO2, Worcester Municipal Airport Parallel Taxiway Construction to Runway 11–29, Plan Approval Funding and COE Section 404 Permit, Worcester County, MA.

Summary: EPA objected to the proposed action it is likely to cause significant impacts to both drinking water supply and wetlands. EPA requested additional analysis of alternatives, wetland impacts, and mitigation measures. EPA also requested that the final EIS provide adequate assurance of effective implementation and enforcement of mitigation.

ERP No. D–USA–B11013–00, Rating EC1, Army Materials Technology Laboratory Closure and Realignments, Transfers to Detroit Arsenal, MI; Picatinny Arsenal, NJ; and Fort Belvoir, VA; Middlesex, Norfolk, Suffolk and Essex Counties, MA.

Summary: EPA expressed concerns abut the application of the NEPA process to closure and reuse decisions for this facility, as well as ongoing hazardous waste issues and the need to more fully address environmental concerns that the transfer of the MTL operations raise at the receiving facilities identified in the draft EIS.

Final EISs

ERP No. F–USA–A11069–AL, Anniston Army Depot On-Site Facility for Disposal of Stockpiled Chemical Agents and Munitions, Construction and Operation, Calhoun County, AL.

Summary: EPA is satisfied with the responses that the U.S. Army has addressed from previous comments.

ERP No. F–USA–K11042–00, Presidio of San Francisco Army Base, Closure and Relocation to other Facilities, Implementation, Alternatives are in CA, CO, GA, HI, KY, MD, MO, NC, PA, SC, TX, WA and DC.

Summary: EPA requested that the Record of Decision contain more commitments regarding the assessment and cleanup of toxic substances, PCBs and hazardous substances, the identification and control of raw sewage discharge into San Francisco Bay, as well as hazardous waste minimization and solid waste recycling for Presidio personnel and functions moved to Army bases in other states.

Dated: July 16, 1991.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 91–17271 Filed 7–18–91; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–3975–8]

Environmental Impact Statements; Notice of Availability

RESPONSIBLE AGENCY: Office of Federal Activities, General Information (202) 382–5073 or (202) 382–5075. Availability of Environmental Impact Statements Filed July 8, 1991 through July 12, 1991 Pursuant to 40 CFR 1506.9.

EIS No. 910226, Final EIS, FHW, AK, University Avenue Rehabilitation and Widening, College Road to Parks Highway, Funding, Fairbanks, North Star Borough, AK, Due: August 19, 1991, Contact: Steve Moreno (907) 586–7428.

EIS No. 910227, Draft EIS, IBR, CA, All-American Canal (AAC) Lining Project, Construction and Operation, Lining a 23-mile Canal from Pilot Knob to Drop 4, Controlling Water Seepage, Imperial Irrigation District, Imperial County, CA, Due: September 20, 1991, Contact: Dr. Wayne Deason (303) 236–9336.

EIS No. 910228, Final EIS, AFS, OR, Shasta Costa Timber Sale and Integrated Resource Projects, Implementation, Siskiyou National Forest, Gold Beach and Galice Ranger Districts, Curry County, OR, Due: September 16, 1991, Contact: Susan Mattison (503) 247–6651.

EIS No. 910229, Final EIS, AFS, OR, Mt. Ashland Ski Area Development Plan, Implementation, Additional Alternatives, Special Use Permit, Ashland Ranger District, Rogue River National Forest, Jackson County, OR. Due: August 19, 1991, Contact: Mary L. Smelcer (503) 482–3333.

EIS No. 910230, Final EIS, UAF, CA, March Air Force Base Realignment, Implementation, 445th Air Force Reserve Military Airlift Wing, Riverside County, CA, Due: August 19, 1991, Contact: Deanna Meyer-Pietruszka (402) 294–3684.

EIS No. 910231, Final EIS, UAF, IL, Chanute Air Force Base (AFS) Disposal and Reuse, Implementation, Champaign County, IL, Due: August 19, 1991, Contact: LTC. Thomas J. Bartol (714) 382–4891.

Dated: July 16, 1991.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 91–17270 Filed 7–18–91; 8:45 am]

BILLING CODE 6560–50–M

[OPP–30321; FRL 3933–8]

Carbofuran: Receipt of Request to Amend Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of receipt of request to amend registrations.

SUMMARY: Pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 et. seq., EPA announces receipt of a request from FMC Corp., the sole registrant of carbofuran, to amend labels and registrations of its granular carbofuran products to delete certain uses. This Notice also announces that EPA intends to approve the registrant's request. Once approved, the amendments would become effective immediately.

DATES: Unless the request is withdrawn, the Agency plans to grant these amendments effective August 19, 1991. Pursuant to section 6(f)(1)(c)(ii) of FIFRA, as amended, the registrants of granular carbofuran have requested that the 90–day comment period be waived.

FOR FURTHER INFORMATION CONTACT: By Mail: Karis North, Special Review and Reregistration Division (H7508W), Office of Pesticide Programs, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Special Review Branch, rm. 2N3, Crystal Square #1, 2805 Jefferson Davis Highway, Arlington, Virginia 22202, (703) 308–8010.

SUPPLEMENTARY INFORMATION: As discussed below, on June 8, 1991, FMC Corporation requested deletion of certain uses from their carbofuran 3G, 5G, 10G and 15G registrations. FMC is the sole registrant of granular pesticide products containing carbofuran as an active ingredient. This Notice announces receipt by EPA of this request. EPA intends to grant the use deletions requested by FMC effective on August 19, 1991.

I. Background

On September 30, 1985 EPA issued a notice which initiated the Special Review of granular carbofuran, based on risks carbofuran poses to avian species (50 FR 41938.) Following receipt and analysis of comments, EPA published a Notice of Preliminary Determination to cancel all registrations of granular carbofuran (54 FR 3744) (January 25, 1989). This determination was based on a multitude of factors which included consideration of laboratory data on acute avian toxicity, avian exposure to granular carbofuran, field studies, bird kill incidents, possible population effects, potential risks from alternative insecticides, and the benefits of carbofuran use.

While the Final Determination was being completed, the Agency entered into negotiations with FMC. The two parties reached an agreement in principle on May 14, 1991, to conclude the Special Review of granular carbofuran. The sale and consequent use of the granular formulations of carbofuran will be phased out for all but five minor-use sites by September 1, 1994. While the settlement provided the basis for conclusion of the Special Review of granular carbofuran, the Agency intends to publish in the **Federal Register** a Notice of Final Determination which will provide an analysis of the Agency's risk and benefit findings and formally conclude the review. This Notice will also address in more detail why the settlement satisfied the Agency's risk concerns.

Under terms of the agreement, the sale of granular carbofuran for use on corn and sorghum will be prohibited after September 1, 1993 and for rice after September 1, 1994. The agreement provides for the continued use of carbofuran on bananas in Hawaii, dryharvested cranberries, cucurbits, pine progeny tests and spinach grown for seed. All other uses of carbofuran will be voluntarily deleted from the label effective September 1, 1992. During the phase-out period, FMC sales of granular carbofuran will be limited as follows:

1. Between September 1, 1991 and August 31, 1992, no more than 4.5 million pounds of active ingredient may be sold.

2. Between September 1, 1992 and August 31, 1993, no more may be sold than the difference between 4.5 million pounds and the amount sold during the period of September 1, 1991 and August 31, 1992.

3. Between September 1, 1993 and August 31, 1994, no more may be sold than the difference between 4.5 million pounds and the total amount sold during the previous years, but in any event, no more than 400,000 pounds.

4. Beginning with September 1, 1994 FMC will sell no more than 2,500 pounds total per year, to be used on bananas in Hawaii, dry-harvested cranberries, cucurbits, pine progeny tests and/or spinach grown for seed.

In addition to the annual sales reduction of granular carbofuran, certain geographic restrictions and a prohibition of the foliar application on corn go into effect September 1, 1991. The geographic restrictions for all granular carbofuran include a prohibition against any use (except for the five remaining crops as noted above) in the states of Maine, Connecticut, Massachusetts, New Hampshire, Vermont, Rhode Island, Maryland, Delaware, Virginia, and Florida. Carbofuran will also be banned in the coastal regions of North Carolina, South Carolina, Oregon and Washington. Also, carbofuran will be prohibited from use on corn and sorghum in California.

To effect this agreement, FMC submitted an application to amend their granular carbofuran registrations, as discussed above. The agreement and the subsequent label amendments will conclude the Agency's Special Review of granular carbofuran.

II. Intent to Delete Certain Uses

This unit includes a summary of the FMC request to delete uses from carbofuran registrations. A copy of the request has been included in the public docket (OPP–30000/48) which is maintained for the Carbofuran Special Review.

FMC submitted applications to amend its granular carbofuran registrations on June 8, 1991. The registration numbers and product names for section 3 registrations covered by this request are as follows:

Product Name	Registration No.
Furadan 15G Insecticide/Nematicide	279–3023
Furadan 10G Insecticide/Nematicide	279–2712
Furadan 5G Insecticide	279–2874
Furadan 5% G Insecticide	279–2922
Niagara Furadan 2G Insecticide	279–2791

The following are the Section 24(c) products affected by the amendment:

Product Name	Registration No.
Niagara Furadan 3G Insecticide	AR81001400 AR81004500 LA80001600 LA81002000 MS81002700
Niagara Furadan 5G Insecticide	CA77013600 CA79023300
Niagara Furadan 10G Insecticide	AZ78000300 CA79012500 CA83000200 DE81000600 FL82008900 IN81002900 NV81000900
Furadan 15G Insecticide/Nematicide	AR82003400 CT82001100 CT87000100 CT91000100 DE82001400 DE82001500 FL83000200 FL85001600 GA82002000 ID87000800 IL83001500 LA82003800 MA83000100 MD91000100 MD91000700 ME83000600 MI83000700 MS82004500 MS82004600 NC82002700 NC82003300 NC83000300 NC83000400 ND85000600 NH83000500 NJ80000200 NJ87000300 NJ88000700 NJ90000200 NJ91000400 NM82002400 NM82002500 NM83000600 NY83000600 OH83000100 OH83000500

Product Name	Registration No.
	OH91000200
	PA83000200
	PA83000300
	PA83000500
	PA86000300
	PA91000100
	TN82002600
	TN87001200
	TX83000100
	TX84000100
	VA82003400
	VA87000900
	VA91000300
	VT83000200

Comments on this voluntary cancellation request may be submitted to the contact person listed under **FOR MORE INFORMATION CONTACT** by August 19, 1991. In addition, interested persons desiring retention of a registration should contact the registrant directly during this 30-day period at the following address: Dr. Don Carlson, FMC Corporation, Agricultural Chemicals Group, 1735 Market Street, Philadelphia, PA 19103, (215) 299-6436. It should be noted however, that the Agency has accepted this voluntary cancellation instead of issuing a Notice of Intent to Cancel uses of granular carbofuran. Any new or transferred registration would be subject to the conditions of the Special Review.

III. Procedures for Withdrawal of Request

If the registrant chooses to withdraw its request for label amendments, it must submit such withdrawal in writing to Karis North at the address given earlier, postmarked before August 19, 1991. This written withdrawal of the request for label amendments must include a commitment to pay any reregistration or registration maintenance fee due, and to fulfil any applicable unsatisfied data requirements.

IV. Existing Stocks Determination

Remaining stocks of granular carbofuran in the hands of growers and distributors labeled for use on corn and sorghum may be sold and used for 1 year after the phase-out, until August 31, 1994. Similarly, granular carbofuran labeled for use on rice may only be sold and used until August 31, 1995. All other stocks may be used until such stocks are depleted.

Dated: July 8, 1991.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 91-17042 Filed 7-18-91; 8:45 am]

BILLING CODE 6560-50-F

[OPP-100093; FRL 3936-9]

1,3-Dichloropropene, Parathion, Malathion, Carbon Disulfide, Dinoseb, Disulfoton, and Vapam; Court Ordered Release of Information Which May be Claimed As Confidential Business Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Release of Information Concerning Seven Pesticide Active Ingredients.

SUMMARY: Pursuant to Court order in the case of *United States v. Puregro Inc., et al.,* Nos. CR-90-228AAM, CR-90-229AAM, CR-90230AAM, CR-90-231AAM, CR-90-232AAM (E.D. Wash.), and consistent with 40 CFR 2.209(d), the United States Government soon will or already has released for defendants' review certain information submitted by pesticide registrants under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 et seq., that may be claimed as confidential business information (CBI). This information relates to the environmental fate and toxicity of the pesticide active ingredients 1,3-Dichloropropene, Parathion, Malathion, Carbon Disulfide, Dinoseb, Disulfoton, and Vapam.

ADDRESS: United States District Court for the Eastern District of Washington, P.O. Box 2706, Yakima, Washington 98907, (509) 575-5838.

FOR FURTHER INFORMATION CONTACT: Mark A. Dyner, Office of General Counsel, Pesticides and Toxic Substances Division (LE-132P), U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, (202) 382-7505.

SUPPLEMENTARY INFORMATION: In September 1990, the Federal Grand Jury sitting in the Eastern District for the District of Washington indicted Puregro, Inc. and four of its employees for criminal violations of the Resource Conservation and Recovery Act of 1976 (RCRA), 42 U.S.C. 6901 et seq., and FIFRA. In connection with this indictment, the defendants served the United States with a discovery request for information regarding the following pesticide active ingredients: 1, 3-Dichloropropene, Parathion, Malathion, Carbon Disulfide, Dinoseb, Disulfoton, and Vapam. Specifically, defendants requested that the Government produce information obtained or possessed by the Government relating to the environmental fate and toxicity of these chemicals. Some of this information was submitted to the Environmental Protection Agency (EPA) by pesticide registrants and may have been claimed as confidential business information under section 10 of FIFRA. On July 10, 1991, U.S. District Judge Alan A. McDonald ordered the Government to produce these documents for defendants' review forthwith. Specifically, Judge McDonald ruled:

> The United States moves for reconsideration of this court's Order which requires it to produce, for defendants' review, 70,000 microfiche and 30,000 hard copy documents, some of which the government claims may be subject to protection under the confidential business information privilege. In the alternative the United States moves for issuance of a protective order.
>
> After reviewing the entire court record and being fully advised in [this] matter, the court hereby ORDERS that the United States' Motion for Reconsideration or in the Alternative a Protective Order be DENIED. IT IS FURTHER ORDERED that the government shall "FORTHWITH" produce for defendants' review the 100,000 documents that the court previously ordered produced and which are currently maintained in Spokane, Washington.

Pursuant to 40 CFR 2.209(d), EPA is by this Notice informing all affected registrants and data submitters that the Government has or soon will comply with Judge McDonald's Order to release the documents in question to the defendants' counsel. Because these documents, which include approximately 1400 environmental fate and toxicity studies, are primarily health and safety related information, they may not be entitled to protection under FIFRA section 10(d) even if claimed confidential. If, however, any potentially affected registrants or data submitters wish either to challenge the judge's order or to inspect documents which they may have submitted, they should take appropriate action in the District Court for the Eastern District of Washington at the address listed earlier in this notice.

Dated: July 15, 1991.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 91-17370 Filed 7-18-91; 8:45 am]

BILLING CODE 6560-50-F

[-FRL-3975-5]

Underground Injection Control Program; Hazardous Waste Disposal Injection Restrictions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to grant a case-by-case extension.

SUMMARY: EPA is proposing to grant the request from Dupont-Orange (Sabine

River Works Facility) for an additional three month extension of the August 8, 1990, effective date of the hazardous waste injection restrictions applicable to specific injected wastes. This case-by-case extension is only for the waste codes impacted by the August 8, 1990, ban date (California listed wastes, solvents less than one (1) percent solvent constituents and First Third wastes). This action responds to a petition submitted under 40 CFR 148.4 according to procedures set out in 40 CFR 268.5, which allow any person to request that the Administrator grant, on a case-by-case basis, an extension of the applicable effective date based on a showing that the petitioner has entered into a binding contractual commitment to construct or otherwise provide adequate alternative treatment, recovery, or disposal capacity for the petitioner's waste. If this proposed action is finalized, Dupont-Orange can continue to inject the above identified wastes into the Class I hazardous waste injection wells located at the Sabine River Works facility, through November 7, 1991, but not later than this date without being subject to the prohibitions applicable to such wastes.

DATES: Comments on this notice must be received on or before August 16, 1991.

ADDRESSES: The public must send an original and two copies of their comments to: Environmental Protection Agency, Region 6, Water Management Division, Water Supply Branch (6W–SU), 1445 Ross Avenue, Dallas, Texas 75202–2733. The docket for this action is located at the EPA Region 6 library (at the above address) which is open during normal business hours, 8 a.m. through 4 p.m., Monday through Friday. The public can review all docket materials by visiting the library.

FOR FURTHER INFORMATION CONTACT: For information contact Oscar Cabra, Jr., Chief Municipal Facility Branch, EPA Region 6, 1445 Ross Avenue, Dallas, Texas, 75202–2733 or telephone (214) 655–7110, FTS 255–7110.

SUPPLEMENTARY INFORMATION:

I. Background

A. Congressional Mandate

On November 8, 1984, Congress enacted the Hazardous and Solid Waste Amendments (HSWA) of 1984 to amend the Resource Conservation and Recovery Act (RCRA). HSWA imposes additional responsibilities on persons managing hazardous wastes. Sections 3004 (d) through (g) prohibit the land disposal of indicated hazardous wastes by specified dates in order to protect human health and the environment for as long as the wastes remain hazardous. On July 26, 1988, EPA promulgated a final rule (53 FR 28118, effective August 8, 1988), that established an effective date of August 8, 1990, for injected spent F001–F005 solvent wastes containing less than 1 percent solvent constituents. An August 8, 1990, effective date was established for specified California listed wastes that are deep well injected. See 53 FR 30908, effective August 8, 1988.

Section 3004(m) requires the Agency to set levels or methods of treatment, if any, which substantially diminish the toxicity of the waste or substantially reduce the likelihood of migration of hazardous constituents from the waste so that short-term and long-term threats to human health and the environment are minimized. Wastes that meet treatment standards established by EPA are no longer prohibited and may be land disposed.

Sections 3004 (d), (e), (f), and (g) also allow the applicant to demonstrate to the Administrator, to a reasonable degree of certainty, that there will be no migration of hazardous constituents from the disposal unit or injection zone for as long as the wastes remain hazardous. The no migration petition process has been established by the Agency for injected wastes under 40 CFR part 148 subpart C. See 53 FR 28118, July 26, 1988.

Congress recognized that adequate alternative treatment, recovery, or disposal capacity, any of which is protective of human health and the environment, may not be available by the applicable statutory effective dates and authorized EPA to grant a variance (based on the earliest dates that such capacity will be available) from the effective date(s) which would otherwise apply to specific hazardous wastes (RCRA section 3004 (h)(2) and (h)(3)). In addition, under section 3004(h)(3), the Agency can grant case-by-case extensions of the statutory deadlines for up to one year beyond the applicable deadlines. These extensions are renewable once for up to one additional year.

On November 7, 1986, EPA published a final rule (51 FR 40572) establishing the regulatory framework to implement the land disposal restrictions program including procedures for submitting case-by-case extensions under § 268.5. On July 26, 1988, EPA published a final rule (53 FR 28118) establishing restrictions and requirements for Class I hazardous waste injection wells, including the framework for the no migration petition process and allowing case-by-case extensions under § 148.4 following § 268.5 procedures.

B. Demonstration Requirements

1. Summary of Requirements

Case-by-case extension applications must satisfy the requirements outlined in 40 CFR 268.5. These requirements include those specified in RCRA section 3004(h)(3): The applicant must have entered into a binding contractual commitment to construct or otherwise provide alternative capacity (40 CFR 268.5(a)(2)), but due to circumstances beyond his control, this alternative capacity cannot reasonably be made available by the applicable effective date (40 CFR 268.5(a)(3)).

In addition, EPA has established by regulation the following requirements: the applicant must demonstrate that he has made a good faith effort to locate and contract with treatment, recovery, or disposal facilities nationwide to manage his waste (40 CFR 268.5(a)(1)). Again, the applicant must demonstrate why this nationwide capacity cannot reasonably be made available by the effective date.

The applicant must also show that the alternative treatment, recovery, or disposal capacity will be adequate for all of his waste (40 CFR 268.5(a)(4)). He must submit a schedule showing the progress that will be made toward providing adequate alternative capacity by including dates for obtaining required operating and construction permits and dates for completing key phases of the project (40 CFR 268.5(a)(5)), and must also show that he has arranged for sufficient capacity to manage the entire quantity of waste which is the subject of his petition during the requested extension period, and must document in his application the location of all sites at which the waste will be managed (40 CFR 268.5(a)(6)).

If the waste would be disposed of in a surface impoundment or landfill during the period of the extension, the unit must meet the minimum technological requirements for these units (40 CFR 268.5(a)(7)).

After an applicant has been granted a case-by-case extension, he is required to keep EPA informed of the progress being made towards obtaining adequate alternative treatment, recovery, or disposal capacity. Any change in the demonstrations made in the petition must be immediately reported to the Agency (40 CFR 268.5(f)). Also, at specified intervals, he must submit progress reports which describe the progress being made towards obtaining alternative capacity, identify any delay or possible delay in developing capacity, and describe the mitigating actions being taken (40 CFR 268.5(g)).

2. Commitment To Provide Protective Disposal Capacity

EPA believes that the applicant for today's proposed case-by-case extension has shown the necessary commitment to provide protective disposal capacity within the meaning of RCRA section 3004(h)(3) and 40 CFR 268.5(a)(1). These provisions require an applicant to make two showings: (1) That the proposed "disposal capacity" is "protective of human health and the environment", and (2) that the applicant has made "a binding contractual commitment to construct or otherwise provide" such capacity. The Agency construes the first phrase to mean a no migration unit. No migration findings in 40 CFR parts 148 or 268 provide for a variance to the land disposal prohibitions and, accordingly, are functionally equivalent to compliance with treatment standards under part 268. Moreover, the statute defines protective disposal capacity for purposes of RCRA sections 3004(d), (e), and (g) as no migration units. EPA also considers no migration capacity as protective disposal capacity for purposes of RCRA section 3004(h)(2).

With respect to showing a "binding contractual commitment", where applicants have already constructed (and, indeed, are operating) the disposal units at issue, EPA interprets the regulatory language to require objective indicia of applicant's commitment to provide this capacity. EPA's approach is in line with similar practical interpretations of regulatory language. For example, the Agency has construed the term "commenced construction" to include facilities which have completed construction but did not commence operations. See 46 FR 2344, 2346 (January 9, 1981).

EPA does not believe that the simple filing of a no migration petition provides sufficient indication that the applicant will provide protective disposal capacity. Where an applicant seeks to provide treatment capacity, EPA can rely on design criteria as a basis to predict that the treatment capacity will provide for treatment in compliance with 40 CFR part 268. Because the Agency was less certain that no migration findings would be forthcoming in a given circumstance, EPA had previously stated that a no migration petition and the Agency's failure to process such petitions before an effective date cannot itself provide a basis for a case-by-case extension. See 53 FR 28124 (July 26, 1988). EPA has reevaluated this interpretation and believes that where the Agency has concluded that a no migration petition is sufficient to propose a no migration finding, this proposed finding is legitimate indicia that the applicant is, in good faith, committed to providing protective disposal capacity for purposes of 40 CFR 268.5. See 55 FR 22520. If EPA were to require an actual no migration finding as a condition for a case-by-case extension, such a reading would effectively read the phrase "protective disposal capacity" out of RCRA 3004(h)(3) in violation of all standard tenets of statutory construction, which require that all terms be given effect when possible. The term would be read out of the statute because once the no migration petition was granted, there is no need to seek a case-by-case extension as wastes could be disposed directly in the unit. In addition, case-by-case extensions necessarily involve predictions about future capacity. For example, such predictive findings specifically include the need for permits that may not yet be issued. See 40 CFR 268.5(a)(5).

Today's proposed case-by-case extension is based on objective indicia of the applicant's commitment to provide disposal capacity. First, the petitioner's application is based on already constructed wells. Thus, this petitioner's commitment is more definitive than petitions based solely on contracts to construct such capacity. See RCRA section 3004(h)(3). Second, the injection wells have all be permitted under both RCRA and SDWA standards, thus further demonstrating a commitment to provide this capacity. The applicant has demonstrated that only a no migration finding prevents the units from being available as protective disposal capacity. Third, today's applicant has made substantial contractual commitments in preparing the no migration petitions. Finally, EPA has a good basis for believing that this capacity will, in fact, be provided in a short period of time. Permitted hazardous waste injection wells, as a class of units, have a good record for obtaining no migration findings. EPA has already issued several no migration findings. EPA has evaluated the no migration petition for the facility in this proposal and believes that it is promising. EPA has proposed approval for this facility's no migration petition.

3. Requirement To Seek Other Alternative Capacity

The applicant's commitment to provide protective disposal capacity is not the sole basis for EPA granting a case-by-case extension. Under 40 CFR 268.5(a)(1), applicants must also make a good faith effort to seek other protective treatment, recovery, or disposal where feasible during the period that his proposed alternative capacity is not available. Such good faith efforts under 268.5(a)(1) can be evaluated considering both the expected time period that the alternative capacity will take to become available and technical difficulties that the operator will face in bringing his waste to alternative capacity in consideration of factors in § 268.5(a)(3).

There is limited other capacity under (a)(1) to eventually handle the waste from the well operators in this proposal. However, due to logistic problems of re-tooling, re-piping, and transportation of the large volume of waste at issue, this other capacity is not reasonably available during the short period of time EPA anticipates is necessary to process final no migration approval or denials for these wells.

4. Reasons Alternative Capacity Cannot Reasonably Be Made Available by the Applicable Effective Date

Today's applicant has, in good faith, pursued the no migration process with reasonable belief that the Agency would provide a no migration finding by the August 8, 1990, effective data. The operator submitted its no migration petitions in a timely manner, and has responded appropriately to Agency requests for additional information in order to make a determination on the petition.

The timing of the actual finding is beyond the applicant's control. This no migration finding is a precondition to the provision of the alternative disposal capacity. EPA has reviewed several no migration petitions in an intensive, time-consuming process. The order in which decisions are made is primarily a function of Agency resources and priorities. This no migration review process is the reason that the applicant's wells were not available as no migration units (pending final approval) by the effective prohibition dates.

Today's applicant has documented several logistic problems that make short-term capacity reasonably available. The facility in question involves production operations directly connected by piping, or otherwise rely on immediate disposal in on-site injection wells. In order to make the necessary adjustments, the facility would need to temporarily shutdown, perform necessary re-tooling and re-piping, and construct a transportation system to move the large volumes of waste at issue. The receiving facility would also need to make substantial adjustments to receive these large waste volumes. Also, there is not sufficient off-site capacity. These factors indicate that

the other capacity is not reasonably available for short-term waste management. EPA has relied on similar criteria in providing nationwide variances under RCRA section 3004(h)(2). See 55 FR 22520.

II. Petition

A. Facility Summary

E.I. Du Pont de Nemours & Co., Inc., Orange, Texas has petitioned EPA to grant an additional extension of the effective date of the hazardous waste injection restrictions applicable to the following wastes: California listed waste, solvents less than one (1) percent solvent constituents and First Third wastes.

EPA is proposing to grant Dupont-Orange an additional extension of the August 8, 1990 effective date for the above referenced waste. Dupont's initial case-by-case extension will expire on August 7, 1991. Dupont'-Orange's request and supporting documentation are available in the public docket for this rulemaking. Interested persons are invited to submit comments or written data on this petition. All comments will be considered by EPA and addressed in a **Federal Register** notice stating the Agency's final decision to grant or deny the petition.

B. Description of Petitioning Facility

E.I. du Pont de Nemours & Co., Inc., is a chemical manufacturing company which operates five hazardous waste injection wells in Orange, Texas.

C. Case-by-Case Extension Petition Demonstrations

The Dupont-Orange application for an extension of the effective date includes the following demonstrations:

40 CFR 268.5(a)(1)—Dupont has made a good faith effort on a nationwide basis to locate and contract for adequate alternative treatment, recovery, or disposal capacity, or to establish such capacity by the effective data of the applicable restrictions.

40 CFR 268.5(a)(2)—Dupont has entered into a binding contractual commitment to provide alternative treatment, recovery, or disposal capacity.

40 CFR 268.5(a)(3)—Dupont has shown that lack of alternative capacity is beyond its control.

40 CFR 268.5(a)(4)—Dupont has shown that there will be adequate alternative treatment, recovery, or disposal capacity for all the waste after the effective date established by the extension.

40 CFR 268.5(a)(5)—Dupont has provided a detailed schedule for obtaining alternative capacity, including dates.

40 CFR 268.5(a)(6)—Dupont has arranged for adequate capacity to manage the waste during the extension period.

40 CFR 268.5(a)(7)—The surface impoundments or landfills used by Dupont to manage the waste during the extension period will meet the requirements of 40 CFR 268.5(h)(2).

III. EPA's Proposed Action

For the reasons discussed above, the Agency believes that the Dupont demonstration has satisfied all the requirements for an additional case-by-case extension of the August 8, 1990, effect date of the hazardous waste injection restrictions.

Therefore, EPA is proposing to grant an additional extension of the August 8, 1990, effective date of the restrictions on these wastes for an additional three months. If the extension is granted, these wastes, which would not be prohibited from land disposal, could be injected over a three month period, starting from the effective date of the EPA's final decision on this case-by-case request but not later than November 7, 1991. If during the time frame of this case-by-case extension, a final decision of the applicant's no migration petition is made, then the case-by-case extension will expire.

The extension will remain in effect during the above time frame unless Dupont fails to make a good faith effort to meet the schedule for completion, or the Agency denies or revokes any required permit.

Dated: July 11, 1991.

Myron O. Knudson,

Director, Waste Management Division (6W), EPA Region 6.

[FR Doc. 91–17123 Filed 7–18–91; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL LABOR RELATIONS AUTHORITY

Privacy Act of 1974; Establishment of a New System of Records

AGENCY: Federal Labor Relations Authority (FLRA).

ACTION: Notice of establishment of a new system of records under the Privacy Act.

SUMMARY: The FLRA is establishing a new system of records under the Privacy Act to consist of the investigatory files of the FLRA's Office of the Inspector General (OIG). The new system of records facilitates the OIG's ability to collect, maintain, use, and disclose information pertaining to individuals, thus helping to ensure that the OIG may efficiently and effectively perform its investigations and other authorized duties and activities. The FLRA published advance notice of the system of records on October 2, 1990 (55 FR 40237), and requested comments. No public comments were received. However, on further consideration, the proposed system notice has been modified as discussed below.

EFFECTIVE DATES: July 19, 1991.

FOR FURTHER INFORMATION CONTACT: Paul D. Miller, Inspector General, FLRA, 500 C Street SW., Washington, DC 20424, (202) 382–6002.

SUPPLEMENTARY INFORMATION: As required by 5 U.S.C. 552a(e)(4), the FLRA is notifying the public of the establishment of a new system of records in the FLRA's Office of the Inspector General (OIG). This system is being established as part of the formal creation of an OIG within the FLRA by action dated March 24, 1989, and the appointment of the FLRA's Inspector General on September 25, 1989, under the authority of the 1988 amendments to the Inspector General Act of 1978. *See* Pub. L. No. 100–504, amending Pub. L. No. 95–452; 5 U.S.C. app. at 1184 (1988). Among the OIG's statutory duties are the prevention and detection of fraud, waste, and abuse relating to the agency's programs and operations, through the conduct of audits and investigations and the preparation of reports to the agency's Chairman and to Congress.

The system of records being established consists of investigatory files compiled and maintained by the OIG. Due to the law enforcement nature of these records, the system is exempt from certain provisions of the Privacy Act, including disclosure to individuals who are subjects of records in the system. *See* 5 U.S.C. 552a(j)(2) and (k)(2). The exempt status of the system is the subject of a companion final rule, published elsewhere in today's **Federal Register**, to amend the FLRA's Privacy Act regulations, 5 CFR part 2412.

The FLRA published advance notice of the system on October 2, 1990 (55 FR 40237). Although no comments from the public were received, certain modifications have been made to the system notice, principally to eliminate routine uses deemed unnecessary or inappropriate.

Proposed routine use 3 has been narrowed by deleting provision for release of information in connection with certain personnel matters (including hiring and retention), security clearances, and access to classified information. Disclosure of this information pursuant to routine use procedures does not appear necessary to the effective functioning of the OIG. Proposed routine uses 4 and 6 have been modified to eliminate designation of the FLRA itself as one of the routine use

recipients. Exception (b)(1) of the Privacy Act (5 U.S.C. 552a(b)(1)), permits intra-agency disclosure for official purposes. Proposed routine use 7, providing for disclosure of information to the National Archives and Records Administration, has been eliminated as unnecessary. Exception (b)(6) of the Privacy Act (5 U.S.C. 552a(b)(6)) provides for such disclosures. Finally, proposed routine use 11, providing for disclosure to a grand jury based upon a grand jury subpoena or a prosecution request, has been eliminated because of concerns about its validity. *Doe* v. *Stephens*, 851 F.2d 1457 (D.C. Cir. 1988). In addition, exception (b)(11) of the Privacy Act (5 U.S.C. 552a(b)(11)) permits disclosure pursuant to the order of a court of competent jurisdiction.

Accordingly, the FLRA is establishing the following system of records:

FLRA/OIG–1

SYSTEM NAME:

FLRA/OIG–1—Office of the Inspector General.

Investigative Files.

SECURITY CLASSIFICATION:

Not applicable.

SYSTEM LOCATION:

Office of the Inspector General Federal Labor Relations Authority 500 C Street, SW. Washington, DC 20424

CATERGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Subjects of OIG investigations relating to the programs and operations of the Federal Labor Relations Authority. Subject individuals include, but are not limited to, current and former employees; contractors, subcontractors, their agents or employees; and others whose actions affect the FLRA, its programs and operations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence relating to the investigation; internal staff memoranda; copies of subpoenas issued during the investigation, affidavits, statements from witnesses, transcripts of testimony taken in the investigation and accompanying exhibits; documents, records, or copies obtained during the investigation; interview notes, investigative notes, staff working papers, draft materials, and other documents and records relating to the investigation; opening reports, progress reports, and closing reports; and other investigatory information or data relating to alleged or suspected criminal, civil, or administrative violations or similar wrongdoing by subject individuals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Inspector General Act of 1978, Pub. L. No. 95–452, as amended by the Inspector General Act Amendments of 1988, Pub. L. No. 100–504, 5 U.S.C. app. at 1184 (1988).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to the disclosure generally permitted under 5 U.S.C. 552a(b), these records or information in these records may specifically be disclosed pursuant to 5 U.S.C. 552a(b)(3) as follows, provided that no routine use specified herein shall be construed to limit or waive any other routine use specified herein:

(1) To other agencies, offices, establishment, and authorities, whether Federal, state local, foreign, or self-regulatory (including, but not limited to, organizations such as professional associations or licensing boards), authorized or with the responsibility to investigate, litigate, prosecute, enforce, or implement a statute, rule, regulation, or order, where the record or information, by itself or in connection with other records or information,

(a) Indicates a violation or potential violation of law, whether criminal, civil, administrative, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, or;

(b) Indicates a violation or potential violation of a professional, licensing, or similar regulation, rule or order, or otherwise reflects on the qualifications or fitness of an individual licensed or seeking to be licensed;

(2) To any source, private or governmental, to the extent necessary to secure from such source information relevant to and sought in furtherance of a legitimate investigation or audit of the OIG:

(3) To agencies, offices, or establishments of the executive, legislative, or judicial branches of Federal, state, or local government where disclosure is requested in connection with the award of a contract or other determination relating to a government procurement, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the record is relevent and necessary to the requesting agency's decisions on the matter, including, but not limited to, disclosure to any Federal agency responsible for considering suspension or debarment actions where such record would be germane to a determination of the propriety or necessity of such action, or disclosure to the United States General Accounting Office, the General Services Administration Board of Contract Appeals, or any other Federal contract board of appeals in cases relating to an agency procurement;

(4) To the Office of Personnel Management, the Office of Government Ethics, the Merit Systems Protection Board, the Office of the Special Counsel, or the Equal Employment Opportunity Commission, of records or portions thereof relevant and necessary to carrying out their authorized functions, such as, but not limited to, rendering advice requested by the OIC, investigations of alleged or prohibited personnel practices (including discriminatory practices), appeals before official agencies, offices, panels, boards, or courts, and authorized studies or reviews of civil service or merit systems or affirmative action programs;

(5) To independent auditors or other private firms with which the Office of Inspector General has contracted to carry out an independent audit or investigation or to analyze, collate, aggregate or other refined data collected in the system of records, subject to the requirement that such contractors shall maintain Privacy Act safeguards with respect to such records;

(6) To the Department of Justice and for disclosure by the Department of Justice or the FLRA,

(a) To the extent relevant and necessary in connection with litigation in proceedings before a court or other adjudicative body, where the government is a party to or has an interest in the litigation, and the litigation is likely to affect the agency or any component thereof, including where the agency, or an agency component, or an agency official or employee in his or her official capacity, or an individual agency official or employee whom the Department of Justice has agreed to represent, is a defendant, or

(b) For purposes of obtaining advice concerning the accessibility of a record or information under the Privacy Act or the Freedom of Information Act;

(7) To a congressional office from the record of a subject individual in response to an inquiry from the congressional office made at the request of that individual, but only to the extent that the record would be legally accessible to that individual;

(8) To any direct recipient of Federal funds, such as a contractor, where such record reflects serious inadequacies

with a recipient's personnel and disclosure of the record is for purposes of permitting a recipient to take corrective action beneficial to the government;

(9) To debt collection contractors for the purpose of collecting debts owed to the government as authorized by the Debt Collection Act of 1982, 31 U.S.C. 3718.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM

Storage: The OIG Investigative Files consist of paper records maintained in file folders and data maintained on computer diskettes. The folders and diskettes are stored in file cabinets in the OIG.

Retrievability: The records are retrieved by the name of the subject of the investigation or by a unique control number assigned to each investigation.

Safeguards: Records are maintained in lockable metal file cabinets in lockable rooms. Access is restricted to individuals whose duties require access to the records. File cabinets and rooms are locked during non-duty hours.

Retention and disposal: The OIG Investigative Files are kept indefinitely.

SYSTEM MANAGER AND ADDRESS:

Inspector General, Federal Labor Relations Authority, 500 C Street, SW., Washington, DC 20424.

NOTIFICATION PROCEDURE:

By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Solicitor, Federal Labor Relations Authority, 500 C Street, SW., Washington, DC 20424.

RECORD ACCESS PROCEDURE:

Same as above.

CONTESTING RECORD PROCEDURE:

Same as above.

RECORD SOURCE CATEGORIES:

Employees or other individuals on whom the record is maintained, non-target witnesses, FLRA and non-FLRA records, to the extent necessary to carry out OIG investigations authorized by the Inspector General Act of 1978, as amended, 5 U.S.C. app. at 1184 (1988).

SYSTEM(S) EXEMPTED FROM CERTAIN PROVISIONS OF THE PRIVACY ACT:

Pursuant to 5 U.S.C. 552a(j)(2), records in this system are exempt from the provisions of 5 U.S.C. 552a, except subsections (b), (c) (1) and (2), (e)(4) (A) through (F), (e) (6), (7), (9), (10), and (11), and (i), to the extent the system of records relates in any way to the enforcement of criminal laws.

Pursuant to 5 U.S.C. 552a(k)(2), the system is exempt from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4) (G), (H), and (I) and (f), to the extent the system of records consists of investigatory material compiled for law enforcement purposes, other than material within the scope of the exemption at 5 U.S.C. 552a(j)(2).

These exemptions are set forth in the Authority's Privacy Act regulations, 5 CFR part 2412, as amended; *see* 5 CFR 2412.16.

Dated: July 15, 1991.

Solly J. Thomas, Jr.,

Executive Director.

[FR Doc. 91–17269 Filed 7–18–91; 8:45 am]

BILLING CODE 6727–01–M

FEDERAL MARITIME COMMISSION

Brazil/U.S. Gulf Ports, et al.; 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 10325. 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.: 212–010320–023.

Title: Brazil/U.S. Gulf Ports Agreement.

Parties: Companhia de Navegacao Lloyd Brasileiro, Companhia Maritima Nacional, American Transport Lines, Inc., Empresa Lineas Maritimas Argentinas S.A., A. Bottacchi S.A. de Navegacion C.F.I.I.

Synopsis: The proposed amendment would delete provisions of the agreement which conflicted with the Commission's rules concerning notice and waiting period prior to the effectiveness of modifications to the agreement.

Agreement No.: 217–011323–001.

Title: Space Charter Agreement Between Sea-Land Service, Inc. and Ocean Express Lines, Inc.

Parties: Sea-Land Service, Inc., Ocean Express Lines, Inc.

Synopsis: The proposed amendment would expand the geographic scope of the agreement to include Jamaica, Haiti and the Dominican Republic.

By order of the Federal Maritime Commission.

Dated: July 15, 1991.

Joseph C. Polking,

Secretary.

[FR Doc. 91–17193 Filed 7–18–91; 8:45 am]

BILLING CODE 6730–01–M

[Docket No. 91–30]

Sea-Land Dominicana, S.A. and Sea-Land of Puerto Rico, Inc. v. Sea-Land Service, Inc.; Filing of Complaint and Assignment

Notice is given that a complaint filed by Sea-Land Dominicana, S.A. ("SLD") and Sea-Land of Puerto Rico, Inc. ("Complainants") against Sea-Land Service, Inc. ("Respondent") was served July 15, 1991. complainants allege that Respondent has violated sections 10 (b)(6), (b)(11), (b)(12) and (d)(1) of the Shipping Act of 1984, 46 U.S.C. app. 1709 (b)(6), (b)(11), (b)(12), and (d)(1), and sections 16 First and 18 of the Shipping Act, 1916, 46 U.S.C. app. 815 and 817, by paying commissions earned by SLD in Dominican Republic pesos vice U.S. dollars, even though charges for the freight services sold by SLD were paid in U.S. dollars, thereby contravening the applicable tariff while not paying any other such company in pesos, thus giving undue and unreasonable preference to SLD's competitors and Respondent's own sales force and eliminating competition in Respondent's attempts to purchase SLD.

This proceeding has been assigned to Administrative Law Judge Norman D. Kline ("Presiding Officer"). Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the Presiding Officer in this proceeding shall be issued by July 15, 1992, and the final decision of the

Commission shall be issued by November 12, 1992.

Joseph C. Polking,

Secretary.

[FR Doc. 91-17194 Filed 7-18-91; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Alex E. Creighton Residuary Trust, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than August 7, 1991.

A. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Alex E. Creighton Residuary Trust, Atwood, Kansas; Robert A. and Barbara W. Creighton, Atwood, Kansas; and Thomas E. and Lucy Creighton, Denver, Colorado, as trustees; to acquire an additional 44.17 percent of the voting shares of Flagler Bankshares, Inc., Flagler, Colorado, and thereby indirectly acquire The First National Bank of Flagler, Flagler, Colorado.

Board of Governors of the Federal Reserve System, July 15, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-17207 Filed 7-18-91; 8:45 am]

BILLING CODE 6210-01-F

Banco de Santander, S.A. de Credito; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has 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)).

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 to the Reserve Bank indicated for that application 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.

Comments regarding this application must be received not later than August 7, 1991.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. Banco de Santander, S.A. de Credito, Santander, Spain; to acquire 100 percent of the voting shares of Santander National Bank, Bayamon, Puerto Rico. Santander National Bank is currently operating as a thrift institution chartered as Santander Federal Savings Bank and is currently a subsidiary of Banco de Santander.

Board of Governors of the Federal Reserve System, July 15, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-17208 Filed 7-18-91; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Forms Submitted to the Office of Management and Budget for Clearance

The Administration for Children and Families will publish on Fridays information collection packages submitted to the Office of Management and Budget (OMB) for clearance, in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). Following is the package submitted to OMB since the last publication.

(For a copy of a package, call the FSA, Report Clearance Officer 202-401-5604.)

Uniform Statistical Report—Child Care—Form ACF-115—The information collected on Form ACF-115 for AFDC-Basis, AFDC-UP, AFDC applicants, and families in transition will be used to ensure that section 402(g)(1)(A) of the Act is being effectively implemented. Also, data on At-Risk families will be used to endure that section 402(i)(6) of the Act is being effectively implemented. *Respondents:* States or local governments: *Number of Respondents:* 54; *Frequency of Response:* Quarterly/Annually; *Average Burden per Response:* 35 hours; *Estimated Annual Burden:* 7,560 hours.

OMB Desk Clearance Officer: Laur· Oliven.

Written comments and recommendations for the proposed information collection should be sent directly to the appropriate OMB Desk Officers designated above at the following address: OMB Reports Management Branch, New Executive Office Building, room 3201, 725 17th Street NW., Washington, DC 20503.

Dated: July 9, 1991.

Naomi B. Marr,

Associate Administrator, Office of Management and Information Systems.

[FR Doc. 91-17218 Filed 7-18-91; 8:45 am]

BILLING CODE 4150-04-M

Centers for Disease Control

[Announcement 142]

Cooperative Agreement for Prevention of Birth Defects, Research Program for the International Centre for Birth Defects, Bergen, Norway; Availability of Funds for Fiscal Year 1991

Introduction

The Centers for Disease Control (CDC), announces the availability of Fiscal Year 1991 funds for a cooperative agreement with the International Centre for Birth Defects to further develop and establish (1) an international epidemiologic research program, (2) an international surveillance and monitoring system, and (3) a setting for training epidemiologists in the prevention of birth defects.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity for reducing morbidity and mortality and improving the quality of life. This announcement is related to the priority areas of Environmental Health, Maternal and Infant Health, and Surveillance and Data Systems. (For ordering a copy of

Healthy People 2000, see the section **WHERE TO OBTAIN ADDITIONAL INFORMATION.**)

Authority: This program is authorized under sections 301 (42 U.S.C. 241) and 307(a) (42 U.S.C. 242*l*(a)) of the Public Health Service Act, section 5 of the International Health Research Act of 1960 (22 U.S.C. 2101–2104) and section 104 of the Foreign Assistance Act of 1961 (U.S.C. 2151b).

Eligible Applicants

Assistance will be provided only to the International Centre for Birth Defects, Bergen, Norway for this project. No other applications will be solicited or will be accepted.

The International Centre for Birth Defects (Centre) is the only appropriate and qualified institution to provide the services specified under this cooperative agreement for the following reasons:

1. The Centre is an organization devoted to the prevention of birth defects through surveillance, training, and epidemiologic research. It is located in Bergen, Norway, and was established in 1988 on the initiative of the International Clearinghouse for Birth Defects Monitoring Programs (Clearinghouse). It serves as a headquarters for the Clearinghouse.

2. The International Clearinghouse itself was founded in 1974 with CDC as a charter member. The Clearinghouse's Annual Report provides additional information on the Clearinghouse and each of its program members. (To request a copy of the Annual Report, see the section **WHERE TO OBTAIN ADDITIONAL INFORMATION.**) As a non-government organization, the Clearinghouse now comprises 26 member programs from 20 nations and is affiliated with the World Health Organization. The primary purpose of the Clearinghouse is to provide a forum for member programs to share information. This sharing is done through regular quarterly reports of data, at annual meetings, and through informal contacts of the staff of member programs. There is no similar organization in the United States.

3. Serving as the Clearinghouse headquarters, the Centre is the only organization with access to all the data from the 26 member programs. No one in the United States or its territories has access to this data.

4. The Clearinghouse programs have participated in many important international collaborative projects related to birth defects. Notable among them was one that led to the discovery that the anti-epileptic drug valproic acid (Depakene) causes spina bifida.

5. The Centre shows promise of providing unique contributions to the understanding and prevention of birth defects. The results of international collaborative scientific work will not only help the Centre and its member countries formulate strategies for the prevention of birth defects through training, surveillance, and epidemiologic research, but the scientific knowledge gained will provide reciprocal and direct benefits to the United States, yielding important data to strengthen the scientific basis in the United States' quest for the prevention of genetic diseases and birth defects.

Availability of Funds

It is anticipated that approximately $100,000 will be available in Fiscal Year 1991 to fund the cooperative agreement beginning September 30, 1991, for a 12-month budget period within a 3-year project period.

Costs that are generally allowable in grants to domestic organizations are likewise allowable to foreign institutions with the following exceptions: (1) Alterations and renovations; (2) customs and import duties; and (3) indirect costs.

Continuation awards within the project period will be made on the basis of satisfactory progress and availability of funds.

Purpose

The purpose of this cooperative agreement is to assist and collaborate with the Centre in establishing and strengthening epidemiologic research, surveillance and monitoring, and training, in order to promote the further understanding of the prevention of birth defects.

Program Requirements

In conducting activities to achieve the purpose of this program, the recipient shall be responsible for conducting activities under A. below and CDC will be responsible for conducting activities under B. below:

A. Recipient Activities:

1. Identify a full-time scientist (M.D. or Ph.D.) to provide the scientific support to carry out this project.

2. Review the literature and correlate with relevant data from the Centre to evaluate the current knowledge about the real and potential environmental dangers that might be present for human pregancy outcomes.

3. Analyze Centre data with the collaboration of the various Clearinghouse program directors in order to identify potential areas for epidemiologic research.

4. Identify potential environmental hazards in need of epidemiologic research in the area of birth defects.

5. Develop a research plan for specific epidemiologic research studies.

6. Conduct, in collaboration with CDC, specific environmental health epidemiologic studies and surveillance programs as identified in the research plan and which specifically address potential environmental dangers related to human pregnancy outcomes.

7. Support and oversee the conduct of environmental epidemiology and surveillance studies and collaboratively with CDC, prepare and provide reports of results.

8. Provide a proposed schedule for accomplishing each of the activities to be carried out in this project. Methods for evaluating the accomplishment must be clearly defined.

B. CDC Activities:

1. Provide guidance on program management and administrative matters related to the conduct of the scientific aspects of the cooperative agreement.

2. Provide technical and scientific consultation and assistance for the implementation of all epidemiologic and surveillance activities conducted under the cooperative agreement.

3. Provide scientific consultation and assistance in formulating the research plan.

4. Provide guidance on program management and administrative matters related to conduct of the scientific aspects of the cooperative agreement.

5. Collaborate in the definition and preparation of the scientific epidemiologic reports that result from the cooperative agreement.

Evaluation Criteria

The application will be reviewed and evaluated according to the following criteria:

A. Technical Approach—60%

The adequacy of the description and plan to carry out the overall epidemiologic research program, including data analysis, surveillance and monitoring, and training projects.

B. Understanding of the Problem—25%

The applicant's understanding of the requirements, research intent, and objectives for a successful program.

C. Program Personnel—15%

The extent to which the proposal has described: (1) The qualifications and commitment of the professional staff and (2) the allocation of time and effort of key program staff to agreed upon program activities.

Other Requirements

The project to be funded through this cooperative agreement will involve the collection of information from ten or more individuals and will be subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Executive Order 12372

The applicant is not subject to review under Executive Order 12372.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance (CFDA) Number for this program is 93.283.

Application Submission and Deadline

The International Centre for Birth Defects must submit an original and two copies of the application form PHS 5161–1 on or before August 20, 1991 to Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road NE., room 415, Atlanta, Georgia 30305.

Where To Obtain Addition Information

If you are interested in obtaining additional information regarding this project, please reference Announcement Number 142 and contact the following:

Business management technical assistance: Lisa Tamaroff, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, Mailstop E–14, 255 East Paces Road NE., room 415, Atlanta, Georgia 30305, or by calling (404) 842–6630 (FTS: 236–6630).

Programmatic technical assistance: J. David Erickson, D.D.S., Ph.D., Chief, Birth Defects and Genetic Diseases Branch, Division of Birth Defects and Developmental Disabilities, Center for Environmental Health and Injury Control, Centers for Disease Control, 1600 Clifton Road NE., Mailstop F–37, Atlanta, Georgia 30333, or by calling (404) 488–4717.

A copy of Healthy People 2000 (Full Report, Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report, Stock No. 017–001–00473–1) referenced in the INTRODUCTION may be obtained through the Superintendent of Documents, Government Printing Office, Washington, DC. 20402–9325 (Telephone (202) 783–3238).

Dated: July 15, 1991.

Robert L. Foster,

Acting Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 91–17205 Filed 7–18–91; 8:45 am]

BILLING CODE 4160–18–M

Health Care Financing Administration

Hearing: Reconsideration of Disapproval of New Mexico State Plan Amendment (SPA)

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on August 27, 1991, in room 1230, 1200 Main Tower Building, room 1230, Dallas, Texas to reconsider our decision to disapproval New Mexico State Plan Amendment 90–13.

CLOSING DATE: Requests to participate in the hearing as a party must be received by the Docket Clerk by August 5, 1991.

FOR FURTHER INFORMATION CONTACT: Docket Clerk, HCFA Hearing Staff, suite 110, Security Office Park, 7000 Security Blvd., Baltimore, Maryland 21207, Telephone: (301) 597–3013.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to disapprove New Mexico State Plan amendment (SPA) 90–13.

Section 1116 of the Social Security Act (the Act) and 42 CFR part 430 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. The Health Care Financing Administration (HCFA) is required to publish a copy of the notice to a State Medicaid Agency that informs the agency of the time and place of the hearing and the issues to be considered. If we subsequently notify the agency of additional issues that will be considered at the hearing, we will also publish that notice.

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this notice, in accordance with the requirements contained at 42 CFR 430.76(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins in accordance with the requirements contained at 42 CFR 430.76(c).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

New Mexico submitted SPA 90–13 on June 15, 1990 requesting to use its community property rules for eligibility determinations and redeterminations of individuals in long-term care institutions who are eligible under the State's special income level (currently $989). The State proposed this policy under the authority of section 1902(r)(2) of the Act. That authority permits States to employ more liberal income and resource methods at initial eligibility determinations and redeterminations than would be the case were the State to employ prevailing Medicaid eligibility policy, which is based on the financial rules of the cash assistance programs. New Mexico responded on December 19, 1990 to our additional information request of September 13, 1990 concerning SPA 90–13.

The issues in this matter are whether: (1) The State's more liberal policy under section 1902(r)(2) of the Act, which uses community property rules to determine eligibility for institutionalized individuals with incomes meeting a special income test, could result in the State providing Medicaid to individuals whose income exceeds the Federal financial participation (FFP) cap in section 1903(f)(4)(C) of the Act; and (2) the State's policy violates sections 1902(a)(4) or (a)(19) of the Act.

HCFA believes that the State failed to include in the plan a method of ensuring that the FFP cap under section 1903(f)(4)(C) would not be exceeded. It is HCFA's belief that this cap remains in place and is not affected by section 1902(r)(2). In the response to HCFA's request for additional information, the State claimed that it screens out any individuals whose income exceeds 300 percent of the Supplemental Security Income (SSI) Federal benefit rate. However, in the screening process, it appears that the State proposes to use its more liberal community property policy to define income for purposes of enforcing the section 1903(f)(4)(C) FFP cap.

HCFA believes that income for the section 1903(f)(4)(C) cap means gross income, calculated without any of the disregards that result from a State's more liberal income methodology. This is based on the fact that section 1903(f)(4)(C) specifically requires that income be determined for the special income group exactly as it is determined under SSI (that is, under section 1612 of the Act), but without any of the income exclusions described in section 1612(b). Moreover, the section 1612 methodology applied in SSI determinations does not recognize community property. The SSI regulations defining income do not refer

to community property. Indeed, they characterize income as amounts an individual "receive[s]" (See 20 CFR 416.1102, 416.1110, and 416.1120).

As we have stated, section 1902(r)(2) allows States to use more liberal methodologies in determining the income and resource eligibility of certain individuals. HCFA does not believe that section 1903(f)(4)(C) involves an eligibility calculation, based on an income methodology. Instead, it simply establishes a limit on an individual's income that States must apply in order that medical assistance payments for the individual qualify for FFP. Additionally, section 1902(r)(2) does not refer to section 1903(f) methodology. It only lists several section 1902 provisions and one section 1905 provision (dealing with qualified Medicare beneficiaries). Therefore, HCFA has never viewed section 1902(r) as authority to extend to the term "income" in section 1903(f)(4)(C) the more liberal disregards which States may include in their calculations of income for eligibility purposes under the authority of section 1902(r)(2).

When the policy in this SPA is applied on a case-by-case basis, HCFA believes it could produce a violation of the limits in section 1903(f). HCFA has concluded that providing protection for potential violations of these limits will cause avoidable administrative burdens and is contrary to section 1902(a)(4) and (a)(19) of the Act. These provisions dictate that the State's plan must contain such methods of administration as the Secretary finds to be necessary for the proper and efficient operation of the plan and provide such safeguards as may be necessary to ensure that eligibility will be determined, and care and services will be provided, in a manner consistent with simplicity of administration and be in the best interests of recipients. Section 1902(r)(2) does not protect States against the violation of either section 1902(a)(4) or (a)(19).

The notice to New Mexico announcing an administrative hearing to reconsider the disapproval of its State plan amendment reads as follows:

Mr. Bruce Weydemeyer,
Director, Medical Assistance Division, Human Services Department, Post Office Box 2348, Santa Fe, New Mexico 87504–2348

July 12, 1991.

Dear Mr. Weydemeyer:

I am responding to your request for reconsideration of the decision to disapprove New Mexico State Plan Amendment (SPA) 90–13.

The proposed State plan amendment (SPA) 90–13 seeks to allow New Mexico to use its community property rules for eligibility determinations and redeterminations of individuals in long-term care institutions who are eligible under the State's special income level (currently $989). The State proposes this policy under the authority of section 1902(r)(2) of the Social Security Act (the Act). That authority permits States to employ more liberal income and resource methods at initial eligibility determinations and redeterminations than would be the case were the State to employ prevailing Medicaid eligibility policy, which is based on the financial rules of the cash assistance programs. New Mexico responded on December 19, 1990 to our additional information request of September 13, 1990 concerning SPA 90–13. The plan amendment was disapproved on March 28, 1991.

The issues in this matter are whether: (1) The State's more liberal policy under section 1902(r)(2) of the Act, which uses community property rules to determine eligibility for institutionalized individuals with incomes meeting a special income test, could result in the State providing Medicaid to individuals whose income exceeds the Federal financial participation (FFP) cap in section 1903(f)(4)(C) of the Act; and (2) the State's policy violates sections 1902(a)(4) or (a)(19) of the Act.

In am scheduling a hearing on your request for reconsideration to be held on August 27, 1991, at 10 a.m. in room 2000, 1200 Main Tower Building, Dallas, Texas. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties. The hearing will be governed by the procedures prescribed at 42 CFR part 430.

I am designating Mr. Stanley Katz as the presiding officer. If these arrangements present any problems, please contact the Docket Clerk. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the Docket Clerk of the names of the individuals who will represent the State at the hearing. The Docket Clerk can be reached at (301) 597–3013.

Sincerely,

Gail R. Wilensky,

Administrator.

(Section 1116 of the Social Security Act (42 U.S.C. 1316); 42 CFR 430.18)

(Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program)

Dated: July 12, 1991.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

[FR Doc. 91–17210 Filed 7–18–91; 8:45 am]

BILLING CODE 4120–03–M

National Institutes of Health (NIH)

National Institutes on Aging; Meeting of the National Advisory Council on Aging

Pursuant to Public Law 92–463, notice is hereby given of a special meeting of the National Advisory Council on Aging, National Institute on Aging, September 5, 1991, Building 31, Conference Room 8, National Institutes of Health, Bethesda, Maryland.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, the entire meeting will be closed to the public for the review, discussion and evaluation of individual grant applications received in response to 10 Requests for Application which must be acted on before the regularly scheduled Council meeting. The applications (proposals) and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications (proposals), the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. June McCann, Council Secretary for the National Institute on Aging, National Institutes of Health, Building 31, room 5C02, Bethesda, Maryland 20892, (301/496–9322), will provide a summary of the meeting and a roster of committee members upon request.

(Catalog of Federal Domestic Assistance Program No. 13.866, Aging Research, National Institutes of Health)

Dated: July 8, 1991.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 91–17196 Filed 7–18–91; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Environmental Health Sciences; Meeting of Environmental Health Sciences Review Committee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Environmental Health Sciences Review Committee on July 29, in Building 101 Conference Room, South Campus, NIEHS, Research Triangle Park, North Carolina. The meeting will be open to the public on July 29 from 9 a.m. to approximately 1:15 p.m. for general discussion. Attendance by the public is limited to space available.

In accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and sec. 10(d) of Public Law 92–463, the meeting will be closed to the public on July 29, from 1:15 p.m. to adjournment, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning

individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Drs. John Braun, Carol Shreffler or Donald McRee, Scientific Review Administrators, Environmental Health Sciences Review Committee, National Institute of Environmental Health Sciences, National Institutes of Health, P.O. Box 12233, Research Triangle Park, North Carolina 27709, (telephone 919-541-7826), will provide summaries of meeting and rosters of committee members.

(Catalog of Federal Domestic Assistance Program Nos. 93.112, Characterization of Environmental Health Hazards; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation; 93.894, Resource and Manpower Development, National Institutes of Health)

Dated: July 8, 1991.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 91-17195 Filed 7-18-91; 8:45 am]

BILLING CODE 4140-01-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 requests 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 requests have been submitted to OMB since the list was last published on July 12, 1991.

(Call PHS Reports Clearance Officer on 202-245-2100 for copies of request)

1. Study of Food Label Formats: Phase II—New—A sample of household food shoppers will be interviewed in an experimental setting to determine ability to accomplish common label use tasks under alternative nutrition label formats. The data will provide input to proposed rulemaking to establish a new standardized format. *Respondents:* Individuals or households; *Number of Respondents:* 1050; *Number of Responses per Respondent:* 1; *Average Burden per Response:* .33 hours; *Estimated Annual Burden:* 350 hours.

2. NIOSH Training Grants—42 CFR part 86—Application Regulations—0920-0261—The CDC administers health professions' training grants to assist in providing an adequate supply of qualified personnel in the field of Occupational Safety and Health. Both long-term and short-term training projects will be funded. This request is for the information collection requirements in the regulation, as well as for newly developed Training Grant Application Forms, modeled after PHS 6025-1/2. *Respondents:* Non-profit institutions; *Number of Respondents:* 40; *Number of Responses per Respondent:* 1; *Average Burden per Response:* 71 hours; *Estimated Annual Burden:* 2,852 hours.

3. Radioactive Drug Research Committee Report on Research Use of Radioactive Drugs; Membership Summary and Study Summary—0910-0053—Use of radioactive drugs for certain research purposes must be approved and reported by Radioactive Drug Research Committees. These Committees, comprised of sufficient scientific expertise, are established at medical institutions. Reports, submitted annually or when a special summary is required, are used to monitor Committee compliance with the regulations. Respondents: Non-profit institutions.

	No. of respondents	No. of responses per respondent	No. of hours per response
Recordkeeping: Minutes of Meetings, 21 CFR 361.1(c)(2)	125	4	2.25
Reporting: Committee Membership Summary 21 CFR 361.1(c)(3) (form FDA 2914)	125	1	1.25
Reporting: Study Summary 21 CFR 361.1(c)(3) (form FDA 2915	125	2	750

Note: Estimated Annual Burden—2,031 hours.

4. Preventive Health and Health Services Block Grant, 45 CFR part 96—0920-0106—The purpose of this data collection is to collect annual applications and reports on use of funds from 61 state grantees for the Preventive Health and Health Services Block Grants. *Respondents:* State or local governments; *Number of Respondents:* 61; *Number of Responses per Respondent:* 2; *Average Burden per Response:* 67.5 hours; *Estimated Annual Burden:* 8,235 hours.

5. Evaluation of Immunization Levels Among Inner-city Pre-school Children in Baltimore, Philadelphia and Rochester—New—This project will provide CDC with data on the knowledge, attitudes, and practices of consumers of immunization services. Household interviews will be conducted in Baltimore, MD., Philadelphia, PA., and Rochester, NY. *Respondents:* Individuals or households; *Number of Respondents:* 17,175; *Number of Responses per Respondent:* 1; *Average Burden per Response:* .152 hours; *Estimated Annual Burden:* 2,614.

6. Washington, DC, Metropolitan Drug Area Study (DC*MADS)—0930-0145—DC*MADS will collect data about the prevalence, incidence, and consequences of drug abuse among non-household and hard-to-reach populations in one metropolitan area, and will integrate the findings with NHSDA data about the household population in the same area. Survey and record data will be collected from population subgroups such as women giving birth in area hospitals and drug and alcohol abuse treatment providers. This is the second OMB submission and describes studies of pregnant women and treatment programs. *Respondents:* Individuals or households, State or local governments, businesses or other for-profit, non-profit institutions, small businesses or organizations.

	Number of respondents	Number of responses per respondent	Number of hours per response
Mothers	1,332	1	0.75
Treatment program	300	1	1.27

Note: Estimated Total Annual Burden—1,381 hours (This submission already has 8,464 hours in OMB inventory for remaining sub-studies).

OMB Desk Officer: Shannah Koss-McCallum.

Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated above at the following address:

Human Resources and Housing Branch, New Executive Office Building, room 3002, Washington, DC 20503.

Dated: July 15, 1991.

Sandra K. Mahkorn,

Deputy Assistant Secretary for Public Health Policy.

[FR Doc. 91-17209 Filed 7-18-91; 8:45 am]

BILLING CODE 4 60-17-M

Health Resources and Services Administration; Delegation of Authority Under Title XXVI of the Public Health Service Act, HIV Health Care Services

Notice is hereby given that in furtherance of the delegation of authority to the Administration, Health Resources and Services Administrator, on May 24, 1991, by the Assistant Secretary for Health, the Administrator has delegated to the officials indicated, the following authorities under title XXVI of the Public Health Service Act (42 U.S.C. 300ff *et seq.)*, as amended hereafter, pertaining to the HIV Health Care Services:

1. To the Director, Bureau of Health Resources Development:

a. Authority under part A for Emergency Relief for Areas With Substantial Need for Services, excluding the authority under section 2601(b), pertaining to the Requirement Regarding Confirmation of Cases; and

b. Authority under part B for the Care Grant Program, excluding the authority under section 2618, pertaining to Special Projects of National Significance.

2. To the Director, Bureau of Health Care Delivery and Assistance:

Authority under part C, subpart II, for Categorical Grants.

3. To the Director, Maternal and Child Health Bureau:

Authority under part D, for General Provisions as they pertain to the functions assigned to the Maternal and Child Health Bureau, excluding the authority under sections 2671(c)(2) pertaining to the analysis and evaluation of research protocol, 2672 pertaining to provisions relating to blood banks, and 2673 pertaining to Research, Evaluation, and Assessment Program.

4. To the Associated Administrator for AIDS:

Authority under part B, section 2618, pertaining to Special Projects of National Significance.

The delegation from the Assistant Secretary for Health excluded the authorities to issue regulations, submit reports to Congress or a congressional committee, establish advisory committees and councils, and select members to advisory councils.

Redelegation

These authorities may be redelegated.

Prior Delegations

None.

Effective Date

The delegation was effective on July 12, 1991. In addition, I affirmed and ratified all actions taken by any HRSA officials on my behalf prior to the effective date of the delegation.

Dated: July 12, 1991.

Robert G. Harmon,

Administrator, Health Resources and Services Administration.

[FR Doc. 91–17272 Filed 7–18–91; 8:45 am]

BILLING CODE 4160–15–M

Social Security Administration

Federal Old-Age, Survivors, and Disability Insurance; Vocational Rehabilitation Demonstration Projects Under Section 5120 of Public Law 101–508; Request for Comments From Providers of Vocational Rehabilitation Services

AGENCY: Social Security Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces that the Social Security Administration (SSA) is requesting comments or specific statements of interest concerning proposed demonstration projects from organizations which provide vocational rehabilitation (VR) services, including medical rehabilitation, vocational evaluations, job placement and follow-up services, training, and similar services, to persons with disabilities. SSA seeks to identify potential sources of VR services and to gather other information for conducting VR demonstrating projects authorized under section 5120 of Public Law 101–508, the Omnibus Budget Reconciliation Act (OBRA) of 1990.

In general, the proposed demonstration projects would test an expanded version of the VR referral/reimbursement program currently in effect under section 222 of the Social Security Act (the Act). Under that program, Social Security disability beneficiaries are referred to State VR agencies for necessary rehabilitation services with the goal of enabling such beneficiaries to work. Section 222(d) of the Act prescribes certain conditions under which the Secretary of Health and Human Services (the Secretary) is authorized to reimburse the State for the reasonable and necessary costs of VR services furnished to such beneficiaries.

Under the demonstration projects, Social Security disability beneficiaries would be permitted to select their source of rehabilitation from among both public and private qualified VR providers for the purpose of obtaining VR services which would enable such beneficiaries to engage in substantial gainful activity (SGA). Rehabilitation providers participating in the demonstration projects generally would be reimbursed for such services in accordance with the procedures in effect under section 222(d) of the Act as of November 5, 1990, the date of the enactment of OBRA of 1990. Certain services, however, may be paid for by SSA on a fee-for-service basis.

The comments received in response to this annoucement will be used by SSA to assist in designing the proposed demonstration projects and in identifying potential sites for the proposed projects.

DATES: The closing date for receipt of comments is August 19, 1991.

FOR FURTHER INFORMATION CONTACT: Erma Barron, Social Security Administration, Division of Disability Program Information and Studies, 2223 Annex Building, 6401 Security Boulevard, Baltimore, MD 21235 (301) 965–0097

Copies of this notice are available in print or Braille. To obtain copies, please telephone the contact at the address shown above.

SUPPLEMENTARY INFORMATION:

Section 5120 Demonstration Authority and Objectives

Section 5120 of OBRA 1990, enacted November 5, 1990, directs the Secretary to develop and carry out VR demonstration projects pursuant to the provisions of that section and the demonstration authority provided under section 505 of the Social Security Disability Amendments of 1980, Public Law 96–265, as amended. Under section 505(a) of Public Law 96–265, the Secretary is authorized to conduct experiments and demonstration projects to test new forms of rehabilitation and other initiatives to help Social Security disability beneficiaries to return to work.

Section 5120 of OBRA 1990 requires the Secretary to carry out demonstration projects designed to assess the advantages and disadvantages of permitting Social Security disability beneficiaries to choose their own qualified rehabilitation providers for purposes of obtaining VR services directed at enabling such beneficiaries to engage in SGA. Social Security disability beneficiaries are persons who are entitled as disabled workers to disability insurance benefits under section 223 of the Act or are entitled to widow(er)'s insurance benefits or child's insurance benefits under section 202 of the Act based on their own disability, including statutory blindness. In the remainder of this announcement, we will use the term "disability

beneficiaries" or "beneficiaries" to refer to such persons.

Under the demonstration projects, disability beneficiaries would be permitted to select rehabilitation providers from among both public and private qualified providers selected by the Secretary (after consultation with persons with disabilities and organizations representing such persons) to serve as providers of VR services under the demonstration projects. In accordance with section 5120 of OBRA 1990, SSA would select for participation in the demonstration projects those beneficiaries for whom there is a reasonable likelihood that VR services provided to the beneficiary would result in the person performing SGA for a continuous period of nine months prior to the termination of the demonstration projects.

In general, under section 5120 of OBRA 1990, rehabilitation providers which furnish VR services to beneficiaries under the demonstration projects would be reimbursed for such services in accordance with the reimbursement provisions under section 222(d) of the Act and the implementing Social Security regulations, 20 CFR 404.2101 through 404.2127, in effect as of the date of the enactment of OBRA 1990. However, SSA would be permitted under section 5120 of OBRA 1990 to contract with VR providers under the demonstration projects on a fee-for-service basis in order to:

- Conduct vocational evaluations to identify those beneficiaries who have reasonable potential for engaging in SGA and, thereby, terminating their entitlement to disability benefits under title II of the Act if provided with VR services under the demonstration projects; and
- Develop jointly with each beneficiary so identified an individualized written rehabilitation program.

The proposed demonstration projects would be designed to determine, among other things:

- The extent to which beneficiaries participate in the process of selecting VR providers, and the reasons for participating or not participating;
- The extent to which VR providers which are not agencies or instrumentalities of States accept referrals of beneficiaries under procedures in effect under section 222(d) of the Act (as of the date of enactment of OBRA 1990) relating to reimbursement for VR services, and the most effective way of reimbursing such providers in accordance with such provisions;
- Whether, and if so, the extent to which, beneficiaries who select their own providers of VR services are more likely to engage in SGA and thereby terminate their entitlement to title II disability benefits than those who do not;
- The cost-effectiveness of permitting beneficiaries to select their providers of VR services and the comparative cost-effectiveness of dirrerent types of providers; and
- The feasibility of establishing a permanent national program for allowing disability beneficiaries to choose their own qualified providers of VR services.

Section 5120 of OBRA 1990 provides that the demonstration projects are to be conducted in at least three States. Section 5120 also provides that the projects are to commence as soon as practicable and are to remain in operation until the end of fiscal year 1993 (September 30, 1993).

Current SSA VR Referral/ Reimbursement Program Under Section 222 of the Act

SSA's VR program under section 222 of the Act generally operates as follows:

- The State disability determination services (DDS's), the agencies that collect the medical information and make disability and blindness determinations for the Social Security programs, screen claims for possible VR referral in conjunction with determining whether an applicant is under a disability, including disability based on blindness. The DDS screening for VR is a manual process, generally carried out by disability examiners using VR screening criteria and relying on medical and vocational information collected for purposes of determining disability. Generally, there is no special information for VR assessment.
- The DDS's refer selected disability applicants and beneficiaries to State VR agencies; i.e., agencies which provide VR services under a State plan approved under title I of the Rehabilitation Act of 1973. DDS's provide copies of the disability determination and relevant medical and vocational information to the State VR agencies.
- The State VR agencies decide which applicants and beneficiaries they will serve and what services they will provide. Social Security applicants and beneficiaries may contact their State VR agencies at any time to request VR services.
- Under section 222(d) of the Act, SSA reimburses the State VR agencies for the costs of certain VR services provided to Social Security disability beneficiaries. Generally, reimbursement may be made only for those VR services that result in beneficiaries' performing SGA for a continuous period of at least 9 months. See 20 CFR 404.2110 and 404.2111.

In determining whether work is SGA, SSA applies the criteria, including the earnings guidelines, provided in 20 CFR 404.1572 through 404.1576; for persons who are statutorily blind, the applicable earnings guidelines are described in 20 CFR 404.1584(d). Under the regulations, earnings from work activity as an employee which exceed the applicable SGA earnings guidelines, i.e., earnings which average more than the applicable monthly SGA amount, generally are considered by SSA to be indicative of work at the SGA level.

Currently, for persons with disabilities other than statutory blindness, earnings from work activity as an employee ordinarily will show that the work is SGA if the person's earnings average more than $500 a month (20 CFR 404.1574). For persons who are statutorily blind (i.e., those who have central visual acuity of 20/200 or less in the better eye with the use of correcting lens, or have a field of vision in the better eye which is limited to a maximum diameter subtending an angle no greater than 20 degrees), the monthly SGA amount is $810 for 1991 and is subject to automatic recalculation each January (20 CFR 404.1581ff). In general, work in self-employment is considered to be SGA if the work activity is comparable to work of unimpaired persons in similar businesses in the community or is clearly worth more than the applicable monthly SGA amount, or if the disabled person both renders services which are significant to the business and receives substantial income therefrom (20 CFR 404.1575).

Alternate Participants in the VR Reimbursement Program Under Section 222(d) of the Act

In general, section 222(d)(2) of the Act provides that in the case of any State which is unwilling to participate in the VR reimbursement program or which does not have a State plan for VR services approved under title I of the Rehabiliation Act of 1973, the Commissioner of Social Security may enter into agreements with alternative VR providers (alternate participants) to provide VR services to beneficiaries in such State under the same conditions for reimbursement applicable to State VR agencies. At present, SSA's VR reimbursement program does not involve any alternate participants. However, SSA's VR reimbursement

regulations provide for such a contingency.

Current SSA Reimbursement Procedures—General

In accordance with section 222(d) of the Act, SSA's regulations provide, among other things, that SSA may reimburse only "reasonable and necessary" costs of VR services. In general, the regulations at 20 CFR 404.2117(c) provide:

- To be considered "reasonable and necessary," the cost must be consistent with the State's cost-containment guidelines or, in the case of alternate participant, with a negotiated cost-containment policy.
- VR services will be considered necessary if they are provided by a State VR agency in accordance with an individualized written rehabiliation program or by an alternate participant in accordance with a similar document.

In addition, 20 CFR 404.2117(d) limits SSA's total payment for VR services during each beneficiary's lifetime to the actuarially estimated trust fund savings, based on the beneficiary's monthly benefit amount, gender, and his or her age at the time of the lastest rehabilitation.

Reimbursement Under the Demonstration Projects—General

On the basis of the provisions in 20 CFR 404.2101ff and SSA's reimbursement experience with State VR agencies, VR providers under the new demonstration projects may expect, among other things, the following:

- Reimbursement will be made only after each beneficiary has completed his or her services and has returned to work for 9 continuous months of SGA (subject to SSA verification).
- Reimbursement will be made on a case-by-case basis only after a claim has been filed by a VR provider and processed by SSA.
- Reimbursement may be subject to delays beyond SSA's control.
- Maximum payments will be limited to estimated Social Security Trust Fund savings and by other provisions in 20 CFR 404.2115 and 20 CFR 404.2117.
- In general, VR providers which participate in the demonstration projects and are not State VR agencies would be subject to the provisions of SSA's regulations which apply to alternate VR providers, i.e., alternate participants.

For the proposed demonstration projects, section 5120 of OBRA 1990 specifies certain exceptions to SSA's current reimbursement policy. Specifically, SSA may contract on a fee-for-service basis with VR providers to: (1) Conduct vocational evaluations to identify those disabled beneficiaries who have a reasonable potential for engaging in SGA and leaving the benefit rolls; and, (2) develop with each disabled beneficiary an individualized written rehabilitation program.

Selection of Sites and of VR Providers for the Proposed Demonstration Projects

The demonstration projects will be conducted in at least three States, as yet undetermined. Section 5120 of OBRA 1990 requires the Secretary, after consultation with persons with disabilities and organizations representing such persons, to select qualified rehabilitation providers to serve as VR providers in the geographic area of each demonstration site. In addition, section 5120 sepcifically authorizes the Secretary to approve, on a case-by-case basis, additional qualified VR providers from outside the geographic area of the demonstration projects.

Information Requested by SSA

Responses to this announcement will help SSA to determine whether a sufficient number of organizations are interested in participating in this demonstration and where those organizations are located. If your organization might be interested in participating in this demonstration, your response should include the name and address of your organization, the VR services which you provide, your license, certification or registration for providing such services, your experience and your approach in working with Social Security disability beneficiaries (including persons with specific impairments), and your organization's current financial statement. On the basis of the quality and the quantity of responses to this announcement, SSA will take steps to develop and carry out projects with VR providers in at least three States, and with additional qualified VR providers in States other than those selected as projects sites, if necessary.

We are neither requesting application for grants nor soliciting immediate or future proposals for acquisition through this announcement. Its purpose is to request comments and to identify potential sources of VR services for the above demonstration.

Responses should be addressed to: Susan B. Parker, Associate Commissioner for Disability, Attn: OBRA 5120, 545 Altmeyer Building, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235. The closing date for receipt of responses is August 19, 1991.

Dated: July 11, 1991.

Gwendolyn S. King,

Commissioner of Social Security.

[FR Doc. 91-17214 Filed 7-18-91; 8:45 am]

BILLING CODE 4190-29-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-91-1917; FR-2934-N-35]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: July 19, 1991.

ADDRESSES: For further information, contact James N. Forsberg, Room 7262, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708-4300; TDD number for the hearing- and speech-impaired (202) 708-2565 (these telephone numbers are not toll-free), or call the toll-free title V information line at 1-800-927-7588

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD publishes a Notice, on a weekly basis, to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88-2503-OG (D.D.C.). Today's Notice is for the purpose of announcing that no additional properties have been reviewed for suitability this week.

Dated: July 12, 1991.

Paul Roitman Bardack,

Deputy Assistant Secretary for Economic Development.

[FR Doc. 91-17075 Filed 7-18-91; 8:45 am]

BILLING CODE 4210-29-M

DEPARTMENT OF THE INTERIOR

Bureau of Land ManagementT

[OR-056-4333-12:GP1-280]

Prineville District; Emergency Closure of Public Lands; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice is hereby given that effective immediately, all public lands as legally described below are closed to all vehicle access and travel with the exception of designated roads.

In Wheeler County, Oregon:

Township 9 South, Range 20 East, Willamette Meridian

Section 36: NE¼, That portion of the S½ lying north of John Day River, and that portion of the S½ lying south of the John Day River.

Township 9 South, Range 21 East, Willamette Meridian

Section 31: That portion of Lots 3 and 4 lying north of the John Day River, the NE¼ and SE¼, NE¼NW¼, NW¼NW¼, SW¼NE¼, NE¼SW¼, SE¼SW¼, that portion of Lots 3 and 4 lying south of the John Day River.
Section 32: N½NW¼ lying south of the John Day River, SE¼NW¼, SW¼, SW¼SE¼, SW¼NW¼;
Section 33: SE¼SE¼;
Section 34: NW¼SW¼, SE¼SW¼, SW¼SW¼.

Township 10 South, Range 20 East, Willamette Meridian

Section 1: All (fractional);
Section 2: Those portions of Lots 2, 3 and 4 lying north of the John Day River, and Lots 1, 2 and 3 lying South of the John Day River, S½N½, S½;
Section 3: Those portions of SE¼NE¼ and NE¼SE¼ lying east of Bridge Creek County Road No. 14;
Section 4: SE¼NE¼, SW¼NE¼, NW¼NW¼, SW¼NW¼, S½;
Section 9: All;
Section 10: All;
Section 11: All;
Section 12: S½, NW¼NE¼, SE¼NE¼; NE¼NE¼, SW¼NE¼, NW¼;
Section 16: All;
Section 17: All; EXCEPT SW¼SW¼;
Section 20: All;
Section 24: That portion of SE¼SW¼ lying north and east of Bridge Creek County Road No. 14;
Section 25: That portion of the E½ lying north and east of Bridge Creek County Road No. 14;
Section 35: S½.

Township 10 South, Range 21 East, Willamette Meridian

Section 1: SW¼SW¼;
Section 2: SW¼SE¼, SW¼SW¼, NW¼SW¼, SW¼NW¼;
Section 3: All except NE¼NE¼, NW¼NE¼;
Section 4: S½S½; NE¼NE¼, SE¼, NE¼, SW¼NE¼, N½, SW¼;
Section 5: Lots 2, 3 and 4, SE¼NW¼, SW¼NE¼, W½SE¼, SE¼SE¼, W½SW¼, SW¼, NE¼, NE¼SW¼, NE¼SW¼, SE¼SW¼, SW¼NW¼;
Section 6: Lots 1 through 7, SE¼NW¼, S½NE¼, W½SE¼, E½SW¼, NE¼SE¼, SE¼SE¼;
Section 7: All (fractional);
Section 8: N½N½, SE¼NE¼, E½SE¼, SW¼SE¼, SW¼NE¼, NW¼SE¼, SW¼, S½ of NW¼;
Section 9: SW¼, N½, SE¼;
Section 10: N½ of the NE¼, S½ of the SE¼, SW¼, NW¼;
Section 11: NE¼, SW¼, NE¼SW¼, S½ of the SW¼;
Section 12: SW¼SW¼, NW¼SW¼, SW¼NW¼, NW¼NW¼, SE¼NW¼, SE¼NE¼, E½SW¼, SE¼SE¼;
Section 25: E½SE¼;
Section 30: Bridge Creek county Road No. 14; All except SW¼SW¼ lying southwest of bridge;
Section 31: That portion of N½NE¼ and the N½NW¼ lying north and east of Bridge Creek County road No. 14;
Section 32: All;
Section 36: N½, N½SW¼, SE¼, SE¼SW¼.

Township 9 South, Range 22 East, Willamette Meridian

Section 27: SW¼SW¼, NW¼SW¼, NE¼NW¼;
Section 28: E½, SE¼SW¼;
Section 29: NE¼, SE¼, SE¼SW¼;
Section 32: E½SE¼, Those portions of the E½NE¼ lying south and east of the John Day River, NE¼, NW¼SW¼, E½ of NW¼;
Section 33: That portion of the N½NW¼ lying south and east of the John Day River, SW¼, W½SE¼, SE¼SE¼, E½ of NE¼, S½ of NW¼;
Section 34: SW¼SW¼.

Township 10 South, Range 22 East, Willamette Meridian

Section 3: Lots 3 and 4, SE¼NW¼, SW¼, W½SE¼, SW¼NE¼, SW¼NW¼;
Section 4: Lots 1, 2, 3 and 4, S½N½, N½SW¼, SE¼SW¼, SE¼, SW¼SW¼;
Section 5: Lots 1 and 3, S½, S½NE¼, SE¼NW¼;
Section 7: Lots 2 and 4;
Section 8: N½, E½SW¼, N½SE¼;
Section 9: SW¼SE¼, N½S½, S½N½, N½NE¼, NE¼NW¼, NW¼NW¼;
Section 10: NW¼, N½SW¼, W½NE¼, NW¼SE¼;
Section 30: SW¼SE¼, SE¼SW¼, Lot 4, NW¼SW¼, NW¼SW¼, SW¼NW¼;
Section 31: Lots 2, 3 and 4, W½NE¼NE¼, S½NE¼, SE¼NW¼, E½SW¼, SE¼, all that portion of the E½NE¼NE¼ lying southerly and westerly of the following described line: Beginning at a point on the north-south centerline of the NE¼NE¼ of Section 31, said point being 50' north of the centerline of the existing unimproved road; thence southerly and easterly along aline parallel to and 50' northerly and easterly of said road to the intersection of said line with the southerly and westerly right-of-way boundary of Oregon State Highway No. 207; thence southerly and easterly along said right-of-way boundary to the intersection with the section line between Sections 31 and 32;
Section 32: SW¼SW¼NW¼, W½SW¼, SW¼NE¼SW¼, SE¼SW¼, SW¼SW¼SE¼, S½SE¼SW¼SE¼.

Township 11 South, Range 21 East, Willamette Meridian

Section 26: That portion of the NE¼NE¼ lying west of Oregon State Highway No. 207.

Township 11 South, Range 22 East, Willamette Meridian

Section 5: The diagonal NW½ of Lot 2, being that part of the said lot northwest of the line running between the southwest corner of the northeast corner of the said lot, Lots 3 and 4, S½NW¼, SW¼, SE¼SE¼;
Section 6: Lots 1 and 2, S½NE¼, NE¼SE¼;
Section 7: E½NE¼;
Section 8: N½, N½S½, That portion of S½SW¼ lying north of road, EXCEPT beginning at Engineer's Station 38+73.70 on the centerline of the relocated Service Creek-Mitchell Highway; said Station being 83.3 feet north and 4,766.6 feet west of the southeast corner of said Section 8; thence south 61°43' west, along said centerline a distance of 533.62 feet to Engineer's Station 44+07.32; thence continuing south 61°43' west leaving centerline 26.38 feet; thence north 9°04'30" west, 520 feet; thence north 61°43' east, 560 feet; thence south 9°04'30" east, 520 feet to the POINT OF BEGINNING.

The purpose of this closure is to protect steep highly erosive watersheds, native vegetation, wildlife, paleontological and cultural resources.

The only exception would be for special authorized administrative use and emergency needs.

The authority for this closure is 43 CFR 8341.2.

This closure will remain in effect until an ORV designation plan is completed for this area.

Dated: July 5, 1991.

James L. Hancock,

District Manager, Prineville District Office.

[FR Doc. 91-17175 Filed 7-18-91; 8:45 am]

BILLING CODE 4310-33-M

[ID-060-01-4410-11]

Couer d'Alene District; District Advisory Council Meeting

AGENCY: Bureau of Land Management.

ACTION: District Advisory Council Meeting.

SUMMARY: Notice is hereby given, in accordance with Public Law 92-463, that a meeting of the Couer d'Alene District Advisory Council will be held on Monday, August 26, 1991. The meeting will begin at 9 a.m. and will be held at the BLM Coeur d'Alene District Office, 1808 North Third Street, Couer d'Alene, Idaho.

The agenda items are: Election of officers, update on Buffalo Gulch mine project, Wildlife 2000 initiative, Marshall Mountain spruce beetle infestation, pending Lower Salmon River designations, biodiversity and updates on other management issues.

The meeting is open to the public. Interested persons may make oral statements to the Council between 11:30 a.m. and noon on August 26, 1991 or file written statements for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager, Couer d'Alene District Office, 1808 North Third Street, Couer d'Alene, Idaho 83814 by August 12, 1991.

Summary minutes of the meeting will be maintained in the District Office and will be available for public inspection and reproduction during regular business hours (7:45 a.m. to 4:30 p.m.) within 30 days after the meeting.

Dated: July 10, 1991.

Fritz U. Rennebaum,

District Manager.

[FR Doc. 91-17177 Filed 7-18-91; 8:45 am]

BILLING CODE 4310-GG-M

Meeting of Southern Alaska Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and agenda of a meeting of the Southern Alaska Advisory Council.

DATES: Beginning 9 a.m. on August 12, 1991 and concluding August 13, 1991 at 5 p.m.

FOR FURTHER INFORMATION CONTACT: Danielle Allen, Public Affairs Specialist, Anchorage District, Bureau of Land Management, 6881 Abbott Loop, Anchorage, Alaska 99507 (907) 267-1258.

SUPPLEMENTARY INFORMATION: The agenda for the meeting is as follows:.

1. Introductions and opening remarks.
2. Review of previous meetings' minutes.
3. Flyover of Anchorage District.
4. Update of Lands Program.
5. Update of Resources Program.

The meeting is open to the public, interested persons can make oral statements to the Council between 9:30 a.m.-10:30 a.m. on August 12, 1991.

Richard J. Vernimen,

Anchorage District Manager,

[FR Doc. 91-17203 Filed 7-18-91; 8:45 am]

BILLING CODE 4310-JA-M

[WY-920-41-5700; WYW114571]

Proposed Reinstatement of Terminated Oil and Gas Lease

July 11, 1991.

Pursuant to the provisions of Public Law 97-451, 96 Stat. 2462-2466, and Regulation 43 CFR 3108.2-3 (a) and (b)(1), a petition for reinstatement of oil and gas lease WYW114571 for lands in Fremont County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW114571 effective February 1, 1991, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Beverly J. Poteet,

Supervisory Land Law Examiner.

[FR Doc. 91-17174 Filed 7-18-91; 8:45 am]

BILLING CODE 4310-22-M

[NV-930-00-4212-14; N-53648]

Realty Action; Direct Sale of Federal Land in Nye County, NV

June 14, 1991.

SUMMARY: The following described land has been examined and identified as suitable for disposal by direct sale to John R. Wellborn under sections 203 and 209 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713 and 1719) at the appraised fair market value:

Mount Diablo Meridian

T. 7 S., R. 44 E.,

Sec. 33, E1/2SE1/4NE1/4SE1/4.

A parcel of land containing 5.00 acres.

The sale is consistent with the Bureau's planning system and in conformance with the Esmeralda-Southern Nye Resource Management Plan, approved October 10, 1986. The parcel in its present condition is difficult and uneconomic to manage as part of the public lands. The land is not needed for any resource program and is not suitable for management by the Bureau or any other Federal department or agency. The land will not be offered for sale for at least 60 days after the publication of this Notice in the **Federal Register.**

Patent, when issued, will contain the following reservation to the United States:

A right-of-way thereon for ditches and canals constructed by the authority of the United States, in accordance with the Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

Oil, gas, sodium, and potassium together with the right to prospect for, mine, and remove these minerals. A more detailed description of this reservation, which will be incorporated into the patent document, is available for review at the Battle Mountain District Office.

Patent will be subject to all valid prior existing rights. There are no rights-of-way of record on the subject lands at the present time.

The lands are within the Magruder Mountain Grazing Allotment under lease to Lida Livestock. The purchaser agrees that he takes the real estate subject to the existing grazing use of Lida Livestock, holder of Grazing Lease 6126. The privilege of Lida Livestock to graze domestic livestock on the real estate according to the conditions and terms of authorization Number 6126 shall cease on March 13, 1993. The purchaser is entitled to receive annual grazing fees from Lida Livestock in an amount not to exceed that which would be authorized under the Federal grazing fee published annually in the **Federal Register.**

General Information

Publication of this notice in the **Federal Register** segregates the public lands from all forms of appropriation under the public land laws and the mining laws. The segregative effect will end upon issuance of a patent to these lands, upon publication in the **Federal Register** of a notice of termination, or

270 days from the date of publication of this notice, whichever comes first.

The appraised fair market value of the 5.00 acre tract will be made available at a later date. Should Mr. Wellborn decide not to purchase this parcel of land and should he nonetheless extinguish his mining claim, the parcel will be offered through competitive bidding procedures.

For a period of 45 days from the date of publication of this Notice in the **Federal Register**, interested parties may submit comments to the District Manager, Bureau of Land Management, P.O. Box 1420, Battle Mountain, NV 89820. Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

James D. Currivan,

District Manager, Battle Mountain District.

[FR Doc. 91-17172 Filed 7-18-91; 8:45 am]

BILLING CODE 4310-HC-M

[MT-930-4214-11; MTM 012788, MTM 1171, and MTM 41810]

Proposed Continuation of Withdrawals; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Forest Service, Department of Agriculture, proposes that the withdrawal of 361.20 acres of public and National Forest System (NFS) lands withdrawn for Forest Service administrative and recreation sites continue for an additional 20 years. The public land would remain closed to surface entry and nonmetalliferous mining. The NFS lands would remain closed to mining and be opened to such forms of disposition as may by law be made of NFS lands. All the lands have been and would remain open to mineral leasing and the public lands would remain open to metalliferous mining.

DATES: Comments should be received on or before October 17, 1991.

FOR FURTHER INFORMATION CONTACT: James Binando, BLM Montana State Office, P.O. Box 36800, Billings, Montana 59107, 406-255-2935.

SUPPLEMENTARY INFORMATION: The U.S. Forest Service proposes that the existing withdrawals of public and NFS lands identified below be continued for a period of 20 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714. The lands are described as follows:

Principal Meridan

Beaverhead National Forest

MTM 012788—PLO 1843

Foster Creek Campground (96.20 acres)
T. 5 N., R. 12 W.,
Sec. 17, lot 3, E½ lot 4, S½NE¼SW¼, and SE¼NW¼SW¼,

MTM 1177—POL 4463

Elkhorn Picnic Ground (10 acres)
T. 6 N., R. 3 W.,
Sec. 14, SW¼SW¼, lot 13, SE¼SE¼ lot 14, NE¼NE¼SW¼SW¼, and NW¼NW¼ SE¼SW¼.

Anaconda Job Corps Camp (15 acres)
T. 5 N., R. 12 W.,
Sec. 20, NE¼NE¼NW¼ and E½NW¼ NE¼NW¼.

MTM 41810—Executive Order 1972

Toll Mountain Administrative Site (240 acres)
T. 1 N., R. 6 W.,
Sec. 9, SW¼ and S½NW¼.
The areas described aggregate 361.20 acres in Deer Lodge and Jefferson Counties.

The withdrawals are essential for protection of the administrative and recreation sites involved. Two withdrawals currently segregate the NFS lands from operation of the public land laws generally, including the mining laws, but not the mineral leasing laws. The Forest Service requests no change in the purpose or segregative effect of the withdrawal except that the lands be opened to operation of the general land laws. One withdrawal currently segregates the public land from operation of the public land laws generally and nonmetalliferous mining, but not from metalliferous mining or mineral leasing. The Forest Service requests no change in the purpose or segregative effect of this withdrawal.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuations may present their views in writing to the Montana State Director, at the address listed above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawals will be continued and, if so, for how long. The final determination on the continuation of the withdrawals will be published in the **Federal Register**. The existing withdrawals will continue until such final determination is made.

Dated: July 10, 1991.

John A. Kwiatkowski,

Deputy State Director, Division of Lands and Renewable Resources.

[FR Doc. 91-17173 Filed 7-18-91; 8:45 am]

BILLING CODE 4310-DN-M

[OR-943-01-4214-10; GP1-297; OR-46473]

Proposed Withdrawal and Opportunity for Public Meeting; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes to withdraw 257.61 acres of public lands for protection of the Florence Sand Dunes. This notice closes the land for up to 2 years from surface entry and mining. The lands will remain open to mineral leasing.

DATES: Comments and requests for a public meeting must be received by October 17, 1991.

ADDRESSES: Comments and meeting requests should be sent to the Oregon State Director, BLM, P.O. Box 2965, Portland, Oregon 97208.

FOR FURTHER INFORMATION CONTACT: Linda Sullivan, BLM, Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, 503-280-7171.

SUPPLEMENTARY INFORMATION: On July 2, 1991, a petition was approved allowing the Bureau of Land Management to file an application to withdraw the following described public lands from settlement, sale, location, or entry under the general land laws, including the mining laws, subject to valid existing rights:

Willamette Meridian

T. 18 S., R. 12 W.,
Sec. 3, lots 1, 2, 3, and 4, and S½NE¼;
Sec. 15, SE¼NE¼.
The areas described aggregate 257.60 acres in Lane County, Oregon.

The purpose of the proposed withdrawal is to protect the Florence Sand Dunes which are located within or adjacent to the City of Florence and the community of Heceta Beach.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the State Director, Bureau of Land Management, at the address indicated above.

Notice is hereby given that an opportunity for a public meeting is

afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the State Director, Bureau of Land Management, at the address indicated above, within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR part 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the lands will be segregated as specified above unless the application is denied or cancelled or the withdrawal is approved prior to that date, the temporary uses which may be permitted during this segregation period are leases, licenses, permits, rights-of-way, and disposal of mineral or vegetative resources other than under the mining laws.

Dated: July 3, 1991.

Champ C. Vaughan,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 91-17178 Filed 7-18-91; 8:45 am]

BILLING CODE 4310-33-M

Fish and Wildlife Service

Availability of a Draft Recovery Plan for the Anastasia Island Beach Mouse and Southeastern Beach Mouse for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service announces the availability for public review of a draft recovery plan for the Anastasia Island beach mouse and southeastern beach mouse. Both species occur only in beach dune systems and adjacent interior scrub areas. The Anastasia Island beach mouse occurs in St. Johns County, Florida and the southeastern beach mouse occurs in Brevard and Indian River Counties, Florida. The Service solicits review and comment from the public on this draft plan.

DATES: Comments in the draft recovery plan must be received on or before September 2, 1991 to receive consideration by the Service.

ADDRESSES: Persons wishing to review the draft recovery plan may obtain a copy by contacting the Fish and Wildlife Service, 3100 University Boulevard, suite 120, Jacksonville, Florida 32216, or calling 904/791-2580. Written comments and materials regarding the plan should be addressed to the Field Supervisor at the above address. Comments and materials received are available for public inspection, by appointment, during normal business hours at the latter address.

FOR FURTHER INFORMATION CONTACT: Linda Finger at the above address (904/791-2580).

SUPPLEMENTARY INFORMATION:

Background

Restoring an endangered or threatened animal or plant to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the U.S. Fish and Wildlife Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of the species, establish criteria for the recovery levels for downlisting or delisting them, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*) requires the development of recovery plans for listed species unless such a Plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. the Service and other Federal agencies will also take these comments into account in the course of implementing approved Recovery Plans.

The species considered in this draft plan are the Anastasia Island beach mouse (*Peromyscus polionotus phasma*) and the southeastern beach mouse (*Peromyscus polionotus niveiventris*). The Anastasia Island beach mouse is listed as an endangered species and is restricted to Anastasia Island, St. Johns County, Florida. The southeastern beach mouse is listed as a threatened species and is restricted to Brevard and Indian River Counties, Florida, Both subspecies occur only in beach dune systems and adjacent interior scrub areas. The greatest threat to these beach mice is the continuing loss or alteration of dunes due to human development and use. Major objectives of this recovery plan are to maintain and restore suitable habitat for each subspecies, develop reestablishment programs and educate the public about beach mice.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified above will be considered prior to approval of the plan.

Authority: The authority for this action is Section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: July 11, 1991.

Michael M. Bentzien,

Acting Field Supervisor.

[FR Doc. 91-17197 Filed 7-18-91; 8:45 am]

BILLING CODE 4310-55-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-525 (Preliminary)]

Nepheline Syenite From Canada

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of a preliminary antidumping investigation.

SUMMARY: The Commission hereby gives notice of the institution of preliminary antidumping investigation No. 731-TA-525 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Canada of nepheline syenite,[1] provided for in subheading 2529.30.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. The Commission must complete preliminary antidumping investigations in 45 days, or in this case by August 26, 1991.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201, as amended by 56 FR 11918, Mar. 21, 1991) and part 207,

[1] The nepheline syenite subject to this investigation is defined as "glass-grade" and is ground no finer than −140 mesh.

subparts A and B (19 CFR part 207, as amended by 56 FR 1918, Mar. 21, 1991).

EFFECTIVE DATE: July 12, 1991.

FOR FURTHER INFORMATION CONTACT: Tedford Briggs (202–205–3181), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted in response to a petition filed on July 12, 1991, by The Feldspar Corporation, Asheville, NC.

Participation in the Investigation and Public Service List

Persons (other than petitioners) wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in §§ 201.11 and 207.10 of the Commission's rules, not later than seven (7) days after publication of this notice in the **Federal Register.** The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this preliminary investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than seven (7) days after the publication of this notice in the **Federal Register.** A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference

The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on August 2, 1991, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Tedford Briggs (202–205–3181) not later than July 30, 1991, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions

As provided in §§ 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before August 7, 1991, a written brief containing information and arguments pertinent to the subject matter of the investigation. Parties may file written testimony in connection with their presentation at the conference no later than three (3) days before the conference. If briefs of written testimony contain BPI, they must conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of serviced must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules.

Issued: July 16, 1991.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 91–17323 Filed 7–18–91; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–33 (Sub-No. 67X)]

Union Pacific Railroad Co.—Abandonment Exemption—In Douglas County, NE

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the prior approval requirements of 49 U.S.C. 10903–10904 the abandonment by the Union Pacific Railroad Company of an approximately 2.54-mile line of railroad extending between milepost 486.16, near Gold Street, and milepost 488.70, near California Street, in the City of Omaha, Douglas County, NE, subject to standard labor protective conditions, an historic preservation trail use/rail banking condition.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on August 18, 1991. Formal expressions of intent to file an offer [1] of financial assistance under 49 CFR 1152.27(c)(2) must be filed by July 29, 1991, petitions to stay must be filed by August 5, 1991, and petitions for reconsideration must be filed by August 13, 1991. Requests for a public use condition must be filed by July 29, 1991.

ADDRESSES: Send pleadings referring to Docket No. AB–33 (Sub-No. 67X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423 and

(2) Petitioner's representative: Joseph D. Anthofer, 1416 Dodge Street, #830, Omaha, NE 68179

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar (202) 275–7245 (TDD for hearing impaired: (202) 275–1721).

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359. (Assistance for the hearing impaired is available through TDD services (202) 275–1721).

Decided: July 8, 1991.

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

Sidney L. Strickland, Jr.

Secretary.

[FR Doc. 91–17228 Filed 7–18–91; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree

In accordance with Departmental policy, 28 CFR 50.7, 42 U.S.C. 6973(d) and 42 U.S.C. 9622(i), notice is hereby given that on July 8, 1991, a proposed consent decree in *United States of*

[1] See *Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C. 2d 164 (1987).

America v. *Wildwood Conservation Corp., et al.*, has been lodged with the United States District Court for the District of Massachusetts. The United States' complaint, filed at the same time as the consent decree, sought recovery of response costs and injunctive relief under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and under the Resource Conservation and Recovery Act against the Wildwood Conservation Corp. and 11 other entities responsible for hazardous substances and hazardous wastes found at the Wells G & H Site in Woburn, New York, a National Priorities List facility.

The consent decree provides that the defendants will perform work to remedy contamination at four source areas of contamination at the Site, in accordance with the Record of Decision (ROD) issued by the U.S. Environmental Protection Agency (EPA) for the first operable unit, and reimburse EPA for all response costs to be incurred by the United States in connection with oversight of the implementation of the first operable unit of the ROD. The remedial work will include excavation and treatment of contaminated soils, pumping and treating the contaminated groundwater and monitoring of the groundwater. The defendants also agree to reimburse EPA for certain past governmental response costs and to pay for a portion of the costs of a Remedial Investigation/Feasibility Study to study the central area of the Wells G & H Site.

The Department of Justice will receive comments relating to the proposed consent decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Wildwood Conservation Corp. et al.*, D.J. Ref. 90–11–3–194.

The proposed consent decree may be examined at the office of the United States Attorney, 1107 John W. McCormack Federal Building, U.S. Post and Courthouse, Boston, MA. 02109 and at the Region I office of the Environmental Protection Agency, One Congress St., Boston, MA. 02203. The proposed consent decree may also be examined at the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue Building NW., Washington, DC 20004 (202–347–2072). A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue Building NW., Box 1097, Washington, DC 20004. In requesting a copy, please enclose a check in the amount of $29.50 (25 cents per page reproduction cost, exclusive of the costs of copying the appendix) payable to the "Consent Decree Library."

Richard B. Stewart,

Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 91–17158 Filed 7–18–91; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

Notice Pursuant to the National Cooperative Research Act of 1984; Hydrocyclone Development Consortium

Notice is hereby given that, on May 31, 1991, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* (the "Act"), the Hydrocyclone Development Consortium (HDC) filed written notifications with the Attorney General and the Federal Trade Commission concerning the identities of additional members of the HDC. The written notifications were filed for the purpose of extending the protections of section 4 of the Act limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

The following additional party has become a member of the HDC: Arco Oil and Gas Company, a division of Atlantic Richfield Company, 2300 West Plano Parkway, Plano, Texas 75075.

No other changes have been made in either the membership or planned activity of the HDC.

On January 17, 1991, the HDC filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on February 14, 1991. 56 FR 6035. On May 15, 1991, the HDC filed an additional notification. The Department published a notice in response to that additional notification on June 13, 1991 (56 FR 27272).

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 91–17159 Filed 7–18–91; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research Act of 1984; Oil Combustion Consortium

Notice is hereby given that, on May 31, 1991, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 ("the Act"), Oil Combustion Consortium has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the venture, and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provision limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the venture, and its general areas of planned activities, are given below.

Oil Combustion Consortium is a joint venture corporation, consisting of the following parties:

Amoco Production Company, P.O. Box 3385, Tulsa, OK 74102.

AOSTRA, 18th Floor—McFarland Tower, 700 4th Ave. SW., Calgary, Alberta T2P 3J4, CANADA.

ARCO Oil and Gas Company, 2300 West Plano Parkway, Plano, TX 75075.

Chevron Oil Field Research Company, P.O. Box 446, 1300 Beach Blvd., LaHabra, CA 90633–0446.

Conoco Inc., Box 1267, Ponca City, OK 74603.

Norwegian Petroleum Directorate, P.O. Box 600, 4001 Stavanger, NORWAY.

Petro-Canada Resources, P.O. Box 2844, Calgary, Alberta T2P 3E3, CANADA.

Petrofina S.A., 52 rue de 1' Industrie, B–1040 Brussels, BELGIUM.

Phillips Petroleum Company, 249B Geoscience Bldg., Phillips Research Center, Bartlesville, OK 74004.

SZKFI Hungarian Hydrocarbon Institute, H–2443 Szazhalombatta, P.O.B. 32, Budapest, HUNGARY.

TOTAL CFP, Center de Recherche, Domaine de Beauplan, Route de Versailles, 78470 Saint-Remy-Les-Chevreuse, FRANCE.

Oil Combustion Consortium will engage in advanced, long-term research and development to analyze and experimentally study the combustion characteristics of crude oils from up to ten crude oil reservoirs.

The Consortium Agreement became effective when at least six participants executed and delivered a Consortium Agreement to Amoco by March 1, 1991.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 91–17161 Filed 7–18–91; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research Act of 1984; Open Document Architecture Consortium

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15

U.S.C. 4301 *et seq.* ("the Act"), the members of the Open Document Architecture Consortium ("The Consortium") on June 10, 1991, filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to this agreement and (2) the nature and objectives of this agreement. The notification was filed for the purpose of invoking the protections of section 4 of the Act, which limit the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to section 6(b) of the Act, the parties to this agreement and the general areas of planned activity are given below.

The current parties are the following: Bull S.A., Digital Equipment International B.V., IBM Deutschland GmbH, International Computers Limited, Siemens Nixdorf Information Systems S.A./N.V., Unisys Belgium N.V./S.A.

The area of planned activity is cooperation in the sponsorship and development of software products to facilitate a more effective interchange of documents among computer systems from different vendors, while preserving the integrity of the content, format and layout of the documents.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 91-17163 Filed 7-18-91; 8:45 am]

BILLING CODE 4410-01-M

Notice Pursuant to the National Cooperative Research Act of 1984; the SQL Access Group, Inc.

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), the SQL Access Group, Inc. ("the Group") on June 7, 1991, has filed an additional written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing additions to its membership. The additional notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

On March 1, 1990, the Group filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on April 5, 1990 (55 FR 12750). On June 5, 1990, August 31, 1990, December 6, 1990, and March 21, 1991, the Group filed additional written notifications. The Department published a notice in the **Federal Register** in response to the additional notifications on July 18, 1990 (55 FR 29277), October 17, 1990 (55 FR 42061), January 7, 1991 (56 FR 536), and April 25, 1991 (56 FR 19126), respectively.

The identities of the additional parties to the Group are:

Mimer Software AB, Box 1713, S-75147 Uppsala, Sweden.

Uniface, 1420 Harber Bay Drive, Suite 140, Alameda, CA 94501.

Unisys Corporation, 2700 North First Street, MS 18-022, San Jose, CA 95150-6685.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 91-17162 Filed 7-18-90; 8:45 am]

BILLING CODE 4410-01-M

Notice Pursuant to the National Cooperative Research Act of 1984; WAG Ratio Consortium

Notice is hereby given that, on May 31, 1991, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 ("the Act"), WAG Ratio Consortium has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the venture, and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the venture, and its general areas of planned activities, are given below.

WAG Ratio Consortium is a joint venture corporation, consisting of the following parties:

Amoco Production Company, P.O. Box 3385, Tulsa, OK 74102.

ARCO Oil and Gas Company, 2300 West Plano Parkway, Plano, TX 75075.

AOSTRA, 18th Floor—McFarland Tower, 700 4th Ave. SW., Calgary, Alberta T2P 3J4, CANADA.

BP Petroleum Development Limited, BP Exploration Centre, Britannic House, Moor Lane, London EC2Y 9BU.

Conoco Inc., P.O. Box 1267, Ponca City, OK 74603.

Hungarian National Oil and Gas Trust, Department of Exploitation, P.O.B. 22, H-1502, Budapest, HUNGARY.

Marathon Oil Company, P.O. Box 269, Littleton, CO 80160.

Phillips Petroleum Company, 249B Geoscience Bldg., Phillips Research Center, Bartlesville, OK 74004.

WAG Ratio Consortium will engage in advanced, long-term research and development to experimentally study the effect of four (4) Water Alternate Gas (WAG) ratios on the formation/growth of viscous instabilities during the displacement of a synthetic oil from a non-water shielding rock at tertiary conditions by brine and a less viscous, contact miscible solvent.

The Consortium Agreement became effective when at least six participants executed and delivered a Consortium Agreement to Amoco by March 31, 1991.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 91-17160 Filed 7-18-91; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment Standards Administration; Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment

procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., room S-3014, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the Federal Register are in parentheses following the decisions being modified.

Volume I

Georgia:
GA91-33 (Feb. 22, 1991)..... p. 291, p. 292.

Maryland:
MD91-14 (Feb. 22, 1991)..... p. 505, p. 506.

Mississippi:
MS91-2 (Feb. 22, 1991)..... p. 541, p. 542.
MS91-4 (Feb. 22, 1991)..... p. 547, p. 548.
MS91-7 (Feb. 22, 1991)..... p. 553, p. 554.
MS91-9 (Feb. 22, 1991)..... p. 557, p. 558.
MS91-11 (Feb. 22, 1991)..... p. 561, p. 562.
MS91-12 (Feb. 22, 1991)..... p. 563, p. 564.
MS91-13 (Feb. 22, 1991)..... p. 565, p. 566.
MS91-17 (Feb. 22, 1991)..... p. 573, p. 574.
MS91-20 (Feb. 22, 1991)..... p. 579, p. 580.
MS91-22 (Feb. 22, 1991)..... p. 585, p. 586.

New York:
NY91-13 (Feb. 22, 1991)..... p. 901, pp. 902-909.

Pennsylvania:
PA91-21 (Feb. 22, 1991)..... p. 1107, pp. 1108-1110.
PA91-23 (Feb. 22, 1991)..... p. 1123, pp. 1124-1128.

Rhode Island:
RI91-1 (Feb. 22, 1991)..... p. 1149, pp. 1150-1156.

Volume II

Illinois:
IL91-18 (Feb. 22, 1991)..... p. 237, pp. 238-240b.

Kansas:
KS91-6 (Feb. 22, 1991)..... p. 363, pp. 364-365.

Nebraska:
NE91-3 (Feb. 22, 1991)..... p. 753, pp. 754-755.

New Mexico:
NM91-1 (Feb. 22, 1991)..... p. 779, pp. 780-794b.

Ohio:
OH91-2 (Feb. 22, 1991)..... p. 821, pp. 822-840b.

Wisconsin:
WI91-1 (Feb. 22, 1991)..... p. 1197, pp. 1198-1200.
WI91-3 (Feb. 22, 1991)..... p. 1205, pp. 1206-1208.
WI91-5 (Feb. 22, 1991)..... p. 1213, pp. 1214-1216.
WI91-7 (Feb. 22, 1991)..... p. 1221, pp. 1222-1224.
WI91-8 (Feb. 22, 1991)..... p. 1225, pp. 1226-1242.
WI91-9 (Feb. 22, 1991)..... p. 1243, pp. 1244-1246.
WI91-11 (Feb. 22, 1991)..... p. 1259, pp. 1260-1262.
WI91-13 (Feb. 22, 1991)..... p. 1267, pp. 1268-1270.
WI91-14 (Feb. 22, 1991)..... p. 1271, pp. 1272-1274.
WI91-15 (Feb. 22, 1991)..... p. 1275, pp. 1276-1277.
WI91-16 (Feb. 22, 1991)..... p. 1279, pp. 1280-1281.

Volume III

Colorado:
CO91-2 (Feb. 22, 1991)..... p. 159, pp. 160-161.

Idaho:
ID91-1 (Feb. 22, 1991)..... p. 207, pp. 208-218b.

Montana:
MT91-1 (Feb. 22, 1991)..... p. 231, pp. 232-248b.

Nevada:
NV91-1 (Feb. 22, 1991)..... p. 299, pp. 300-320d.

Washington:
WA91-1 (Feb. 22, 1991)..... p. 451, pp. 452-476.
WA91-2 (Feb. 22, 1991)..... p. 477, pp. 478-486b.
WA91-3 (Feb. 22, 1991)..... p. 487, pp. 488-492.
WA91-7 (Feb. 22, 1991)..... p. 501, p. 502.
WA91-8 (Feb. 22, 1991)..... p. 507, pp. 508-511.

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 15th day of July 1991.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 91-17334 Filed 7-18-91; 8:45 am]

BILLING CODE 4510-27-M

Mine Safety and Health Administration

Petitions for Modification

The following parties have filed petitions to modify the application of mandatory safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. Mountain Coal Company

[Docket No. M-91-59-C]

Mountain Coal Company, 555 Seventeenth Street, Denver, Colorado 80202 has filed a petition to modify the

application of 30 CFR 75.1002 to its West Elk Mine (I.D. No. 05–03672) located in Gunnison County, Colorado. The petitioner proposes to use 2400-volt cables and equipment to power permissible longwall equipment.

2. Cyprus Shoshone Coal Corporation

[Docket No. M–91–60–C]

Cyprus Shoshone Coal Corporation, P.O. Box 830, Hanna, Wyoming 82327 has filed a petition to modify the application of 30 CFR 75.1002 to its Shoshone No. 1 Mine (I.D. No. 48–01186) located in Carbon County, Wyoming. The petitioner proposes to use 2400-volt cables and equipment to power permissible longwall equipment.

3. Fantasia Mining Company

[Docket No. M–91–61–C]

Fantasia Mining Company, P.O. Box 961, Barbourville, Kentucky 40906 has filed a petition to modify the application of 30 CFR 75.313 to its No. 2 Mine (I.D. No. 15–16984) located in Knox County, Kentucky. The petitioner proposes to use hand-held continuous oxygen and methane monitors on permissible three-wheel battery-powered tractors used to load coal instead of methane monitors.

4. RSF Coal Company

[Docket No. M–91–62–C]

RSF Coal Company, 100 Kerney Road, Williamsburg, Kentucky 40769 has filed a petition to modify the application of 30 CFR 75.313 to its No. 1 Mine (I.D. No. 15–17072) located in Whitley County, Kentucky. The petitioner proposes to use hand-held continuous oxygen and methane monitors on permissible three-wheel battery-powered tractors used to load coal instead of methane monitors.

5. Sunshine Precious Metals, Inc.

[Docket No. M–91–06–M]

Sunshine Precious Metals, Inc., P.O. Box 1080, Kellogg, Idaho 83837–1080 has filed a petition to modify the application of 30 CFR 57.11012 to its Sunshine Mine (I.D. No. 10–00089) located in Shoshone County, Idaho. The petitioner states that application of the standard as it applies to manways and ladderways will result in a diminution of safety to miners.

Request for Comments

Persons interested in these petitions may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before August 19, 1991. Copies of these petitions are available for inspection at that address.

Dated: July 15, 1991.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 91–17240 Filed 7–18–91; 8:45 am]

BILLING CODE 4510–43–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 91–66]

NASA Advisory Council (NAC), Commercial Programs Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NAC, Commercial Programs Advisory Committee.

DATES: August 7, 1991, 8:30 a.m. to 3 p.m.

ADDRESSES: Fort Myer Officers' Club, Patton Hall, Chaffee Room, Arlington, VA 22211.

FOR FURTHER INFORMATION CONTACT: Dr. Barbara Stone, Office of Commercial Programs, National Aeronautics and Space Administration, Washington, DC 20546, 703/271–5500.

SUPPLEMENTARY INFORMATION: The Commercial Programs Advisory Committee is concerned with the overall NASA program supporting the commercial development to space, both relevant policies and program scope and content. The Committee is chaired by Mr. James K. Baker and is currently composed of 11 members.

The meeting will be closed to the public from 12 Noon to 3 p.m. for a discussion of the qualifications of additional candidates for membership of the Committee. Such a discussion would invade the privacy of the candidates and other individuals involved. Since this discussion will be concerned with matters listed in 5 U.S.C. 552b(c)(6), it has been determined that the meeting be closed to the public for this period of time. Prior to the closed session, the meeting will be open to the public up to the seating capacity of the room, which is approximately 30 persons including the Committee members and other participants. It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the participants.

Type of meeting: Open—except for a closed session as noted in the agenda below.

Agenda

August 7, 1991

8:30 a.m.—Chairman's Opening Remarks/Introduction of Members.

8:50 a.m.—Commercial Programs Update.

10 a.m.—Presentation: Motorola's Iridium Program.

10:35 a.m.—Commercial Programs Advisory Committee Field Visits Report.

10:55 a.m.—Member Discussion of Program Enhancement.

12 Noon—Closed Session.

3 p.m.—Adjourn.

Dated: July 15, 1991.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 91–17204 Filed 7–18–91; 8:45 am]

BILLING CODE 7510–01–M

NUCLEAR REGULATORY COMMISSION

Individual Plant Examination of External Events (IPEEE) for Severe Accident Vulnerabilities

AGENCY: Nuclear Regulatory Commission.

ACTION: Initiation of the Individual Plant Examination of External Events (IPEEE) for severe accident vulnerabilities; 10 CFR 50.54(f).

SUMMARY: This notice announces the availability of supplement 4 to Generic Letter 88–20 and NUREG–1407, "Procedural and Submittal Guidance for Individual Plant Examination of External Events (IPEEE) for Severe Accident Vulnerabilities". In accordance with supplement 4 to Generic Letter 88–20, licensees are requested to perform an IPEEE to identify plant-specific vulnerabilities to severe accidents due to external events and report the results to the NRC. Licensees are to submit within 180 days of issuance of supplement 4 to Generic Letter 80–20, their proposed programs for completing their IPEEEs. The proposed programs are to be submitted to the U.S. Nuclear Regulatory Commission, Document Control Desk, Washington, DC 20555 and are to:

1. Identify the method and approach selected for performing the IPEEE,
2. Describe the method to be used, if it has not been previously submitted

for staff review (the description may be referenced), and

3. Identify the milestones and schedules for performing the IPEEE and submitting the results to the NRC.

A copy of Supplement 4 to Generic Letter 88–20, together with NUREG–1407, has been placed in the NRC Public Document Room, Gelman Building, 2120 L Street NW., Washington, DC. A free single copy may be obtained by writing to the U.S. Nuclear Regulatory Commission, Attn: Distribution Section, 7103–MNBB, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: John T. Chen, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone (301) 492–3919.

Dated in Rockville, Maryland this 12th day of June, 1991.

For the Nuclear Regulatory Commission.

Warren Minners,

Director, Division of Safety Issue Resolution, Office of Nuclear Regulatory Research.

[FR Doc. 91–17221 Filed 7–18–91; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–289]

GPU Nuclear Corp; Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–50, issued to GPU Nuclear Corporation (the licensee), for operation of the Three Mile Island Nuclear Station, Unit No. 1 located in Dauphin County, Pennsylvania.

The amendment would temporarily raise the license limit for primary-to-secondary leakage from 0.1 gpm to 0.2 gpm. The licensee has requested temporary relief from this limit because of a slow but steady increase in the primary-to-secondary leak rate over the past 16 months during the current, uninterrupted operating cycle. If the current limit were reached, a plant shutdown would be required. The limit would be raised for a 2-month period.

The licensee requested expeditious review of this request because the apparent leak rate could reach the current limit as early as July 31, 1991. The plant is scheduled to shut down for maintenance and refueling on September 27, 1991. The licensee has judged it to be undesirable to enter a major unplanned shutdown only 2 months before a planned extensive shutdown period. Extensive testing of the Once Through Steam Generators (OTSGs) will be conducted during the planned outage period.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

GPU Nuclear Corporation has determined that this License Amendment request poses no significant hazards as defined in 10 CFR 50.92 in that operation of TMI–1 in accordance with the proposed amendment will not:

1. Involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated.

Changing the leak rate limit above baseline from 0.1 gpm to 0.2 gpm does not challenge the integrity of the OTSG tubes because of the stable nature of tube cracks expected during normal operation if they exist. The consequence of a tube rupture is bounded by the previous analysis in the TMI–1 FSAR for a double ended tube rupture.

As a result, tube integrity is unaffected. Thus there is no increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

OTSG tube rupture and an MSLB accident are the only accidents requiring consideration by this change.

Increasing the leak rate limit from 0.1 gpm to 0.2 gpm will not affect the structural integrity of the tubes. No other tube failure mechanisms are created by this change. This change revises an administrative restriction on plant operation and does not affect any safety system. Therefore, the possibility of a new or different kind of accident from any accident previously evaluated is not created.

3. Involve a significant reduction in a margin of safety.

The plant license precludes operation in excess of 0.1 gpm above the baseline leak rate. If after shutting down the source of leakage cannot be located, it is permitted to re-establish a new baseline under these circumstances. However, under no circumstance may the leakage limit of 1 gpm (TS section 3.1.6.3) be exceeded for both steam generators.

This TSCR does not change the 1 gpm limitation. Also, the observed leakage is believed to be from multiple sources and not indicative of rapid tube failure, based on the current leak rate trend. Therefore, there is no significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within fifteen (15) days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to room P–223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By August 19, 1991, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the Local

Public Document Room located at Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceedings, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of 30-days, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 15-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 15-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 325–6000 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Mr. John F. Stolz: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037, attorney for the license.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated July 9, 1991, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NE., Washington, DC 20555, and at the Local Public Document Room, Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Dated at Rockville, MD, this 15th day of July 1991.

For the Nuclear Regulatory Commission.

Ronald W. Hernan,

Senior Project Manager, Project Directorate I–4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 91–17219 Filed 7–18–91; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50-338 and 50-339]

Virginia Electric and Power Co.; Consideration of Issuance of Amendments to Facility Operating Licenses and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF-4 and NPF-7, issued to Virginia Electric and Power Company (the licensee) for operation of the North Anna Power Station, Units 1 and 2 located in Louisa County, Virginia.

The amendments would add a license condition to the North Anna Units 1 and 2 licenses regarding the analysis for the rupture of a main steam pipe inside containment, where it is assumed that environmental conditions would cause failure of a pressurizer pressure transmitter used to mitigate the consequences of a main steam line break.

Prior to issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By August 19, 1991, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555 and at the Local Public Document Room located at the Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903-2498. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1 (800) 325-6000 (in Missouri 1 (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Herbert N. Berkow: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Michael W. Maupin, Esq., Hunton and Williams, Post Office Box 1535, Richmond, Virginia 23212, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)-(v) and 2.714(d).

If a request for a hearing is received, the Commission's staff may issue the amendments after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendments dated February 26, 1990, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555, and the Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903-2498.

Dated at Rockville, Md., this 12th day of July 1991.

For the Nuclear Regulatory Commission.

Herbert N. Berkow,

Director, Project Directorate II–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 91–17220 Filed 7–18–91; 8:45 am]

BILLING CODE 7590–01–M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Amendments to the Columbia River Basin Fish and Wildlife Program

July 11, 1991.

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of proposed amendments to the Columbia River Basin Fish and Wildlife Program (Hungry Horse resident fisheries mitigation), and opportunity for public comment.

SUMMARY: On November 15, 1982, pursuant to the Pacific Electric Power Planning and Conservation Act (the Northwest Power Act, 16 U.S.C. section 839, et seq.) the Pacific Northwest Electric Power and Conservation Planning Council (Council) adopted a Columbia River Basin Fish and Wildlife Program (program). The program has been amended from time to time since then.

The Council is hereby initiating a process to consider amendments to the program concerning resident fisheries mitigation for losses attributable to the construction and operation of Hungry Horse Dam, in Montana. The Montana Department of Fish, Wildlife, and Parks and the Salish-Kootenai Tribe have submitted a plan to the Council, on the basis of which the Council will consider whether to amend current provisions of the program (see program sections 903 (a) and (b)).

PUBLIC COMMENT: Written comment on the proposed plan is invited, and must be received in the Council's central office, 851 SW. Sixth Avenue, suite 1100, Portland, Oregon, 97204, by 5 p.m. Pacific time on September 13, 1991. Comments should be submitted to Steve Crow, Director of Public Affairs, at this address. Comments should be clearly marked "Hungry Horse Fisheries Comments."

After the close of written comment, and up to the time of the Council's final decision on the proposed amendments, the Council may hold consultations with interested parties to clarify points made in written comment.

HEARINGS: Public hearings will be held at the Council's working session in Spokane, Washington, July 24–25; in Kalispell, Montana, on August 1; at the Council's regular meeting in Lincoln City, Oregon, August 14–15; and at the Council's regular meeting in Coeur d'Alene, Idaho, September 11–12. If you wish to obtain a written schedule for the hearings, contact the Council's Public Affairs Division, 851 SW. Sixth Avenue, Suite 1100, Portland, Oregon 97204 or (503) 222–5161, toll free 1–800–222–3355 in Idaho, Montana and Washington. To reserve a time period for presenting oral comments at a hearing, contact Judi Hertz in the Public Affairs Division. Requests to reserve a time period for oral comments must be received no later than two work days before the hearing.

FINAL ACTION: The Council expects to take final action on the proposed amendments at its October 1991 meeting. Notice will be announced in accordance with applicable law and the Council's practice of providing notice of its meeting agendas.

FOR FURTHER INFORMATION CONTACT: For a copy of a background paper on the plan, *(publication 91–03)*, proposed by the Montana Department of Fish, Wildlife, and Parks and the Salish-Kootenai Tribe, or the plan itself, *(publication 91–21)*, contact the Council's Public Affairs Division at the address or telephone numbers listed above.

Edward W. Sheets,

Executive Director.

[FR Doc. 91–17150 Filed 7–18–91; 8:45 am]

BILLING CODE 0000–00–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–29430; File No. SR–MSE–90–02]

Self-Regulatory Organizations; the Midwest Stock Exchange; Order Approving Proposed Rule Change Relating to Precedence of Orders in a Specialist's Book

On March 5, 1990, the Midwest Stock Exchange ("MSE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Rule 2 of Article XXX of the Exchange's Rules of the Board of Governors, which sets forth the Exchange's rules with regard to precedence to orders in a specialist's book.

The proposed rule change was published for comment in Securities Exchange Act Release No. 27804 (March 14, 1990), 55 FR 10738 (March 2, 1990). No comments were received on the proposal.

MSE Article XXX, Rule 2, entitled Precedence to Orders in Book, currently provides that when the orders of a specialist, co-specialist, or relief specialist (collectively, "specialist") and the orders of his or her customers are market orders or limited orders at the same price, the specialist must give precedence to orders in the book for the purchase or sale of securities over the orders which originate with him or her as a dealer. Further, under MSE rules, if a specialist's own order is the best market on the floor and is being displayed, the specialist must relinquish his or her precedence to any order at the same price, agency or professional,[3] which the specialist accepts for placement in his or her book, either voluntarily or pursuant to the requirements of the Exchange. A specialist may maintain his or her precedence, however, by turning down an order at the same price for placement in the book which he or she is not required to accept.[4]

Under existing MSE rules, a specialist must accept for placement in his or her book all agency limit orders of 2,099 shares or less, or any limit order which betters the existing market.[5] Conversely, a specialist may turn down any agency limit order above 2,099 shares or any professional limit order, unless either such order betters the existing market. A specialist, however, may voluntarily accept for placement in his or her book any such order.

Under the MSE's proposed modifications to Rule 2, this precedence to orders in the specialist's book would remain. The Exchange proposal would amend this rule, however, so that a specialist would not be required to relinquish precedence to a professional order [6] which the specialist has elected to accept, over his or her own orders at the same price, if the specialist was displaying his or her interest over the quotation system. Specifically, the Exchange proposal would provide that whenever a specialist accepts a

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1990).

[3] A professional order is any order for the account of a broker-dealer or an affiliate. See proposed definition at note 6, *infra*.

[4] See MSE Article XX, Rules 15, 17, and 37.

[5] *Id.*

[6] The Exchange is proposing a new Interpretation and Policy number .04 under Rule 2 which defines a professional order as "any order for the account of a broker-dealer, the account of an associated person of a broker-dealer, or any account in which a broker-dealer has any direct or indirect interest."

professional order for the book which he or she is not required to accept pursuant to the rules and policies of the Exchange, that specialist is not required to relinquish precedence to such order over the orders which originate with him or her as a dealer provided that: (1) The specialist's orders and those of his or her customers are limited orders at the same price, and (2) the specialist is displaying his or her order, including its size, through the quotation system.

The remaining provision in Rule 2, that a specialist may not charge a member or member organization a commission in any transaction in which he or she is a principal, would not change under the Exchange's proposal.

The Exchange states that its proposal would provide a fair and equitable accommodation in order to encourage specialists to accept as many professional limit orders as possible, while at the same time giving specialists the flexibility they need to better manage their inventory. The MSE further states that this change should encourage a specialist to display his or her interest with size.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of sections 6 and 11 of the Act.[7] The Commission believes that the proposal is consistent with the section 6(b)(5) requirements that the rules of an exchange be designed to perfect the mechanism of a free and open market and a national market system. The MSE proposal is a reasonable accommodation that should encourage specialists to accept as many professional limit orders as possible, while at the same time providing them with the flexibility to trade in and out of their positions. In addition, not requiring specialists to relinquish precedence to large-sized professional orders should encourage them to accept those orders, which may allow specialists on the MSE to compete more effectively for order flow with specialists on other exchanges.

If, as the Exchange suggests, the modification to its precedence rule regarding orders in a specialist's book encourages specialists to display their interest with size over the quotation system, this would result in more comprehensive and accurate information being disseminated to the marketplace and should provide any party with an interest in a particular stock with information about all existing interest in that stock. Moreover, the MSE proposal will not affect existing Exchange rules requiring that a customer order always must receive priority over an order originating with the specialist in his or her capacity as a dealer.

Finally, the Commission believes that the proposal is consistent with section 11(b) of the Act and Rule 11b–1 thereunder, which allow exchanges to promulgate rules permitting a member of an exchange to register as a specialist and to act as a dealer.[8] The MSE proposal is not inconsistent with the Rule 11b–1 requirement that a specialist's dealings should be restricted as far as practicable to those reasonably necessary to permit him or her to maintain a fair and orderly market. The Commission emphasizes that the MSE proposal will apply only to the activities of MSE specialists on the Exchange floor as they relate to professional orders. Thus, it is limited in application to a regional marketplace where a specialist may turn down any professional limit order, unless such order betters the existing market.[9]

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[10] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Dated: July 11, 1991.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91–17184 Filed 7–18–91; 8:45 am]

BILLING CODE 8010–01–M

[7] 15 U.S.C. 78f and 78k (1988).

[8] 15 U.S.C. 78k (1982) and 17 CFR 240.11b–1 (1989). See also Securities Exchange Act Release No. 7465 (November 23, 1964), 29 FR 15862. Although the regional exchanges (and their specialists) are exempted for the most part from the provisions of Rule 11b–1, in 1981, the Commission modified these exemptions and made the regional exchanges subject to Rule 11b–1 with respect to any security which is listed on one or more of the regional stock exchanges and which is not also listed on either the American or New York Stock Exchanges. Securities Exchange Act Release No. 18157 (October 7, 1981), 46 FR 50639 (October 14, 1981).

[9] The MSE proposal does not differentiate among different categories of professionals, but treats all broker-dealer proprietary orders as professional orders, and thus should avoid any burden on competition concerns under section 6(b)(8) of the Act or unfair discrimination concerns under section 6(b)(5) of the Act.

[10] 15 U.S.C. 78s(b)(2) (1988).

[11] 17 CFR 200.30–3(a)(12) (1990).

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

July 15, 1991.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder for unlisted trading privileges in the following securities.

Berkshire Realty Company
Common Stock, $.01 Par Value (File No. 7–7077)
Kaiser Aluminum Company
Common Stock, $.01 Par Value (File No. 7–7078)
Public Storage Properties XIV, Inc.
Series A Common Stock, $.01 Par Value (File No. 7–7079)
Revell/Monogram Inc.
Common Stock, $.01 Par Value (File No. 7–7080)
AMBAC Inc.
Common Stock, $.01 Par Value (File No. 7–7081)

These securities are listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before August 5, 1991, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 91–17181 Filed 7–18–91; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34-29438; File No. SR-NASD-91-15]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change Relating to the Effectiveness and Publicity of Disciplinary Sanctions

The National Association of Securities Dealers, Inc. ("NASD" or "Association") submitted to the Securities and Exchange Commission ("SEC" or "Commission") on April 4, 1991,[1] a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [2] and Rule 19b-4 thereunder.[3] The proposal amends the Resolution of the Board of Governors—Notice to Membership and Press of Suspensions, Expulsions, Revocations, and Monetary Sanctions [4] ("Resolution") under Article V, Section 1 of the Rules of Fair Practice to conform with the current practices of the NASD with respect to the effectiveness and publicity of disciplinary sanctions.

Notice of the proposed rule change together with its terms of substance was provided by the issuance of a Commission release (Securities Exchange Act Release No. 29101, April 18, 1991) and by publication in the Federal Register (56 FR 19130, April 25, 1991). No comments were received on the proposal. This order approves the proposed rule change.

Article V, section 1 of the NASD's Rules of Fair Practice ("Rules") [5] authorizes any NASD District Business Conduct Committee ("DBCC"), Market Surveillance Committee or the Board of Governors ("Board") to impose sanctions on any member or person associated with a member for any violation of the rules. In addition, Article II, section 12 of the Code of Procedure [6] authorizes the National Business Conduct Committee ("NBCC") and the Board to file a complaint against a member or a person associated with a member for violation of any rule, regulation, or statutory provision. Decisions of the DBCC may be reviewed by the NBCC, either on its own motion within 45 days, or by any person aggrieved thereby within 15 days after the date of the decision.[7] Decisions of the NBCC, in turn, may be reviewed by the Board upon the request of one or more Governors.[8] Final action of the NASD, whether by the NBCC or the Board may be reviewed by the Commission in accordance with the provisions of the Act.[9]

The rule change approved herein makes three changes to the Resolution dealing with the effectiveness of and publication to the NASD membership and the press of disciplinary sanctions that have been imposed. The first change amends that portion of the Resolution which states that a DBCC decision may become effective, and thus its sanctions publicized, after the expiration of a 30-day period following the date of decision. This suggests that a DBCC decision may become effective, and its sanctions made known to the public, during the last 15 days of the 45-day period in which the NBCC has the prerogative of calling a decision for review. It has been the practice of the NASD to refrain from seeking to enforce sanctions during the 30-day period following the issuance of the decision. Accordingly, the amendment to the Resolution will clarify that the sanctions imposed in the DBCC decisions do not become effective and will not be publicized until 45 days after the DBCC's decision.

Second, the rule change herein approved will add a new paragraph to the Resolution to clarify that expulsions and bars imposed pursuant to an offer of settlement [10] ("offer") or an acceptance, waiver, and consent [11] ("AWC") are effective and may be publicized immediately upon approval by the NBCC. A respondent waives all rights to appeal when he or she accepts an offer or AWC. Thus, the need for a delay period, during which a respondent may seek SEC review or during which the Board may call a matter for review, is eliminated due to the finality of the offer or AWC, and sanctions may therefore be instituted immediately.

The third and final change concerns the date on which bars and expulsions become effective following review by the NBCC of a DBCC disciplinary decision. The amendment allows bars and expulsions to become effective immediately upon issuance of the decision, when the decision is not subject to an application for review filed with the SEC. In other words, final decisions of the NASD that call for bars or expulsions, that are not appealed to the Commission, become effective immediately. Publication of the decision is to take place after a 30-day delay period. Prior to the approval of the instant proposal, the Resolution stated that bars and expulsions (along with other types of decisions) issued by the Board would take effect after a 30-day delay.

The rule change approved herein will clarify the NASD's policy regarding the effectiveness and publication of disciplinary sanctions which is intended to conform with current practice and to alleviate any confusion on the part of respondents or their counsel. In addition, the NASD believes that the public interest is served by the immediate imposition of bars and expulsions in circumstances where appeal is not sought by the respondent or the NASD.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of sections 15A(b)(7) and 15A(b)(8) of the Act [12] and the rules and regulations thereunder. Sections 15A(b)(7) and 15A(b)(8) require that the rules of a national securities association include provisions to assure that members and persons associated with members be appropriately and fairly disciplined for violations of any provision of the Act, the rules and regulations promulgated thereunder, the MSRB Rules, or the Association's Rules. The Commission believes, for the reasons stated above, that the proposed rule change satisfies these statutory requirements.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.[13]

Dated: July 12, 1991.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-17217 Filed 7-18-91; 8:45 am]

BILLING CODE 8010-01-M

---

[1] On July 1, 1991, the NASD filed Amendment No. 1 to the proposed rule change. Amendment No. 1 makes technical amendments to the instant proposed rule change that reflect prior changes to the language of Article V, Section 1 of the Rules of Fair Practice that were incorporated in File No. SR-NASD-90-35, Securities Exchange Act Release No. 28554 (October 18, 1990); 55 FR 42925 (October 24, 1990). SR-NASD-90-35 amended the structure of the NASD's disciplinary procedures.

[2] 15 U.S.C. 78s(b)(1) (1982).

[3] 17 CFR 240.19b-4 (1989).

[4] NASD Securities Dealers Manual, Article V, section 1 of the Rules of Fair Practice, CCH ¶ 2301.

[5] *Id.*

[6] NASD Securities Dealers Manual, Article II, section 12 of the Code of Procedure, CCH ¶ 3032.

[7] NASD Securities Dealers Manual, Article III, section 1 the Code of Procedure, CCH ¶ 3041.

[8] NASD Securities Dealers Manual, Article III, section 7 of the Code of Procedure, CCH ¶ 3047.

[9] See section 19(d)(2) of the Act, 15 U.S.C. 78s(d)(2) (1982).

[10] See NASD Securities Dealers Manual, Article II, Section 11 of the Code of Procedure, CCH ¶ 3031.

[11] See NASD Securities Dealers Manual, Article II, Section 10 of the Code of Procedure, CCH ¶ 3030.

[12] 15 U.S.C. 78o-3 (1982).

[13] 17 CFR 200.30-3(a)(12) (1989).

[Release No. 34-29436; File No. SR-NYSE-91-19]

Self-Regulatory Organizations; Filing and Order Granting Accelerated Approval of Proposed Rule Change by the New York Stock Exchange, Inc., Relating to an Extension of the Pilot Programs for Position Limit Exemptions for Hedged Equity Option and Index Option Positions

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on May 23, 1991, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE proposes to extend for six months its pilot programs for position limit exemptions for hedged stock option and broad-based index option positions, as set forth in Rule 704.[1] The proposed rule change also would expand the scope of the index option hedge exemption pilot to include short positions in the underlying hedged portfolio and to allow the underlying hedged portfolio to include securities that are readily convertible into common stock.

In addition, the Exchange proposes to amend NYSE Rule 704 to clarify the Exchange's procedures regarding its semi-annual review of stock option position limits.

The text of the proposed rule is available at the Office of the Secretary, NYSE, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and statutory 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

On March 14, 1990, the Commission approved, on a pilot basis, an NYSE proposal to amend the Exchange's position limit rules, to provide for position limit exemptions for hedged equity option and broad-based stock index option positions. Rule 704(b) sets forth position limits on the number of stock options on the same side of the market that an investor may control. For equity options, the position limit are 3,000, 5,500 or 8,000 contracts on the same side of the market, depending upon the trading volume and number of outstanding shares of the underlying stock.

The pilot program for equity options positions provides an automatic exemption from these equity option position limits for accounts that have established one of the four most commonly used hedge positions on a limited one-for-one basis (*i.e.* 100 shares of stock for one option contract or, in the case of an adjusted contract, the number of shares represented by the adjusted contract). The exempted hedge positions are: (1) Long stock and short calls; (2) long stock and long puts; (3) short stock and long calls; and (4) short stock and short puts. The maximum total position limit (hedged and unhedged) pursuant to the pilot program may not exceed twice the normal position limit.

For broad-based stock index options, the position limits are 45,000 contracts on the same side of the market, with no more than 25,000 consisting of the series having the nearest expiration date. The NYSE's stock index option hedge position limit exemption pilot program enables public customers of a member organization, who have obtained NYSE approval, to hedge qualified long stock portfolios with NYSE-traded broad-based stock index option contracts (either long puts or short calls or a combination or an equivalent position) up to a maximum of 125,000 contracts without regard to the normal position limits. In order to use the broad-based stock index option hedge exemption, a public customer of a member organization must have a previously-established, NYSE-approved stock portfolio that (a) is comprised of common stocks that are each net long and are distributed across at least four industry groups, (b) is comprised of at least 20 stocks, none of which account for more than 15% of the value of the portfolio, and (c) is carried in an account with a member organization, thus ensuring that the NYSE has the ability to conduct adequate surveillance of the hedged position.[2]

Under both position limit exemption pilot programs, exercise limits still correspond to position limits, such that investors are allowed to exercise, during any five consecutive business days, the number of option contracts set forth as the position limit, as well as those contracts purchased pursuant to the position limit exemption.[3]

Both pilot programs expired on December 22, 1990. The NYSE now proposes to extend each program for six months from the date of Commission approval of the proposed rule change. In addition, the NYSE proposes to expand the scope of the index option hedge exemption to enable public customers to use the exemption to hedge qualifying previously-established short stock portfolios, in addition to long portfolios. Specifically, while the current index option hedge exemption is available only to customers with long positions in diversified portfolios of stock who hedge their positions by selling calls or buying puts, the NYSE believes the exemption can be equally useful to customers with short stock positions in diversified portfolios who seek to offset economic risk by buying calls or selling puts on a broad-based stock index.

The Exchange believes that expending the scope of the index option hedge exemption to cover short positions in stock portfolios will increase use of the exemption, enable more effective hedging by public customers with short portfolio positions and/or diversified portfolios, and increase the depth and liquidity of the index options market without increasing the risk of market manipulation or disruption.

The NYSE also proposes to permit the underlying hedged portfolio to include not only common stocks, but also equivalent positions in securities that are readily convertible into common stocks, including economically equivalent convertible bonds. The NYSE

[1] Position limits impose a ceiling on the aggregate number of options contracts on the same side of the market that can be held or written by an investor or group of investors acting in concert. The Commission approved the NYSE's current hedge position limit pilot programs for stock and index option positions on March 8, 1990. See Securities Exchange Act Release No. 27786 (March 8, 1990), 55 FR 9523. Both of these pilot programs expired on December 22, 1990.

[2] In addition, the options included in the hedge exemption cannot be used for index arbitrage.

[3] Exercise limits prohibit the exercise by an investor or group of investors acting in concert of more than the specified number of options contracts in the position limit rule within five consecutive business days. See NYSE Rule 705.

would allow the equivalent stock positions on a case-by-case basis. The Exchange believes that expanding the scope of the exemption in this manner will give institutions greater flexibility in portfolio management.

The NYSE represents that it will continue to review each exemption application to determine whether a position is eligible for the exemption and to track the positions and dollar values of the portfolios. The NYSE also will continue to monitor on a daily basis: (1) The use of the exemption to determine if the positions are being maintained in accordance with all conditions and requirements, and (2) the effects of the exemption on the market.

In its filing with the Commission, the Exchange also proposes to amend Rule 704(b) to clarify that the NYSE conducts a semi-annual review of volume and outstanding share information to make position limit determinations with respect to stock options, and to provide that, pursuant to this review procedure, the NYSE may, in its discretion, immediately increase the position limit for a stock option if the underlying stock meets or surpasses the eligibility requirements for a higher position limit prior to the next six-month review. The NYSE believes that this procedure will provide greater flexibility in the establishment of position limits for stock options.

The Exchange believes that the proposed rule change meets the requirements of the Act, and in particular, section 6(b), which states, in part, that an exchange have rules that are designed to promote just the equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NYSE believes that the proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The NYSE has not solicited, and does not intend to solicit, comments on this proposed rule change. The NYSE has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has requested accelerated approval of the proposed rule change pursuant to section 19(b)(2) of the Act. The Commission finds that the proposed rule change to extend the pilot program is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6 and the rules and requirements thereunder.[4] The Commission concludes, as it did when approving the commencement of the pilot programs and similar programs by the other options exchanges,[5] that the amended NYSE proposal will allow more effective hedging of stock portfolios and may increase the depth and liquidity of the equity options and stock index options market without significantly increasing concerns regarding intermarket manipulations or disruptions of either the options market or the underlying stock market.

Specifically, the Commission believes that enabling public customers with short stock portfolios to utilize the hedge exemption will increase the depth and liquidity of the NYSE' stock index options market while at the same time providing public customers with a better vehicle to hedge large short stock portfolios. The Commission notes that, at present, institutions with significant short stock portfolios are generally constrained in their ability to hedge such positions with index options by current position limits. As a result, many institutions utilize financially equivalent index futures products to the competitive disadvantage of the options exchanges. Extending the public customer hedge exemption to institutions with short stock portfolios should provide such institutions with an alternative hedging technique.

The Commission also notes that before the pilot programs can be approved on a permanent basis the NYSE must provide the Commission with a report on the operation of the pilots. Specifically, the NYSE must provide the Commission with details on (1) the frequency with which the exemptions have been used; (2) the types of investors using the exemptions; (3) the size of the positions put on as a result of the pilot programs; (4) whether the Exchange had received any complaints on the operation of the pilot programs; (5) whether the Exchange has taken any disciplinary action against, or commenced any investigations, examinations, or inquiries concerning, any of its members for any violation of any terms or conditions of the pilot programs; (6) the market impact, if any, of the pilot programs; and (7) how the Exchange has implemented surveillance procedures to ensure compliance with the terms and conditions of the pilot programs, including, among others, the requirement that any hedged option position be liquidated before any corresponding stock position.

The Commission also believes that it is appropriate for the Exchange, on a case-by-case basis, to permit public customers to include economically convertible bonds and readily convertible securities in their underlying stock portfolios. In this regard, the Commission notes that the staff of the NYSE will review the application of this provision to specific corporate instruments and monitor the position and dollar value of all the instruments that comprise the basis for the hedge.

Accordingly, the Commission believes it is appropriate to extend the pilot programs for position limit exemptions for hedged positions, as amended by this proposal, so that the NYSE and the Commission can monitor the effects of the hedge exemption on the market and market participants.

The Commission also believes that the NYSE's proposed amendment to Rule 704(b) clarifying the Exchange's semi-annual review of applicable stock option position limits and providing the NYSE with the discretion to increase a position limit for a stock option to a higher position limit prior to a scheduled six-month review under certain circumstances is appropriate and consistent with the Act. In particular, the amended rule would permit the Exchange, subsequent to a six month review, to immediately increase a stock option position limit if warranted by an

---

[4] 15 U.S.C. 78f(b)(5)(1982).

[5] The Commission has approved similar equity options hedge position limit exemption pilot programs by the American Stock Exchange, Inc. ("AMEX"), Chicago Board Options Exchange, Inc. ("CBOE"), and the Philadelphia Stock Exchange, Inc. ("PHLX"). See Securities Exchange Act Release Nos. 25738 (May 24, 1988), 53 FR 20201 and 25811 (June 20, 1988), 53 FR 23821. The Commission also has approved similar broad-based stock index option hedge position limits exemption pilot programs by the AMEX and CBOE. See Securities Exchange Act Release No. 24556 (June 5, 1987), 52 FR 22695 and the PHLX, See Securities Exchange Act Release No. 25844 (May 3, 1988), 53 FR 16829. In addition, the Commission has previously approved rule changes of the other options exchanges regarding hedge position limit exemptions for short positions, equivalent securities underlying the hedge position limit exemption (*i.e.* convertibles), and six-month review procedures See, *e.g.*, Securities Exchange Act Release Nos. 27326 (October 2, 1989), 54 FR 42121; 27322 (September 29, 1989), 54 FR 41889; 26228 (October 31, 1988), 53 FR 44690; and 25846 (June 24, 1988), 53 FR 25224.

increase in the volume and/or outstanding shares for the eligible stock. The Commission believes that acceleration of the date upon which a qualified stock option's increased position limit takes effect will provide investors with a useful tool to hedge more effectively underlying stock positions, and at the same time, will not result in investor confusion. The Commission further notes that revising the Exchange's six-month review procedures for stock option position limits will provide uniformity consistent with the other options exchanges.[6]

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the Federal Register because the proposal is substantially similar to submissions by other options exchanges previously approved by the Commission.[7] In addition, because there have been no adverse comments concerning the Exchange's pilot programs as well as proposals by other options exchanges to modify their pilot programs in the same manner proposed by the NYSE, and because of the importance of maintaining the quality and efficiency of the NYSE options markets and uniformity of rules among the options exchanges, the Commission believes good cause exists to approve the extension and modification of the pilot programs on an accelerated basis.

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 submission should refer to the file number in the caption above and should be submitted by August 9, 1991.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[8] that the proposed rule change (SR–NYSE–91–19) is approved and, accordingly, the position limit exemption pilot program for hedged equity and broad-based stock index options positions is extended until January 12, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: July 12, 1991.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91–17216 Filed 7–18–91; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–29437; File No. SR–OCC–91–11]

Self-Regulatory Organizations; Options Clearing Corp.; Filing of a Proposed Rule Change Relating to a Change in the Structure of OCC's Nominating Committee

July 12, 1991.

Pursuant to section 19(b) of the Securities Exchange Act of 1934, as amended ("Act"),[1] notice is hereby given that on June 17, 1991, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (SR–OCC–91–11) as described below. 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 Proposal

The proposed rule change, through the use of a transitional by-law, would create two classes of Elected Members to the Nominating Committee. Each class would be comprised of three Elected Members.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and statutory 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. OCC 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 create, through the use of a transitional by-law, two classes of Elected Members to the Nominating Committee ("Committee") with each class comprised of three Elected Members. The term of each class of Elected Members will be for two years and will be staggered so that each year the terms of three Elected Members will expire.

Section 5 of Article III of OCC's By-laws currently provides for the Committee to be reconstituted each year with all Elected Members of the Committee being elected at the preceding annual meeting of stockholders. Section 5 states, "Prior to each annual meeting of stockholders, the Nominating Committee then in office shall nominate * * * one person for each position as Elected Member of the Nominating Committee to be filled at such annual meeting." As a result, when the Committee deliberates each January, it does so without any input from the prior Committee. The proposed by-law change, however, would create two classes of Elected Members with each class serving a staggered term of two years. Thus, only one three person class of Elected Members would be nominated to serve as Elected Members each year.

The proposed by-law provides for Class I Elected Members to serve a one year term which shall begin at the April 1992 meeting of stockholders and shall expire at the April 1993 annual meeting of stockholders. Class II Elected Members shall serve a complete two year term beginning at the 1992 annual meeting of stockholders and ending at the 1994 annual meeting of stockholders. Thereafter, all Elected Members will be elected for two year terms.

Furthermore, the proposed by-law provides that no Elected Member will be eligible for election to the Nominating Committee after having served a full two year term until after a lapse of one year. A term of less than two years may, however, immediately precede the full two year term. The additional restrictions, which provide that no director of OCC and no person who is not a Clearing Member or a Designee of

---

[6] In this regard, the Commission expects that the Exchange will exercise judgment in determining whether to raise an option's limit so that the six-month review will remain as the review period for the overwhelming majority of options.

[7] See, *supra* note 5.

[8] 15 U.S.C. 78s(b)(1982).

[1] 15 U.S.C. 78s(b).

a Clearing Member Organization shall be eligible to serve as an Elected Member, remain intact. Taken together, these procedures will eliminate the complete turnover of the Committee each year and develop greater continuity among the Elected Members.

In order to accommodate the transition to the new structure of the Committee, OCC is proposing that a transitional by-law be adopted that will expire at the 1992 annual meeting of stockholders. The transitional by-law provides for the Committee to be increased from six to eight Elected Members to serve until the 1992 annual meeting of stockholders. At the 1992 meeting, the number of Elected Members will be reduced to six and three of the eight Elected Members from the prior Committee will remain as Class I Elected Members and will serve an additional one year term that expires at the 1993 annual meeting of stockholders. Thereafter, as mentioned above, terms of the Elected Members will be for two years and will be staggered so that each year the terms of three Elected Members will expire and three new Elected Members will serve on the Committee.

The proposed rule change is consistent with the purposes and requirements of section 17A of the Act because the creation of a two year staggered term for Elected Members of the Nominating Committee will increase continuity and efficiency among Elected Members for purposes of selecting nominees for the Corporation's Board of Directors. Further, the proposed rule change will continue to assure a fair representation of OCC's shareholders and participants in the selection of its directors and administration of its affairs.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change and none were received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five 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 ninety 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 OCC consents, the Commission shall:

(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 persons, 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 20549. Copies of such filing will also be available for inspection and copying at the principal office of OCC. All submissions should refer to File No. SR–OCC–91–11 and should be submitted by August 9, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[2]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91–17215 Filed 7–18–91; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

July 15, 1991.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder for unlisted trading privileges in the following securities:

Fisher Price Inc.
Common Stock, $0.01 Par Value (File No. 7–7071)

Carlisle Plastics Inc.
Common Stock, $0.01 Par Value (File No. 7–7072)

LIVE Entertainment Inc.
Common Stock, $0.01 Par Value (File No. 7–7073)

Quest for Value Dual Purpose Fund, Incorporated
Common Stock, $0.01 Par Value (File No. 7–7074)

Kaiser Aluminum Corporation
Common Stock, $0.01 Par Value (File No. 7–7075)

AMBAC, Incorporated
Common Stock, $0.01 Par Value (File No. 7–7076)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before August 5, 1991, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 91–17182 Filed 7–18–91; 8:45 am]

BILLING CODE 8010–01–M

---

[2] 17 CFR 200.30–3(a)(12).

[Release No. 35–25347]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

July 12, 1991.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

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 5, 1991 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Central and South West Corporation, et al. (70–7849)

Central and South West Corporation ("CSW"), a registered holding company, CSW Energy, Inc. ("Energy"), a wholly owned subsidiary company of CSW, CSW Development-I, Inc. ("Energy Sub"), a wholly owned subsidiary company of Energy all located at 1616 Woodall Rodgers Freeway, P.O. Box 660164, Dallas, Texas 75202, ARK/CSW Development Partnership ("Joint Venture"), a general partnership and a subsidiary of Energy Sub and Oildale Cogeneration Partners, L.P. ("Partnership"), a general partnership and subsidiary of Energy Sub and Joint Venture both located at 23293 South Pointe Drive, Suite 100, Laguna Hills, California 92653, have filed a post-effective amendment tot their application-declaration under Sections 6(a), 7, 9(a), 10, 12(b), 13(b) and 13(e) of the Act and Rules 43, 45, 50(a)(5), 51, 86, 87, 90, 91 and 95 thereunder.

By order dated June 7, 1991 (HCAR No. 25327) ("Order"), CSW, Energy, Energy Sub and the Joint Venture were authorized, among other things, to create partnership in order to invest in the Oildale Project ("Project"), a qualifying cogeneration facility, within the meaning of the Public Utility Regulatory Policies Act of 1978 ("PURPA") and 18 CFR Section 292.602. In addition, Partnership was authorized to arrange bank financing up to an aggregate principal amount of $31 million ("Credit Facility"), to be evidenced by a promissory note, to acquire the lessee interest and other assets of Catalyst Golden Bear Cogeneration Partnership a nonassociate California limited partnership, in the Project.

Partnership now proposes to increase its borrowing authorization under the Credit Facility from $31 million up to an aggregate principal amount of $33 million. The Credit Facility of $33 million will include: (1) approximately $18 million to be used for the refinancing of the existing debt of the Project; (2) approximately $7.7 million to upgrade the Project; (3) approximately $4 million to cover the expenses of the acquisition; and (4) approximately $3.3 million for project working capital, spares and tools, accrued interest and start-up costs and to cover obligations of the Project in the event of unforeseen shortfalls in operating cash flow during the first two years of operation. The terms and conditions of the additional borrowing will be the same as those stated in the Order.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91–17183 Filed 7–18–91; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–18238; 811–5250]

THC Fund, Inc.; Application

July 12, 1991.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "1940 Act").

APPLICANT: THC Fund, Inc.

RELEVANT 1940 ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that is has ceased to be an investment company under the 1940 Act.

FILING DATE: The application on Form N–8F was filed on July 1, 1991.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on August 9, 1991, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicant, 515 Olive Street, 11th Floor, St. Louis, Missouri 63101.

FOR FURTHER INFORMATION CONTACT: Felice R. Foundos, Staff Attorney, (202) 272–2190, or Jeremy N. Rubenstein, Assistant Director, (202) 272–3023 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end, non-diversified management company organized as a corporation under the laws of the State of Maryland. On July 22, 1987, applicant registered under the 1940 Act pursuant to section 8(a) and filed a registration statement pursuant to section 8(b). On that date, applicant also filed a registration statement pursuant to the Securities Act of 1933 with amendments filed on September 23, 1987 and October 23, 1987. The registration statement became effective on October 27, 1987.

2. At a meeting held on December 11, 1990, an applicant's board of directors authorized applicant's adoption of a plan of reorganization, the dissolution of applicant, and the preparation of proxy materials relating to the reorganization. On January 18, 1991, applicant filed with the Commission a registration statement on Form N–14 containing the proxy materials.

Applicant's shareholders approved the reorganization at a special meeting held on January 31, 1991.

3. The plan of reorganization permitted applicant to sell its assets to Flagship Missouri Double Tax-Exempt Fund ("Flagship"), a series and sub-trust of Flagship Tax-Exempt Funds Trust, a Massachusetts business trust, in exchange for shares of Flagship.

4. Pursuant to the reorganization, applicant's shareholders exchanged their shares for shares of Flagship at relative net asset value. Applicant distributed shares with an aggregate net asset value of $2,628,038 determined on January 31, 1991. Aside from the exchange of shares, there was no disposition of portfolio securities or any other assets of applicant made in connection with the reorganization.

5. MUTEF Investment Advisors, Inc. ("MUTEF"), applicant's investment adviser, is liable for all expenses incurred in the reorganization. Flagship

Financial, Inc., the investment adviser of Flagship, agreed to reimburse MUTEF for one-half of these costs.

6. Applicant has filed a certificate of dissolution with the State of Maryland and has been dissolved.

7. As of the date of the application, applicant had no debts or liabilities, and was not a party to any litigation or administrative proceeding.

8. Applicant is neither engaged in nor proposed to engage in any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91–17185 Filed 7–18–91; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

Bureau of Politico-Military Affairs

[Public Notice 1427]

Suspension of Munitions Export Licenses to Yugoslavia

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given that all licenses and approvals to export or otherwise transfer defense articles and defense services to Yugoslavia pursuant to section 38 of the Arms Export Control Act are suspended.

EFFECTIVE DATE: July 11, 1991.

FOR FURTHER INFORMATION CONTACT: Rose Biancaniello, Chief, Licensing Division, Office of Defense Trade Controls, Bureau of Politico-Military Affairs, Department of State (703–875–6644).

SUPPLEMENTARY INFORMATION: Effective immediately, it is the policy of the U.S. Government to deny all applications for licenses and other approvals to export or otherwise transfer defense articles to Yugoslavia. In addition, U.S. manufacturers and exporters and any other affected parties are hereby notified that the Department of State has suspended all licenses and approvals authorizing the export of or other transfers of defense articles or defense services to Yugoslavia.

The licenses and approvals that have been suspended to include manufacturing licenses and technical assistance agreements involving Yugoslavia. This action also precludes the use in connection with Yugoslavia of any exemptions from license or other approval requirements included in the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120–130).

This action has been taken pursuant to sections 38 and 42 of the Arms Export Control Act (22 U.S.C. 2778, 2791) and § 126.7 of the ITAR in furtherance of the foreign policy of the United States.

Dated: July 10, 1991.

Richard A. Clarke,

Assistant Secretary of State for Politico-Military Affairs.

[FR Doc. 91–17165 Filed 7–18–91; 8:45 am]

BILLING CODE 4710–25–M

SUSQUEHANNA RIVER BASIN COMMISSION

Possible Drought Emergency Declaration in All or Selected Portions of the Susquehanna River Basin

AGENCY: Susquehanna River Basin Commission (SRBC).

ACTION: Notice of public hearing on possible drought emergency declaration.

DATES: The public hearing will be held on August 19, 1991 at 1:30 p.m.

ADDRESSES: The hearing will be held in the third floor conference room of the Commission's Headquarters Building at 1721 N. Front St., Harrisburg, Pa. 17102–2391. Written comments should be submitted to Richard A. Cairo, Secretary to the Commission, at the above address.

FOR FURTHER INFORMATION CONTACT: Richard A. Cairo, Secretary to the Commission (717) 238–0423.

SUPPLEMENTARY INFORMATION: The Susquehanna River Basin Commission will hold a public hearing on August 19, 1991 at its Headquarters Building, 1721 N. Front St., Harrisburg, Pa., beginning at 1:30 p.m. The purpose of this hearing will be to receive public comments on the need for a drought emergency declaration in all or selected portions of the Susquehanna River Basin. Article 11, section 11.4(a) of Susquehanna River Basin Compact, Public Law 91–575, provides that, prior to any general or selected drought emergency declaration by the Commission, the Commission must first hold a public hearing and then act by unanimous vote.

A significant deviation from normal precipitation, particularly in the Pennsylvania portion of the Susquehanna River Basin, prompted the Commission, at its July 11, 1991 meeting in Oneonta, N.Y., to order the immediate scheduling of a public hearing on a possible drought emergency declaration. This deviation is running as high as 6–7 inches for some Susquehanna Drainage Basin counties in Pennsylvania. For the duration of any such declared emergency, the Commission may direct increases or decreases in any allocations, diversions or releases previously granted or required for a limited time to meet the emergency condition.

The hearing will be informal in nature. Interested parties are invited to attend the hearing and to participate by making oral or written statements presenting their data, views, and comments. Those wishing to personally appear to present their views are urged to notify the Commission in advance that they desire to do so. However, any person who wishes to be heard will be given the opportunity to be heard whether or not they have given such notice. Immediately after the hearing or as soon thereafter as practicable, the Commission will convene a conference call meeting to determine whether to declare a drought emergency in all or a portion of the basin.

Additional information on this hearing and the consequences of a drought emergency declaration may be obtained from Richard A. Cairo, Secretary to the Commission, Susquehanna River Basin Commission, 1721 N. Front St., Harrisburg, Pa. 17102–2391 (717) 238–0423.

Authority: Susquehanna River Basin Compact, 84 Stat 1509 et seq.

Dated: July 12, 1991.

Richard A. Cairo,

Secretary to the Commission.

[FR Doc. 91–47155 Filed 7–28–91; 8:45 am]

BILLING CODE 7040–01–M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ended July 12, 1991

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: 47641.
Date filed: July 11, 1991.
Parties: Members of the International Air Transport Association.
Subject: Mail Vote 502 (Cairo-Beirut), TC2 Intermediate/First/Economy Class Fares Within Middle East, R–1—(MV502) 042M/052/062.
Proposed Effective Date: July 30, 1991.

Docket Number: 47642.
Date filed: July 11, 1991.
Parties: Members of the International Air Transport Association.

Subject: TC12 Reso/P 1337 Dated June 11, 1991. North Atlantic-Israel—R–1 To R–8, TC12 Fares 0357 dated June 12, 1991—Fares Tables, TC12 Meet/P 0483 dated July 4, 1991—Minutes.
Proposed Effective Date: August 19, 1991.

Phyllis T. Kaylor,
Chief, Documentary Services Division.
[FR Doc. 91–17241 Filed 7–18–91; 8:45 am]
BILLING CODE 4910–62–M

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended July 12, 1991

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 *et seq.*). The due date for answers, conforming application, or motion to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 47643.
Date filed: July 11, 1991.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: August 8, 1991.
Description: Application of Conifair Aviation Inc., pursuant to section 402 of the Act and subpart Q of the Regulations requests a foreign air carrier permit for authority to provide charter foreign air transportation of persons and accompanying baggage between points in the United States and points in Canada and between points in Canada to points in the United States.

Phyllis T. Kaylor,
Chief, Documentary Services Division.
[FR Doc. 91–17242 Filed 7–18–91; 8:45 am]
BILLING CODE 4910–62–M

Federal Railroad Administration

Petition for Waivers of Compliance

In accordance with 49 CFR 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance with certain requirements of the Federal safety laws and regulations. The petition is described below, including the regulatory provisions involved, the nature of the relief being requested and the petitioner's arguments in favor of relief.

CSX Transportation, Inc.

Docket Number SA–91–6

CSX Transportation, Inc. (CSXT) seeks a waiver of compliance from certain sections of 49 CFR part 231, Railroad Safety Appliance Standards. CSXT railroad is requesting that it be permitted to operate open top coal hopper cars equipped with roof covers. The Chessie System Railroads purchased 338 fiberglass covers in 1978 and applied them to 100-ton coal hoppers for the purpose of providing an economical means to meet the seasonal demands of export grain movements to the eastern ports. At the present time 231 cases are equipped with covers. The car series are:

CSXT		Date built
801460–801458	(2)	1966
801460–802764	(19)	1967
802765	(1)	1967
802768–803904	(54)	1968
803913–805111	(37)	1969
805112–805853	(7)	1969
805859–807124	(17)	1969
807209–807245	(1)	1969
807247–807441	(1)	1969
807442–808962	(8)	1970/71
808964–810872	(16)	1970
810877–812883	(18)	1971
812892–814749	(45)	1971
814749–814803	(4)	1971
832211–832704	(1)	1980

CSXT states that those cars equipped with covers have operated safely for the past 12 years.

The roof covers have hatches and are equipped with running boards and roof handholds. Box and other house cars with roof hatches built or placed in service after October 1, 1966, are required by 49 CFR 231.28 to be equipped with end platforms, end platform handholds, 16 end handholds, and 16 side handholds.

The cars subject to this waiver request were built between 1966 and 1980 and presently conform to the requirements specified in 49 CFR 231.2 for hopper cars and high side gondolas cars with fixed ends.

CSXT requests that the requirements of § 231.28 pertaining to side handholds, end handholds, end platform handholds, and end platforms be waived for the subject cars.

Interested parties are invited to participate in these proceedings by submitting written reviews, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number—SA–91–6 and must be submitted in triplicate to the Docket Clerk, Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590. Communications received before August 30, 1991 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.-5 p.m.) in room 8201, Nassif Building, 400 Seventh Street SW., Washington, DC 20590.

Issued in Washington, D.C. on July 8, 1991.

Grady C. Cothen, Jr.,
Associate Administrator for Safety.
[FR Doc. 91–17243 Filed 7–18–91; 8:45 am]
BILLING CODE 4910–06–M

National Highway Traffic Safety Administration

[Docket No. 91–10–IP–NO. 2]

General Motors Corp.; Grant of Petition for Determination of Inconsequential Noncompliance

This notice grants the petition of General Motors Corporation of Warren, Michigan, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for an apparent noncompliance with 49 CFR 571.101, Federal Motor Vehicle Safety Standard No. 101, "Controls and Displays." The basis of the petition was that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published on March 8, 1991, and an opportunity afforded for comment (56 FR 10007).

Paragraph S5.3.4(a) of Standard No. 101 requires that means be provided which are capable of making the telltales and their identification visible to the driver under all driving conditions. GM determined that 9,681 of its 1990 Oldsmobile Toronado vehicles failed to comply with S5.3.4(a) of Standard No. 101. The high beam telltale on these vehicles shares its electrical ground with some of the other vehicle interior systems, one of which is the cigar lighter circuit. The application of

the cigar lighter reduces current flow to the high beam telltale, causing it to dim or extinguish temporarily.

General Motors supported its petition with the following: "The telltale extinguishes only when the shared circuit is subjected to heavy electrical current flows (above 5 amps). The circuit is normally subjected to loads of this level only during the heating of the cigar lighter which draws over 5 amps. However, the specified heating time for the cigar lighter is a maximum of 20 seconds at room temperature and a maximum of 25 seconds at lower temperatures. Therefore, the high beam telltale would extinguish for a maximum of 25 seconds. Typical accessories (e.g., cellular telephones) which use the cigar lighter circuit draw much less current (approximately 2 amps) and would not dim the telltale to the point that it is not visible."

GM was not aware of field complaints indicating concern resulting from the subject condition. Warranty records were also reviewed for the vehicle population in question and no evidence of activity which might relate to the subject condition was found.

Because the telltale would extinguish only under specific circumstances and any suppression of the high beam telltale illumination level would persist only for a short period of time, GM argued that this noncompliance with FMVSS 101 was inconsequential to motor vehicle safety.

One comment was received on the petition, from Capt. J.P. Henries, Safety Officer for the Department of State Police, Virginia. Capt. Henries recommended denial of the petition on the grounds that the inability of the operator to monitor upper beam use at all times is hazardous. In addition, Virginia law requires that the upper beam telltale be visible whenever the upper beams are activated. For the reasons expressed below, the agency has concluded that the petitioner has met its burden of persuasion under Federal law, and that the situation presented is not hazardous. Virginia is requested to take NHTSA's views into consideration in enforcing State law.

The agency notes that a specific set of circumstances would have to occur before the noncompliance would have more than an inconsequential effect upon safety. The noncompliance could only manifest itself during upper beam use when the cigar lighter was also in use. But only a comparatively small portion of driving occurs at night, the time of headlamp activation. Because of State and local laws prohibiting upper beam use, only a very small percentage of nighttime driving is performed using the upper beam. The 25-second use of the cigar lighter would comprise only a limited amount of the time the upper beam is in use. The safety hazard most likely to be created by the noncompliance is glare in the eyes of an oncoming driver on a two or three-lane road, but, if discomforted, the instinctive reaction of that driver would be to flash the upper beams, alerting the driver of the noncompliant vehicle to lower that vehicle's upper beams. The probability of all these facts occurring simultaneously is low. In addition, the likelihood of the driver of the offending vehicle failing to remember that the upper beams were on and ignoring the oncoming vehicle's flashing lights is also low. Therefore, the agency has concluded that the telltale noncompliance has an inconsequential effect upon safety.

For the foregoing reasons, it is hereby found that the petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety, and its petition is granted.

Authority: 15 U.S.C. 1417; delegation of authority at 49 CFR 1.50 and 49 CFR 501.8.

Issued on: July 16, 1991.

Stanley R. Scheiner,

Acting Associate Administrator for Rulemaking.

[FR Doc. 91-17245 Filed 7-18-91; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: July 12, 1991.

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 Office listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

U.S. Customs Service

OMB Number: New.
Form Number: None.
Type of Review: New collection.
Title: 1991 ADP User Survey.

Description: These surveys are developed jointly by Customs and the trade groups. Customs then surveys its employees, while the trade group surveys its members. The purpose of the surveys is to get user viewpoints to help make improvements to the Automated Commercial System.

Respondents: Individuals and businesses or other for-profit.

Estimated Number of Respondents: 5,100.

Estimated Burden Hours Per Response: 15 minutes.

Frequency of Response: Biennially.

Estimated Total Reporting Burden: 1,275 hours.

Clearance Officer: Ralph Meyer, (202) 566-4019, U.S. Customs Service, Paperwork Management Branch, room 6316, 1301 Constitution Avenue, NW., Washington, DC 20229.

OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports, Management Officer.

[FR Doc. 91-17179 Filed 7-18-91; 8:45 am]

BILLING CODE 4820-02-M

Performance Review Board, Departmental Offices

AGENCY: Department of the Treasury.

ACTION: Notice.

SUMMARY: This notice lists the membership to the Departmental Offices' Performance Review Board (PRB) and supersedes the list published in 54 FR 161 dated August 22, 1989, in accordance with 5 U.S.C. 4314(c)(4). The purpose of the PRB is to review the performance of members of the Senior Executive Service and make recommendations regarding performance ratings, performance awards, and other personnel actions.

The names and titles of the PRB members are as follows:

David M. Nummy—Acting Assistant Secretary (Management) Chairperson
Jeanne S. Archibald—General Counsel
John H. Auten—Director, Office of Financial Analysis
William E. Barreda—Deputy Assistant Secretary (Trade and Investment Policy)
Ralph L. Bayrer—Director, Office of Synthetic Fuels
Steven W. Broadbent—Deputy Assistant Secretary (Information Systems)
Mary E. Chaves—Director, Office of International Debt Policy
R. Blair Downing—Executive Secretary (Policy Management)

Lowell Dworin—Director, Office of Tax Analysis
James H. Fall III—Deputy Assistant Secretary (Office of Developing Nations)
George A. Folsom—Deputy Assistant Secretary (Developing Nations)
Jon M. Gaaserud—Director, U.S. Saudi Arabian Joint Commission Program Office
Geraldine A. Gerardi—Director for Business Taxation
Kenneth W. Gideon—Assistant Secretary (Tax Policy)
Robert F. Gillingham—Deputy Assistant Secretary (Policy Coordination)
Robert R. Glauber—Under Secretary for Finance
Michael J. Graetz—Deputy Assistant Secretary (Tax Policy)
J. French Hill—Deputy Assistant Secretary (Corporate Finance Coordination)
Sidney L. Jones—Assistant Secretary (Economic Policy)
John W. Mangels—Director, Office of Operations (Enforcement)
Hollis S. McLoughlin—Assistant Secretary (Policy Management)
David C. Mulford—Under Secretary for International Affairs
Edward E. Murphy—Senior Economist (Economic Policy)
Gerald Murphy—Fiscal Assistant Secretary
Barry S. Newman—Deputy Assistant Secretary (International Monetary Affairs)
Peter K. Nunez—Assistant Secretary (Enforcement)
Thomas P. O'Malley—Director, Management Programs Directorate
Jill K. Ouseley—Director, Office of Market Finance
Marcus W. Page—Deputy Fiscal Assistant Secretary
Jerome H. Powell—Assistant Secretary (Domestic Finance)
Charles B. Respass—Deputy Assistant Secretary (Administration)
Charlene J. Robinson—Director, Human Resources Directorate
Charles Schotta—Deputy Assistant Secretary (East Europe, Soviet and Middle East Policy)
John P. Simpson—Deputy Assistant Secretary (Regulatory, Trade & Tariff Enforcement)
Mary C. Sophos—Assistant Secretary for Legislative Affairs
Desiree Tucker-Sorini—Assistant Secretary for Public Affairs
Edwin A. Verburg—Director, Financial Services Directorate

FOR FURTHER INFORMATION CONTACT: Larry G. Hicks, Executive Secretary, PRB, room 1314, Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, DC 20220. Telephone: (202) 566–5468. This notice does not meet the Department's criteria for significant regulations.

Charles B. Respass,

Acting Assistant Secretary of the Treasury (Management).

[FR Doc. 91–17156 Filed 7–18–91; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF VETERANS AFFAIRS

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233–3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395–7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before August 19, 1991.

Dated: July 11, 1991.

By direction of the Secretary.

Kenneth H. Hoffmann,

Director, IRM Policy and Standards Service.

Revision

1. HUD/VA Addendum to Uniform Residential Loan Application, VA Form 26–1802a, and Uniform Residential Loan Application, Freddie Mac 65/Fannie Mae Form 1003.

2. The forms are used by lenders and veterans to apply for VA-guaranty of home loans. The information is used to determine compliance with eligibility requirements.

3. Individuals or households; Businesses or other for-profit.

4. 20,601 hours.

5. 6 minutes.

6. On occasion.

7. 206,000 responses.

[FR Doc. 91–17262 Filed 7–18–91; 8:45 am]

BILLING CODE 8320–01–M

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 (202) 233–3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395–7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before August 19, 1991.

Dated: July 11, 1991.

By direction of the Secretary.

Kenneth H. Hoffman,

Director, IRM Policy and Standards Service.

Reinstatement

1. School Attendance Report, VA Form 21–674b.

2. The form is used to confirm the enrollment by a child of a veteran in school in order to qualify for benefits.
3. Individuals or households.
4. 3,219 hours.
5. 5 minutes.
6. On occasion.
7. 39,500 respondents.

[FR Doc. 91-17263 Filed 7-18-91; 8:45 am]
BILLING CODE 8320-01-M

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 233-3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395-7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before August 19, 1991.

Dated: July 11, 1991.

By direction of the Secretary.

Kenneth H. Hoffnann,

Director, IRM Policy and Standards Service.

Revision

1. Veterans Application for Increased Compensation Based on Unemployability, VA Form 21-8940.
2. The form is used to gather information for a claim for increased disability compensation based on individual unemployability due to the veteran's service-connected disability(ies).
3. Individuals or households.
4. 13,500 hours.
5. 45 minutes.
6. On occasion.
7. 18,000 respondents.

[FR Doc. 91-17264 Filed 7-18-91; 8:45 am]
BILLING CODE 8320-01-M

Voluntary Service National Advisory Committee; Notice of Meeting

The Department of Veterans Affairs gives notice under Public Law 92-463 that the annual meeting of the Department of Veterans Affairs Voluntary Service National Advisory Committee, comprised of 58 national voluntary organizations, will be held at The Hyatt Regency Dallas, 300 Reunion Boulevard, Dallas, Texas, September 25 through 28, 1991.

Registration of the conferees and orientation of new committee members will be held beginning at 1 p.m. on September 26, 1991. The committee will officially convene with the Opening Session at 9 a.m., September 26, 1991, and will conclude at 12 noon, September 28, 1991.

The purposes of the meeting are to instruct committee members and organization officials of the obligations they have accepted for volunteer recruitment, communications and program interpretation, and to seek the advice of the committee in further developing volunteer participation in the care and treatment of veteran patients throughout the agency's nationwide medical program.

For further information contact the Director, Voluntary Service (161A), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, telephone (202) 535-7377.

Dated: July 5, 1991.

By Direction of the Secretary.

Sylvia Chavez Long,

Committee Management Officer.

[FR Doc. 91-17265 Filed 7-18-91; 8:45 am]
BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 56, No. 139
Friday, July 19, 1991

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (U.S.C. 552b), notice is hereby given that at 2:22 p.m. on Tuesday, July 16, 1991, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following:

Matters relating to the probable failure of certain insured banks.

Recommendation regarding the liquidation of a depository institution's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 47,722—First American Bank and Trust, North Palm Beach, Florida

Administrative Enforcement Proceedings.

In calling the meeting, the Board determined, on motion of Director T. Timothy Ryan, Jr. (Office of Thrift Supervision), seconded by Chairman L. William Seidman, concurred in by Vice Chairman Andrew C. Hove, Jr., and Director C. C. Hope, Jr. (Appointive), 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)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, N.W., Washington, DC.

Dated: July 16, 1991.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 91-17315 Filed 7-16-91; 5:03 pm]

BILLING CODE 6714-01-M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

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 meeting during the week of July 22, 1991.

A closed meeting will be held on Friday, July 26, 1991, at 3:00 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the 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 a closed meeting.

Commissioner Schapiro, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Friday, July 26, 1991, at 3:00 p.m., will be:

Regulatory matter regarding financial institution.

Formal order of investigation.

Institution of injunctive actions.

Settlement of injunctive actions.

Institution of administrative proceedings of an enforcement nature.

Settlement of administrative proceedings of an enforcement nature.

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: Laura Josephs at (202) 272-2200.

Dated: July 16, 1991.

Jonathan G. Katz,

Secretary.

[FR Doc. 91-17293 Filed 7-16-91; 4:27 p.m.]

BILLING CODE 8010-01-M

DEPARTMENT OF DEFENSE

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

Meeting Notice

TIME AND DATE: Subcommittee meetings 8:00 a.m., August 12, 1991, Full Board 10:00 a.m., August 12, 1991.

PLACE: Uniformed Services University of the Health Sciences, Room D3-001, 4301 Jones Bridge Road, Bethesda, Maryland 20814-4799.

STATUS: Open—under "Government in the Sunshine Act" (5 U.S.C. 552b(e)(3)).

MATTERS TO BE CONSIDERED:

8:00 a.m.—Subcommittee Meetings
10:00 a.m.—Meeting—Board of Regents

(1) Approval of Minutes—May 17, 1991; (2) Faculty Matters; (3) Report—Admissions; (4) Financial Report; (5) Report—President, USUHS; (6) Comments—Members, Board of Regents; (7) Comments—Chairman, Board of Regents; (8) Reports of Subcommittees on Planning and Oversight; (9) Report of Dean's Search Committee:

New Business

CONTACT PERSON FOR MORE INFORMATION: Charles R. Mannix, Executive Secretary of the Board of Regents, 301/295-3028.

Dated: July 16, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91-17346 Filed 7-17-91; 11:08 am]

BILLING CODE 3810-01-M

federal register

Friday
July 19, 1991

Part II

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Parts 15 and 52

Federal Acquisition Regulation; Audit of Institutions of Higher Learning and Other Nonprofit Organizations; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 15 and 52

[FAR Case 91-38]

Federal Acquisition Regulation; Audits of Institutions of Higher Learning and Other Nonprofit Organizations

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are amending the Federal Acquisition Regulation to add guidance and a contract clause to implement the requirements of OMB Circular A-133, "Audits of Institutions of Higher Education and Other Nonprofit Organizations" and to increase the threshold for application of access to records clauses to the small purchase threshold from $10,000.

DATES: Comments should be submitted to the FAR Secretariat at the address shown below on or before September 17, 1991, to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets NW., room 4041, Washington, DC 20405.

Please cite FAR Case 91-38 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy F. Olson at (202) 501-3221 in reference to this FAR case. For general information, contact Ms. Beverly Fayson, FAR Secretariat, room 4041, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAR Case 91-38.

SUPPLEMENTARY INFORMATION:

A. Background

OMB Circular A-133, Audits of Institutions of Higher Education and Other Nonprofit Organizations, establishes a policy for efficient and effective use of audit services for awards made to certain institutions. The proposed rule provides that the circular will apply to cost-reimbursement contracts with those institutions.

The Audit-Negotiation clause, 52.215-2, and the Examination of Records by the Comptroller General clause, 52.215-1, currently apply to negotiated contracts and subcontracts exceeding $10,000. The proposed rule raises that amount to the level of the small purchase threshold (currently $25,000).

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because the rule implementing OMB Circular A-133 does not create or change any responsibilities. It facilitates implementation of the already existing requirements of the OMB Circular. The portion of the rule which increases the threshold for application of the Access to Records clause is not expected to have a significant impact on a substantial number of small businesses because most contracts awarded to small businesses are awarded on the basis of formal advertising and the clauses do not apply. An Initial Regulatory Flexibility Analysis has, therefore, not been performed.

Comments from small entities concerning the affected FAR subpart will also be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.* (FAR Case 91-38), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96-511) is deemed to apply because the proposed rule contains information collection requirements. Accordingly, a request for approval of a reduced information collection requirement concerning Examination of Records by Comptroller General/Audit is being submitted to the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* Public comments concerning this request will be invited through a subsequent Federal Register notice.

List of Subjects in 48 CFR Parts 15 and 52

Government procurement.

Dated: July 10, 1991.

Alberta A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, it is proposed that 48 CFR parts 15 and 52 be amended as set forth below:

1. The authority citation for 48 CFR parts 15 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 15—CONTRACTING BY NEGOTIATION

2. Section 15.106-2 is revised to read as follows:

15.106-2 Audit—Negotiation clause.

(a) This subsection implements 10 U.S.C. 2313(a), 41 U.S.C. 254(b), 10 U.S.C. 2306(f), and OMB Circular No. A-133.

(b) The contracting officer shall, when contracting by negotiation, insert the clause at 52.215-2, Audit—Negotiation, in solicitations and contracts, unless the acquisition is a small purchase under Part 13. In facilities contracts, the contracting officer shall use the clause with its Alternate I. In cost-reimbursement contracts with educational institutions and other nonprofit organizations, the contracting officer shall use the clause with its Alternate II.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.215-1 Examination of Records by Comptroller General.

3. Section 52.215-1 is amended in the clause heading by removing the date "(APR 1984)" and inserting in its place "(DATE)"; in paragraph (a) by removing the dollar amount "$10,000" and inserting in its place the words "the small purchase limitation"; and in paragraph (c)(1) by removing the dollar amount "$10,000" and inserting in its place the words "the small purchase limitation".

4. Section 52.215-2 is amended in paragraph (f) by removing the dollar amount "$10,000" and inserting in its place the words "the small purchase limitation"; by adding Alternate II; and by removing the derivation lines appearing at the end of the section to read as follows:

52.215-2 Audit—Negotiation.

* * * * *

Audit—Negotiation (Dec 1989)

* * * * *

Alternate I * * *

* * * * *

Alternate II (XXX 1991). In cost-reimbursement contracts with educational institutions and other nonprofit organizations, add the following paragraph (g) to the basic clause:

(g) The provisions of OMB Circular No. A-133 "Audits of Institutions of Higher Education and Other Nonprofit Organizations" apply to this contract.

[FR Doc. 91-17154 Filed 7-18-91; 8:45 am]

BILLING CODE 6820-34-M

federal register

Friday
July 19, 1991

Part III

Department of Education

34 CFR Parts 668 and 682

Student Assistance General Provisions and Guaranteed Student Loan Programs; Final Regulations

DEPARTMENT OF EDUCATION

RIN 1840-AB42

34 CFR Parts 668 and 682

Student Assistance General Provisions and Guaranteed Student Loan Programs

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: These regulations amend the Student Assistance General Provisions regulations (34 CFR Part 668) and the Guaranteed Student Loan (GSL) programs regulations (34 CFR Part 682). They are based on the Secretary's May 13, 1991 notice of proposed rulemaking (NPRM) published in the **Federal Register** (56 FR 22056) inviting comments on regulations to implement changes made by three sets of amendments to title IV, part B of the Higher Education Act of 1965, as amended (HEA). Title IV authorizes the four GSL programs: the Stafford Loan, Supplemental Loans for Students (SLS), PLUS, and Consolidation loan programs.

The three amendments to the HEA are summarized below:

- *Section 3004 of the Omnibus Budget Reconciliation Act of 1990* (Pub. L. 101-508). This section requires that an institution lose its eligibility to participate in the GSL programs if its cohort default rates for each of three consecutive fiscal years exceed thresholds established by the new law (35 percent for determinations made in fiscal years 1991 and 1992, 30 percent for determinations made in subsequent fiscal years). It permits the Secretary to withdraw an institution's loss of eligibility if there are exceptional mitigating circumstances that would make the loss of eligibility inequitable. These regulations define the "exceptional mitigating circumstances." They also describe the procedures for appealing the accuracy of the rates and whether the institution satisfies the exceptional mitigating circumstances standard.
- *Section 2003 of the Omnibus Budget Reconciliation Act of 1989* (Pub. L. 101-239). This section makes an undergraduate student ineligible to borrow under the SLS program for attendance at an institution with a cohort default rate that equals or exceeds 30 percent. These regulations meet the legislation's requirement that the Secretary prevent institutions that have undergone institutional status changes such as branching, consolidation, change of ownership or control, or other such changes from evading the consequences of their cohort default rates. The regulations apply these safeguards to calculations of cohort default rates under section 3004 of Public Law 101-508, as well as under this section of Public Law 101-239.
- *Section 301 of the Student Right-to-Know and Campus Security Act* (Pub. L. 101-542). This section modifies the definition of the term "cohort default rate." This regulation incorporates that change.

These regulations also amend 34 CFR 668.25 to clarify the procedures an institution must follow regarding the handling of Title IV program funds and proceeds when it closes, ceases to provide instruction, or loses its title IV eligibility.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments, with the exception of §§ 682.401, 668.15, and 668.25. Those sections will become effective after the information collection requirements contained in those sections have been submitted by the Department of Education and approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980. If you want to know the effective date of these regulations, call or write the Department of Education contact person. A document announcing the effective date will be published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Doug Laine or Pat Newcombe, Telephone Number (202) 708-8242. Guaranteed Student Loan Branch, Division of Policy and Program Development, U.S. Department of Education, 400 Maryland Avenue, SW., (room 4310, ROB-3), Washington, DC 20202. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1-800-877-8339 (in the Washington, DC 202 area code, telephone 708-9300) between 8 a.m. and 7 p.m. eastern time.

SUPPLEMENTARY INFORMATION: On May 13, 1991, the Secretary published an NPRM in the **Federal Register** (56 FR 22056). The NPRM included a detailed discussion of the various regulatory proposals needed to implement amendments to the HEA, and that discussion will not be repeated here. The comment period on the NPRM ended on June 12, 1991 (56 FR 22056).

Under the legislation, an institution is ineligible to participate in the GSL programs in the remainder of fiscal year 1991 and in fiscal years 1992 and 1993 if its cohort default rate exceeded 35 percent for each of fiscal years 1987, 1988, and 1989. A corresponding rule applies to determinations of rates made in future fiscal years, except that the threshold rate for ineligibility becomes 30 percent for determinations of rates made in or after fiscal year 1993.

In enacting the provisions implemented by these regulations, Congress expressed a national consensus that institutions participating in Federal student aid programs are in a unique position to play a major role in the prevention of student loan defaults. While all participants, including students, lenders, guarantee agencies, and government, have responsibility for curbing the growing costs of student loan defaults, an institution has a special role in giving students high quality training and reducing dropout rates.

The legislation defines specific institutional cohort default rates at which the costs of including an institution in the GSL programs become too great to justify its continued eligibility to participate in the GSL programs. The costs include taxpayer costs; the potential social costs of undermining the long-term viability of the GSL programs; and the social costs of sending students—particularly disadvantaged students—to institutions that fail to prepare them for employment or higher levels of education and leave them with large student loan debts they are unable to repay.

In addition to reflecting a concern that institutions with consecutively high cohort default rates not continue to participate in the GSL programs, the statutory provisions also reflect Congress' concern that the use of these rates to exclude institutions from the GSL programs be fair. The legislation does not phase in the 30 percent cohort default rate threshold until fiscal year 1993, to give institutions an opportunity to adjust their programs to the new standards, if necessary. In addition, the legislation requires loss of eligibility only after an institution's cohort default rate has remained above the threshold for three consecutive fiscal years. This time span ensures that institutions will not be penalized for unexpected emergencies that could affect a student cohort's ability to repay loans. The legislation provides each institution an opportunity to demonstrate to the satisfaction of the Secretary that the cohort default rate is inaccurate. The legislation also provides that the Secretary may permit an institution to continue to participate—despite exceeding the cohort default rate threshold—if there are exceptional mitigating circumstances that would make the institution's loss of eligibility inequitable.

These regulations are designed to implement the congressional purposes effected in the legislation. Defining exceptional mitigating circumstances in the regulations required a careful evaluation of many concerns raised during the comment process. In the NPRM, the Secretary proposed one circumstance, a significant reduction in default rates over the last two years, and also requested comment on a range of additional possible factors, including economic factors, student outcomes, and the historic missions of institutions. The final regulations include a blend of several of these factors: The economic status of students served by the institution; the progress of the institution in reducing its cohort default rates; student completion and placement rates; and whether a small percentage of the institution's students receive Stafford or SLS loans. These criteria are explained more fully below.

The Secretary's extensive review of public comments received since the publication of the NPRM has resulted in a number of significant changes to the NPRM. A discussion of those changes follows. A full discussion of other changes to the NPRM and the Secretary's response to public comments are contained in the Summary of Comments and Responses.

Revisions to the Notice of Proposed Rulemaking

Part 668—Student Assistance General Provisions

Section 668.15 Additional Factors for Evaluating Administrative Capability

Under the final regulations, the Secretary may permit an institution to remain in the GSL programs, despite its having cohort default rates that exceed the statutory thresholds, in any one of three circumstances, as described below. These exceptions reflect the Secretary's judgment that institutions with high cohort default rates must meet very high standards to overcome the statutory presumption that they do not belong in the programs and that—in the absence of those standards—the purposes of the statutory provisions would be subverted. The exceptional mitigating circumstances are:

- The institution has reduced its cohort default rate for each of the two most recent fiscal years for which the Secretary has calculated a cohort default rate for that institution by 50 percent of the amount by which its cohort default rate for the previous year exceeds the applicable threshold percentage. The Secretary will recognize this circumstance only with respect to a notification of loss of eligibility received by an institution in the 1991 fiscal year.
- The institution is successfully serving students from disadvantaged economic backgrounds—comprising at least two-thirds of its students enrolled at least half-time—as evidenced by the fact that at least two-thirds of its full-time students complete their programs and at least two-thirds of those who receive a degree, certificate or other recognized credential from the institution are placed in relevant jobs or higher levels of education.
- No more than 15 percent of the institution's at least half-time students receive Stafford or SLS Loans, at least two-thirds of all full-time students at the institution complete their programs, and at least two-thirds of those who receive a degree, certificate or other recognized credential from the institution are placed in relevant jobs or higher levels of education.

The first circumstance described above is slightly amended from the NPRM. The amendment allows an institution to remain in the program based on two years of rate reductions only with respect to a notification of loss of eligibility received by the institution in fiscal year 1991. As amended, this exception is designed to retain eligibility for an institution that has made significant and successful efforts to reduce its cohort default rate prior to passage of the HEA amendments, to the extent that there is a reasonable prospect, given one year's exception, that it will meet the rate requirement in the next year. It provides one more opportunity for the institution to demonstrate that its rates are below the threshold. The NPRM had provided for this exception without limiting it to notifications of loss of eligibility made this fiscal year. However, as so stated, an institution could remain eligible to participate in the GSL programs without ever reducing its cohort default rate below the statutory threshold. In addition, many comments responding to the NPRM expressed concern that this exception was unfair to other institutions that might have lower cohort default rates closer to the threshold. Therefore, the final regulations limit this exception to a single year.

The second exceptional mitigating circumstance would apply to institutions that are serving students from disadvantaged economic backgrounds. The Secretary has concluded that enrolling disadvantaged students should not alone be considered an exceptional mitigating circumstance, as some comments suggested. This approach would ignore the educational purpose of the GSL programs. First, it is not "exceptional" for an institution with high default rates to be serving a high percentage of disadvantaged students. Second, providing an exception for such an institution, without regard to the outcomes of its students, would undermine a major purpose of the statutory provision; namely, to exclude institutions from the program that leave their students in substantial debt without providing them marketable employment skills. The Secretary has determined that an institution with cohort default rates in excess of the statutory thresholds should not lose its eligibility to participate in the GSL programs only if it meets the burden of establishing that two-thirds or more of the students it enrolls complete the program and that two-thirds or more of the students who complete the program obtain employment in an occupation for which the institution provided training or subsequently enrolled in more advanced educational programs at other institutions for which the institution provided substantial preparation. An institution meets this exceptional mitigating circumstance if, in addition to meeting the prescribed thresholds for completion and placement rates, two-thirds or more of its at least half-time enrollment consists of students from disadvantaged economic backgrounds. No precise definition of "students from disadvantaged economic backgrounds" has been provided in the final regulations, giving institutions some flexibility in how they demonstrate the disadvantaged economic status of their students. However, the burden is on the institution to provide documentary evidence—not merely anecdotal or summary statements—on the extent to which its students may be classified as economically disadvantaged. Evidence of a disadvantaged background may include, for example, qualification by those students for a Pell Grant student aid index (as defined in 34 CFR 690.2) of zero for the applicable award year or attribution to those students of an adjusted gross income for the applicable award year of less than the poverty level, as determined under criteria established by the Department of Health and Human Services.

The Secretary has used a two-thirds threshold to prescribe what percentage of the institution's students must be disadvantaged, what percentage of the institution's full-time students must complete their programs, and what percent of students who have completed the program must have obtained employment in an occupation related to the training or transferred to a higher

program of study for which the training provided substantial preparation. These percentages are, in the judgment of the Secretary, a reasonable measure of whether a very high percentage of an institution's students are disadvantaged and whether the institution is very successful in retaining and placing its students. The Secretary believes that high standards are required to carry out the statutory purposes. While the standards are high, highly effective institutions that warrant treatment as "exceptional" should satisfy them. The Secretary also believes that the two-thirds standard meets the need for a precise and clear standard, so that appealing institutions are treated fairly and consistently. The two-thirds completion rate standard complements long-standing Department of Education regulations that provide that a withdrawal rate of one-third or more is an indication of an institution's impaired capability to administer the title IV, HEA programs. See 34 CFR 668.15(a)(3). The two-thirds placement rate standard is supported by a 1986 study by the Congressional Research Service (CRS) analyzing a cohort of students that completed programs of postsecondary education. The study demonstrated employment rates of between 73.5 and 89.4 percent, depending on the gender of the student and type of institution attended. Because the CRS study measured employment of a student in any occupation, regardless of whether the employment was related to the training received, the Secretary has set the placement rate standard in these regulations below the rates demonstrated in the CRS study. The Secretary believes that if two-thirds or more of an institution's students who have completed its program have obtained employment in an occupation related to the training or enroll in a higher level of education for which the training provided substantial preparation, the institution is very successful in placing its students.

The third exceptional mitigating circumstance provided in the final regulations involves the case of a successful institution with a very small proportion of its students receiving Stafford or SLS loans. The Secretary has determined from the National Postsecondary Student Aid Study that the national average of undergraduate students who borrow under these programs is 21.3 percent. The Secretary has decided that this exception will apply to institutions with 15 percent or less of its students receiving Stafford or SLS loans, a rate substantially less than the national average. The institution must also meet the positive student outcome rates prescribed in the second circumstance. This provision gives some leeway for successful institutions that nonetheless have high cohort default rates, when it is clear from the small percentages of Stafford or SLS loan borrowers that the financial burden to the Federal taxpayer is relatively modest, and the existence of these institutions does not depend on the GSL programs.

In the NPRM, the Secretary informed the public that he intended to exercise his authority under Public Law 101-508 to prohibit an institution that loses its eligibility under this law from participating in the GSL programs during the appeal process.

After reviewing the public comments, the Secretary has decided that an institution will be allowed to continue to participate in the GSL programs during the 30-day period in which it must submit its appeal and the 45-day period during which the appeal is being reviewed, provided that it gives the Secretary's designated Department official written notice of its intent to appeal within seven calendar days from the date on which it receives its notice of loss of eligibility and that it submits an appeal within 30 days that is complete in all respects. However, the appeal of an institution that contends that its default rate has been inaccurately determined is not considered incomplete by virtue of (1) a guarantee agency's not having yet complied with—or having failed to comply with—34 CFR 682.401(b)(14), which requires the agency to respond to an institution's request for verification of data within 15 working days, if the institution submitted that request within 10 working days from the date on which the Secretary notified the institution that its cohort default rate exceeds the statutory thresholds, and the institution submits a copy of its request to the guarantee agency for verification of the data; and (2) the institution taking five working days from receipt of the response to submit the verified data to the Secretary's designated Department official.

The Secretary has also added a new paragraph (g)(7) to section 668.15 regarding the information an institution must provide to a guarantee agency in its written request to the agency to verify its default rate data. When an institution asks a guarantee agency to check information the institution believes is contributing to an inaccurate default rate, the institution must inform the agency in writing of the names and social security numbers of the borrowers the institution wishes to verify and give detailed information on the nature of the inaccuracy in the data the institution is requesting the agency to verify. The institution must provide a copy of this request to the Secretary's designated Department official at the time it submits the request to the guarantee agency.

Paragraph (g)(8) requires that an institution's chief executive officer certify that all information provided by the institution in support of its appeal is true and accurate. The Secretary will verify selected information submitted by institutions, and false or misleading information may result in the denial of an institution's appeal. Moreover, under the United States Code, a person making false statements to a United States Government agency may be subject to a fine of up to $10,000 and/or imprisonment for not more than five years.

Section 668.15(h) explains in detail how the Secretary calculates the default rate for an institution or part of an institution that has recently changed its status or relationship to another institution. In the context of that explanation, it is useful to clarify here how the provisions of § 668.15(h) affect the assessment of the administrative capability of an institution, formerly a branch of another institution, that applies to participate in the title IV, HEA programs as an independent institution. As stated in § 668.12(a)(1)(i), the Secretary enters into a participation agreement with an institution only after the Secretary determines that the institution meets the standards in subpart B of part 668. These include the standards in §§ 668.13, 668.14, and 668.15. The Secretary thus considers an institution that applies for an initial certification to participate in the title IV, HEA programs which has a cohort default rate or withdrawal rate in excess of the standards prescribed in § 668.15(a) to lack the requisite administrative capability to participate in the title IV, HEA programs. Where an institution has already been certified and currently participates in the title IV, HEA programs, the Secretary follows the procedures in § 668.15(b)-(g); however, if the institution is not currently eligible to participate in the programs, but is merely seeking approval to participate, the Secretary may refuse to approve the institution without following any formal cure or termination procedure. See 34 CFR 668.81(c)(3).

Ordinarily, only the withdrawal rate provisions of § 668.15(a)(3) will apply to the measurement of the administrative

capability of a newly-applying institution; however, as this final rule makes clear in new § 668.15(h), an institution that was a branch or location of a participating institution has ordinarily had experience with the GSL and Perkins loan programs, and the Secretary takes that experience into account in assessing the administrative capability of the institution. The Secretary uses the definition of cohort default rate in § 668.15(f), now (h), to measure the default rate of any institution regardless of whether that institution is a current participant in the title IV, HEA programs or is applying to begin participation in its own right. For an institution, formerly a branch of another institution, that is applying to begin participation in its own right, the Secretary will use the standards in § 668.15(h)(1)(iii)(A) to determine, under § 668.15(a), the default rate of the newly applying institution.

Part 682—Guaranteed Student Loan Programs

Section 682.401 Basic Program Agreement

The Secretary has redesignated proposed § 668.15(g)(5) as § 682.401(b)(14).

The Secretary has revised the proposed section to require the guarantee agency to provide the Secretary's designated Department official with a copy of its response to the institution's request for verification of its cohort default rate data.

Analysis of Comments and Changes

Section 668.15—Additional Factors for Evaluating Administrative Capability

Comment: Most commenters stated that reduction of an institution's cohort default rate should not be the sole criterion under which an institution subject to loss of GSL eligibility could demonstrate exceptional mitigating circumstances. Numerous comments suggested giving weight to the success of an institution in serving exceptionally disadvantaged students. Other comments suggested that institutions with minimal participation in the student loan program should be exempted from a loss of eligibility. Additional comments included concerns that (1) the proposed rule would permit an institution with a very high cohort default rate (over 50 percent) to remain in the program, while excluding another institution with a rate of 36 percent; (2) the economic health and general state of employment in the region should be considered; (3) the historic mission of the institution should be considered; and (4) reduction of dollars in default should be considered.

Discussion: In their final form, for the reasons stated earlier in this preamble, the regulations respond to most of these concerns, the goals of Congress in the legislation, and the national requirement for access to quality postsecondary education and training opportunities.

In summary, consistent with the statutory purpose, the Secretary has determined that institutions with cohort default rates above the statutory thresholds should bear a substantial burden in overcoming the presumption that they are ineligible for the GSL programs based on their default rates. The final regulations include narrowly tailored exceptions to ensure that these institutions with consecutively high cohort default rates remain eligible only if the mitigating circumstances are truly "exceptional" and would result in inequities to the institution and its students if the institution were made ineligible. Thus, the primary exceptional mitigating circumstance defined in the final regulations includes a very high level of performance by an institution with reference to the completion and placement rates of its students. This test is applied if an institution can demonstrate that it serves a very high percentage of students from disadvantaged economic backgrounds or that a very small percentage of its students receive Stafford or SLS loans.

The regulations do not refer to an institution's reduced dollar volume of defaults as an exceptional mitigating circumstance. The Secretary believes that a reduction in the institution's borrower-based cohort default rate more accurately reflects the positive actions it has taken with its individual borrowers to reduce defaults. In addition, consideration of the dollar volume of defaults would give an unfair advantage to institutions with longer programs whose borrowers have larger loan balances and would be more easily able to demonstrate such a reduction. Further, a reduced dollar volume of defaults may be a result of changes in regulatory and statutory requirements (such as multiple disbursement, delayed delivery of loan proceeds, and loss of eligibility to participate in the SLS program) rather than from any action taken by the institution.

Changes: A change has been made. The Secretary has decided to recognize additional mitigating factors in the definition of exceptional mitigating circumstances in addition to the reduction of an institution's cohort default rate specified in 34 CFR 668.15(g)(1)(ii). An institution may appeal its loss of eligibility to participate in the GSL programs on the basis of exceptional mitigating circumstances as follows:

(1) With respect to the fiscal year 1991 determination only, the institution has reduced its cohort default rate for each of the two most recent fiscal years for which the Secretary has calculated a cohort default rate for that institution by 50 percent of the amount by which its cohort default rate for the previous year exceeds the applicable threshold percentage; or

(2) The institution has had 15 percent or fewer of its at least half-time students receive Stafford or SLS loans for any twenty-four month period ending not more than six months prior to the date the institution submits its appeal, or the institution has, for any twenty-four month period ending not more than six months prior to the date the institution submits its appeal, enrolled individuals from disadvantaged economic backgrounds as two-thirds or more of its at least half-time students; and the institution has at least two-thirds of its full-time students complete their programs and at least two-thirds of those who receive a degree, certificate or other recognized credential from the institution placed in relevant jobs or higher levels of education.

Comment: Many commenters suggested that the Secretary should use the institution's status with its accrediting body as an exceptional mitigating circumstance. The commenters argued that an institution's good standing with its accrediting body or bodies indicated that the institution was providing quality educational services to its students, and, therefore, any loss of GSL eligibility for such an institution would be inequitable.

Discussion: The Secretary does not believe that an institution's ability to maintain minimum standards sufficient to retain accreditation constitutes an exceptional circumstance so that it would be inequitable to apply the statutory threshold to a high default institution, resulting in a loss of eligibility. Rather, he believes that to qualify under the exceptional mitigating circumstances standard, an institution must show that it is doing an exceptional job from an outcome standpoint with students from disadvantaged economic backgrounds, or that a small percentage of its students receive Stafford or SLS loans and the institution is doing an exceptional job from an outcome standpoint.

Changes: None.

Comment: Several commenters suggested that the Secretary consider a

high incidence of default by an institution's borrowers attributable to documented evidence of a lender's improper servicing of those loans as an exceptional mitigating circumstance. These commenters stated that they believed this was consistent with the amendment to the definition of cohort default rate contained in Public Law 101–542 that provided that only loans for which the Secretary or a guarantee agency had paid a claim of insurance would be included in the rate and excluded any loans which, due to improper servicing and collection, would result in an inaccurate rate.

Discussion: The Secretary specifically prescribes in regulations (See 34 CFR 682.209 and 682.411) the servicing and collection requirements that guarantee agencies must follow for GSL programs loans as a condition for reinsurance coverage. Guarantee agencies are required by regulation to examine all lender claims for compliance with the regulatory requirements before a lender's default claim is paid. An improperly serviced loan is rejected and is not included as a default in the institution's cohort default rate. Therefore, absent a finding by the Secretary that a guarantee agency has not complied with claims review requirements, the Secretary recognizes the default data used to calculate an institution's rate to include only insured loans.

Changes: None.

Comment: Several commenters suggested that the Secretary consider an institution's diligent compliance with the appendix D—Default Reduction Measures of the June 5, 1989 default reduction regulations as an exceptional mitigating circumstance. These commenters argued that this criterion is justifiable as an exceptional mitigating circumstance because a high default institution that is diligently implementing these provisions to reduce the incidence of default by its students is doing so at the direction of the Secretary and acting appropriately to reduce its default rate. Therefore, the commenters argued, such an institution should not lose its eligibility to participate in the GSL programs despite the fact that its default rate remains high.

Discussion: The Secretary does not agree with the commenters that an institution's diligent implementation of the appendix D—Default Reduction Measures (54 FR 24119) should be recognized as a criterion that would demonstrate an exceptional mitigating circumstance. The implementation of appendix D—Default Reduction Measures was mandated for institutions with high cohort default rates by regulations and was provided as the only basis for an institution with an unacceptably high cohort default rate to avoid a limitation, suspension, or termination action under the Secretary's default reduction initiative. The Secretary does not believe that compliance with required default reduction measures is an exceptional mitigating circumstance under the requirements of Public Law 101-508.

Changes: None.

Comment: Several commenters suggested that an institution's history of program reviews of its administration of the title IV student assistance programs by the Department or the guarantee agency, or independent audits conducted of institutional compliance, should be considered as an exceptional mitigating circumstance. These commenters argued that if no major problems were uncovered by such reviews at the institution that the institution could not be said to lack administrative capability and that its default rate was due to other factors beyond its control.

Discussion: The Secretary does not agree with the views of these commenters. An institution is expected to properly administer the Federal student financial assistance programs as a minimum condition for participation. The Secretary believes that compliance with these requirements, as shown by an acceptable program review or audit, can hardly be viewed as an exceptional mitigating circumstance consistent with the stringent standard of Public Law 101-508.

Changes: None.

Comment: Many commenters suggested that the Secretary amend the exceptional mitigating circumstance contained in the NPRM that required a reduction of an institution's default rate each year by 50 percent of the amount its rate exceeds the threshold rates for the two fiscal years preceding the institution's loss of eligibility. These commenters argued that an institution's cohort default rate may drop by more than the amount that would be acceptable under the proposed provision over a two year period, but if the rate did not drop by the specific amount for each year the institution would lose its eligibility. Several other commenters encouraged the Secretary to adopt the 5 percent reduction standard of the June 5, 1989 default reduction regulations instead as a more "reasonable" standard of reduction.

Discussion: The Secretary believes that the requirements of Public Law 101-508 require a more stringent standard of demonstrated, ongoing progress in default reduction than that required by previously issued regulations. The Secretary also concluded from comments that this circumstance should only be considered for the current year's notification of loss of eligibility to provide relief to institutions that had already begun a successful multi-year program of default reduction prior to passage of the legislation requiring that default rates drop below 35 percent for the 1989 cohort. The demonstrated success of those institutions indicating that compliance with the new threshold is imminent would constitute an exceptional mitigating circumstance.

Change: A change has been made. Although the Secretary has maintained the institution's reduction of cohort default rate criterion, the Secretary has changed the regulations to permit an institution to appeal on this basis only with respect to notification of its loss of eligibility in fiscal year 1991.

Comment: Several commenters suggested that the 30-day timeframe in which an institution may submit an appeal of its loss of eligibility to participate in the GSL programs to the Secretary does not provide the institution adequate time to prepare the appeal and recommended a 60-day period. Further, many commenters argued that an institution appealing its loss of eligibility on the basis of inaccurate default rate data would be unfairly denied a significant portion of the 30-day timeframe under the NPRM proposals because the 15-day period for the guarantee agency or agencies to respond to its request for verification of its default data was included in the 30-day appeal period.

Discussion: The 30-day timeframe in which an institution may submit an appeal to the Secretary is mandated by section 435(a)(3) of the HEA. The Secretary does not have the authority to extend this timeframe, nor is compliance with this time limit infeasible. However, the Secretary does not believe that Congress intended an institution to violate the timeframe under which it may submit an appeal based on inaccurate default rate data as a result of time required by one or more guarantee agencies to respond to its request to have that data verified.

Change: A change has been made. The Secretary has revised the regulations to permit an institution that is having its default rate data verified by a guarantee agency or agencies to submit to the designated Department official an appeal that is otherwise complete by the 30-day appeal deadline. The Secretary will accept the verified default rate data from the guarantee

agency or agencies after the 30-day timeframe has elapsed if the institution provided to the Secretary's designated Department official, at the time the request was made, a copy of its request to each cognizant guarantee agency for verification of the data. An institution that wishes to participate in the programs while the appeal is pending must request this verification of the data from each cognizant guarantee agency within 10 working days from the date on which the Secretary notified the institution that its cohort default rate exceeds the statutory thresholds. Otherwise, an institution must request verification of the data by the 30 day appeal deadline. The verified data must be submitted to the Secretary's designated Department official by the institution within five working days of its receipt from the guarantee agency. The institution's appeal will not be considered complete, so as to cause the Secretary's 45-day period for appeal determination to commence, until the institution submits, within five working days, the data verified by the guarantee agency.

Comment: Several commenters indicated that 15 working days did not provide the agency adequate time to verify an institution's default rate data. Since many guarantee agencies may receive numerous institutional requests for default rate data verification immediately following the Secretary's release of the cohort default rates, the commenters suggested that the Secretary extend the amount of time in which a guarantee agency must respond to such requests.

Discussion: The Secretary understands that a 15 working day response time may be difficult for an agency to meet if it receives numerous requests for default rate data verification at the same time. However, the statute provides institutions and the Secretary an equally short timeframe to submit and act on an appeal, primarily to protect the interests of students at affected institutions. Therefore, the Secretary does not believe it is fair to institutions and their students to provide guarantee agencies an extended period to respond to verification requests. The Secretary expects the guarantee agencies to support this important initiative by allocating the personnel and other resources necessary to respond to verification requests within 15 days. Additionally, the Secretary believes that the requirement that an institution provide the agency with specific information regarding what it believes is inaccurate in its default rate data will greatly assist the agency in responding to the institution's request.

Change: A change has been made. Although the Secretary has not extended the 15 day timeframe in which a guarantee agency may respond to an institution's request for verification of default rate data, the final regulations have been revised to require an institution to provide the guarantee agency with specific information pertaining to its default rate data to facilitate a guarantee agency's review of such data within the 15 day timeframe. The final regulations require an institution that requests a guarantee agency to verify its findings related to the inaccuracy of its default rate data to provide the agency with the names and social security numbers of the borrowers the institution wishes to verify, and detailed information on the nature of the inaccuracy in the data the institution is requesting the agency to verify.

Comment: Several commenters recommended that the Secretary make it clear in the final regulations that an institution's successful appeal under these provisions does not prohibit the Secretary or a guarantee agency from taking emergency action or initiating a limitation, suspension, or termination action against that institution for cause.

Discussion: The Secretary does not believe that such a clarification is necessary. The appeal provisions of the regulation in no way preclude the Secretary or a guarantee agency from taking such an action against a participating institution as it normally would for cause.

Changes: None.

Comment: One commenter expressed concern that a student with an outstanding GSL loan who is attending an institution that has lost its eligibility to participate in the GSL programs under Public Law 101–508, should not lose his or her eligibility, if applicable, for grace-period benefits or an in-school deferment, if otherwise eligible, in light of the regulatory requirements of 34 CFR 682.201 and 682.210 mandating that a student be enrolled in a participating institution. The commenter suggested that the Secretary make an exception in the regulations for such a student.

Discussion: The Secretary shares the commenter's concern about the status of affected students, but does not believe that a change in regulations is necessary. It has been the longstanding view of the Department that the benefits provided to a borrower under the terms and conditions of his or her promissory note should continue to accrue to that borrower if the institution attended by the borrower undergoes a change of status, provided the borrower otherwise maintains eligibility for the benefit. Therefore, as long as borrowers at affected institutions maintain the required level of enrollment and meet other criteria to maintain their grace-period or qualify for an in-school deferment, they will continue to receive these benefits. These benefits, however, will not apply to students transferring to the institution or withdrawing and later returning to the institution after its loss of eligibility to participate.

Changes: None.

Comment: Several commenters recommended that an institution that appeals on the basis of exceptional mitigating circumstances should serve the appeal and all its attachments upon each guarantee agency that has guaranteed loans that are part of that institution's cohort default rate at the same time that institution submits its appeal to the Secretary.

Discussion: The Secretary does not agree with the commenters that an institution should serve a copy of its appeal to each guarantee agency that has guaranteed loans that are part of that institution's cohort default rate. The Secretary believes that this would be an unnecessary burden on the institution. It is the Secretary's responsibility to decide an institution's appeal. Further, the Secretary believes that the data and the supporting information the institution must provide the Secretary in its appeal will be sufficient for the Secretary to make an informed decision regarding the institution's appeal. Of course, separate provisions require that the guarantee agency verify rates when an institution appeals on the basis of inaccurate data.

Changes: None.

Comment: Many commenters stated strong objections to the Secretary's proposal not to provide oral hearings or further appeal of the Secretary's decision on an institution's appeal. They argued that not providing for such hearings as part of the appeal process denied the affected institution with the due process normally accorded an institution that loses eligibility under a termination action.

Discussion: Nothing in Public Law 101–508 indicates that Congress intended the Department to provide oral hearings. Moreover, the factors which the Secretary will consider as exceptional mitigating circumstances must be supported by adequate written evidence sufficient to discharge the appealing institution's burden of proof, and there is no need for oral testimony.

Changes: None.

Comment: A commenter indicated that the Secretary should modify proposed § 668.15(i) so that graduate students and students that have previously borrowed SLS loans for a particular program of study at an institution would not lose their eligibility at institutions having cohort default rates that equal or exceed 30 percent. The commenter also indicated that this change was necessary for this proposed section to accurately reflect the statutory provision of the HEA that this regulatory change implements.

Discussion: The Secretary agrees with the commenter that these changes are necessary to accurately reflect the statutory provision of the HEA requiring this regulatory change.

Changes: A change has been made. The Secretary has revised the proposed rule to clarify that graduate students and undergraduate students who have previously borrowed SLS loans for a particular program of study continue to be eligible for SLS loans to complete that program if the institution they are attending has a cohort default rate that equals or exceeds 30 percent. Further, the Secretary has modified this provision to prohibit an undergraduate student from obtaining further SLS loans during an extension of the duration of the program of study for which the student is enrolled if the extension was effected on or after November 8, 1989, consistent with Public Law 101–239.

Section 668.25—Loss of Institutional Eligibility to Participate in the Title IV, HEA Programs

Comment: Many commenters stated their objection to the restriction on further delivery of GSL loan proceeds after an institution receives notice of loss of institutional eligibility to only those students to whom a first disbursement had been delivered prior to the institution's notice of its loss of eligibility. Particularly in the case of a loss of eligibility under the high default rate provisions of Public Law 101–508, many commenters argued that the Secretary's decision not to permit an institution to participate in the GSL programs pursuant to the authority granted him under section 435(a) of the HEA, other than under the limited circumstances described above, would result in a lack of due process for the institution and cause irreparable damage, especially to an institution that later successfully appeals its loss of eligibility to participate in the GSL programs.

Discussion: The Secretary believes that it is important to provide a student who has received the first disbursement of a GSL programs loan and who has completed a significant portion of his or her program of study access to subsequent disbursements of the loan. The Secretary believes that a loss of access for such a student will present serious obstacles to the student's completion of the program and will, in all likelihood, precipitate a default. However, for other students enrolled at an institution that loses eligibility, the Secretary believes that it is equally important to prevent a student from becoming indebted for a program that he or she may not have an opportunity to complete because of the student's inability to obtain additional GSL programs loans. The Secretary believes that, in the case of an institution's loss of eligibility, especially a loss of eligibility to participate in the GSL programs due to a high default rate, concerns for any hardship imposed on an affected institution and its students during the short timeframe for appeal are outweighed by the importance of maintaining the integrity of the GSL programs. In fact, for an institution that successfully appeals its loss of eligibility, the Secretary believes that reinstatement of the institution's eligibility back to the date of loss of eligibility ameliorates the hardship experienced by a student who was initially denied access to the GSL programs. Moreover, an institution that appeals the loss of eligibility due to a high cohort default rate may continue to participate in the programs during the pendency of the appeal provided it takes the procedural steps delineated above.

Changes: A change has been made. The final regulations have been revised to make clear that an institution appealing a loss of eligibility due to a high cohort default rate may continue to participate in the programs during the pendency of the appeal provided it takes the procedural steps indicated above.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Assessment of Educational Impact

In the NPRM, the Secretary requested comments on whether the proposed regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the response to the proposed rules and on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects

34 CFR Part 668

Administrative practice and procedure, Colleges and universities, Consumer protection, Education, Grant programs-education, Reporting and recordkeeping requirements, Student aid.

34 CFR Part 682

Administrative practice and procedure, Colleges and universities, Consumer protection, Education, Grant programs-education, Reporting and recordkeeping requirements, Student aid.

Dated: July 12, 1991.

Lamar Alexander,

Secretary of Education.

(Catalog of Federal Domestic Assistance Number 84.032, Guaranteed Student Loan and PLUS program)

The Secretary amends parts 668 and 682 of title 34 of the Code of Federal Regulations as follows:

PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS

1. The authority citation for part 668 continues to read as follows:

Authority: 20 U.S.C. 1085, 1088, 1091, 1094 and 1141, unless otherwise noted.

2. Section 668.15 is amended by removing the term "fiscal year default rate" and adding in its place the term "cohort default rate", in paragraphs (a)(1), (b) introductory text, (b)(1)(i), (b)(1)(ii) introductory text, and (e), by removing the reference "(f)" in paragraph (a)(1) and adding in its place "(h)", by redesignating paragraph (f) as paragraph (h), by revising newly designated paragraph (h)(1), and by adding new paragraphs (f), (g), and (i) to read as follows:

§ 668.15 Additional factors for evaluating administrative capability.

* * * * *

(f)(1) Except as provided in paragraph (f)(6) of this section, an institution loses its eligibility to participate in the GSL programs if the Secretary determines that the institution's cohort default rate, for each of the three most recent fiscal years for which the Secretary has determined the institution's rate, is equal to or greater than the applicable threshold rates.

(2) For purposes of the determinations made under paragraph (f)(1) of this section, the threshold rates are—

(i) 35 percent for each of fiscal years 1991 and 1992; and

(ii) 30 percent for fiscal year 1993 and all subsequent fiscal years.

(3) Except as provided in paragraph (f)(7) of this section, an institution that loses eligibility under paragraph (f)(1) of this section may not participate in the GSL programs beginning eight calendar days after the date the Secretary notifies it that its cohort default rate exceeds the thresholds specified in paragraph (f)(2) of this section and continuing—

(i) For the remainder of the fiscal year in which the Secretary determines that the institution has lost its eligibility under paragraph (f)(1) of this section; and

(ii) For the two subsequent fiscal years.

(4) An institution that loses its eligibility to participate in the GSL programs under paragraph (f)(1) of this section may not regain its eligibility to participate in the GSL programs until the institution—

(i) Is notified by the Secretary that the notice of ineligibility is withdrawn pursuant to paragraph (g)(6) of this section; or

(ii) Following the period described in paragraph (f)(3) of this section, satisfies the Secretary that it meets all requirements for participation in the GSL programs and executes a new agreement with the Secretary for participation in the GSL programs.

(5) If the Secretary withdraws an institution's loss of eligibility pursuant to paragraph (g)(6) of this section, the eligibility of the institution is restored effective as of the date of the loss of ineligibility.

(6) Until July 1, 1994, the provisions of paragraph (f)(1) of this section are not applicable to a historically black college or university within the meaning of section 322(2) of the HEA, a tribally controlled community college within the meaning of section 2(a)(4) of the Tribally Controlled Community College Assistance Act of 1978, or a Navajo community college under the Navajo Community College Act.

(7)(i) If the Secretary's designated Department official receives written notice from an institution that loses its eligibility under paragraph (f)(1) of this section, within seven calendar days from the date on which the Secretary notified the institution that its cohort default rate exceeds the thresholds specified in paragraph (f)(2) of this section, that the institution intends to appeal the loss of eligibility under paragraph (g) of this section, the institution may, notwithstanding 34 CFR 668.25(c) continue to participate in the GSL programs until no later than the 30th calendar day following the date on which the Secretary notified the institution that its cohort default rate exceeds the thresholds specified in paragraph (f)(2) of this section, except as provided in paragraph (f)(7)(ii).

(ii) If an institution satisfies the conditions in paragraph (f)(7)(i) of this section for participating in the GSL programs until the 30th calendar day following the date on which the Secretary notified the institution that its cohort default rate exceeds the thresholds specified in paragraph (f)(2) of this section, it may, notwithstanding 34 CFR 668.25(c), continue to participate in the GSL programs after that date, until the Secretary issues a decision on the institution's appeal, if the institution, by the 30th calendar day following the date on which the Secretary notified the institution that its cohort default rate exceeds the thresholds specified in paragraph (f)(2) of this section, files an appeal that is complete in all respects in accordance with paragraph (g) of this section. However, the appeal of an institution relying on paragraph (g)(1)(i) of this section is not considered incomplete by virtue of a guarantee agency's not having yet complied with—or having failed to comply with—34 CFR 682.401(b)(14), which requires the agency to respond to an institution's request for verification of data within 15 working days, if the institution submitted that request within 10 working days from the date on which the Secretary notified the institution that its cohort default rate exceeds the thresholds specified in paragraph (f)(2) of this section, and the institution simultaneously submitted a copy of that request to the Secretary's designated Department official. When the institution receives the guarantee agency's response, to complete its appeal, the institution must submit the verified data to the Secretary's designated Department official within five working days in order to continue participating in the GSL programs until the Secretary issues a decision on the institution's appeal.

(g)(1) An institution may appeal the loss of eligibility to participate in the GSL programs under paragraph (f)(1) of this section by submitting an appeal in writing to the Secretary's designated Departmental official that is postmarked no later than 30 days after it receives notification of its loss of eligibility. The institution may appeal on the grounds that—

(i)(A) The calculation of the institution's cohort default rate for any of the three fiscal years relevant to the loss of eligibility is not accurate; and

(B) A recalculation with corrected data verified by the cognizant guarantee agency or agencies would produce a cohort default rate for any of those fiscal years below the threshold percentage specified in paragraph (f)(2) of this section; or

(ii) The institution has reduced its cohort default rate for each of the two most recent fiscal years for which the Secretary has calculated a cohort default rate for that institution by 50 percent of the amount by which its cohort default rate for the previous year exceeds the applicable threshold percentage specified in paragraph (f)(2) of this section. However, the Secretary recognizes this basis for appeal only with respect to a notification of loss of eligibility received by an institution in the fiscal year ending September 30, 1991; or

(iii) The institution meets the following criteria:

(A)(*1*) The institution has had 15 percent or fewer of its at least half-time students receive Stafford or SLS loans for any twenty-four month period ending not more than six months prior to the date the institution submits its appeal; or

(*2*) The institution has, for any twenty-four month period ending not more than six months prior to the date the institution submits its appeal, enrolled, as two-thirds or more of its at least half-time students, individuals from disadvantaged economic backgrounds, as established by documentary evidence submitted by the institution, such as evidence of qualification by those students for a Pell Grant index (formerly student aid index), as defined in 34 CFR 690.2, of zero for the applicable award year or attribution to those students of an adjusted gross income of the student and his or her parents or spouse, if applicable, reported for the applicable award year of less than the poverty level, as determined under criteria established by the Department of Health and Human Services; and

(B)(*1*) The institution had two-thirds or more of its full-time students who were enrolled at the institution in any twenty-four month period ending not more than six months prior to the date the institution submits its appeal complete the educational programs in which they were enrolled. This rate is calculated by comparing the number of students who were classified as full-time at their initial enrollment in the institution, and were originally scheduled, at the time of enrollment, to complete their programs within the

relevant twenty-four month period, with the number of these students who received a degree, certificate, or other recognized educational credential from the institution; transferred from the institution to a higher level program at another institution for which the prior program provided substantial preparation; or, at the end of the twenty-four month period, remained enrolled and were making satisfactory academic progress toward completion of their programs. The calculation does not include students who did not complete their programs because they left the institution to serve in the armed forces; and

(*2*) The institution had a placement rate of two-thirds or more with respect to its former students who received a degree, certificate, or other recognized educational credential from the institution in any twenty-four month period ending not more than six months prior to the date the institution submits its appeal. This rate is calculated by determining the percentage of all those students who, based on evidence submitted by the institution, are, on that date employed, or had been employed for at least 13 weeks following receipt of the credential from the institution, in the occupation for which the institution provided training, or are enrolled or had been enrolled for at least 13 weeks following receipt of the credential from the institution, in a higher level program at another institution for which the prior program provided substantial preparation.

(2) For purposes of paragraph (g)(1)(iii)(A) of this section, a student is originally scheduled, at the time of enrollment, to complete the program on the date when the student will have been enrolled in the program for the amount of time normally required to complete the program. The "amount of time normally required to complete the program" is the period of time specified in the institution's enrollment contract, catalog, or other materials, for completion of the program by a full-time student, or the period of time between the date of enrollment and the anticipated graduation date appearing on the student's loan application, if any, whichever is less.

(3) An appeal submitted under paragraph (g)(1)(i) of this section is considered timely filed if the institution submits a letter of appeal by the 30-day deadline notifying the Secretary's designated Department official that it is appealing on this basis, including with that letter a copy of its request to each cognizant guarantee agency for verification of the cohort default rate data, and submits the verified data to the Secretary's designated Department official within five working days of its receipt from the guarantee agency. For purposes of paragraph (g)(4) of this section, the institution's appeal is not considered complete until the institution submits the verified data to the Secretary's designated Department official.

(4) The Secretary issues a decision on the institution's appeal within 45 days after the institution submits a complete appeal that addresses the applicable criteria in paragraphs (g)(1) (i)–(iii) of this section to the Secretary's designated Departmental official.

(5) The decision is based on the consideration of written material submitted by the institution. No oral hearing is provided.

(6) The Secretary withdraws the notification of ineligibility to participate in the GSL programs sent to an institution under paragraph (f)(1) of this section, if the Secretary determines that the institution's appeal satisfies one of the grounds specified in paragraphs (g)(1) (i)–(iii) of this section.

(7)(i) An institution that appeals under paragraph (g)(1)(i) of this section must submit a written request to the guarantee agency or agencies that guaranteed the loans used in the calculation of its cohort default rate to verify the data used to calculate its cohort default rate and simultaneously provide a copy of that request to the Secretary's designated Department official.

(ii) The written request must include the names and social security numbers of the borrowers the institution wishes the agency to verify and detailed information on the nature of the suspected inaccuracy in the data the institution is requesting the agency to verify.

(8) An institution must include in its appeal a certification by the institution's chief executive officer that all information provided by the institution in support of its appeal is true and correct.

(9) An institution that appeals on the ground that it meets the criteria contained in paragraph (g)(1)(iii) of this section must include in its appeal the following information:

(i) For purposes of paragraph (g)(1)(iii)(A)(*1*):

(A) The number of students that were enrolled at least half-time at the institution in the relevant twenty-four month period; and

(B) The name, address, and social security number of each of the institution's current and former students who received Stafford or SLS loans during that twenty-four month period.

(ii) For purposes of paragraph (g)(1)(iii)(A)(*2*):

(A) The number of students that were enrolled at least half-time at the institution in the relevant twenty-four month period; and

(B) The name, address, social security number and Pell Grant index (formerly student aid index), if applicable, of each student from a disadvantaged economic background who was enrolled at least half-time at the institution in the relevant twenty-four month period and the measure and data used to determine that the student is from a disadvantaged economic background.

(iii) For purposes of paragraph (g)(1)(iii)(B)(*1*):

(A) The number of students that were enrolled at least full-time at the institution in the relevant twenty-four month period;

(B) For each of those former students who received a degree, certificate, or other recognized educational credential from the institution, the student's name, address, and social security number;

(C) For each of those former students who transferred to a higher level program at another institution, the name, address, social security number of the student, and the name and address of the institution to which the student transferred and the name of the higher level program; and

(D) For each of those students who remained enrolled and was making satisfactory academic progress toward completion of the program of study, the student's name, address, and social security number.

(iv) For purposes of paragraph (g)(1)(iii)(B)(*2*):

(A) The number of students that received a degree, certificate, or other recognized credential at the institution in the relevant twenty-four month period; and

(B)(*1*) For each of those former students who is employed or had been employed for at least 13 weeks following receipt of a degree, certificate or other credential from the institution, the student's name, address, and social security number, the employer's name and address, the student's job title, and the dates the student was so employed; and

(*2*) For each of those former students who enrolled in a higher level program at another institution for which the appealing institution's program provided substantial preparation, the former student's name, address, and social security number, the subsequent institution's name and address, the

name of the program of study, and the dates the former student was so enrolled.

(h) * * *

(1)(i) *Cohort default rate* means, for any fiscal year in which 30 or more current and former students at the institution enter repayment on Stafford or SLS program loans received for attendance at the institution, the percentage of those current and former students who enter repayment in that fiscal year on Stafford or SLS program loans received for attendance at that institution who default before the end of the following fiscal year. In determining the number of students who default before the end of that following fiscal year, the Secretary includes only loans for which the Secretary or a guarantee agency has paid claims for insurance, and, in calculating the cohort default rate, excludes any loans which, due to improper servicing or collection, would result in an inaccurate or incomplete calculation of the cohort default rate. For any fiscal year in which fewer than 30 of the institution's current and former students enter repayment, the term "cohort default rate" means the average of the rates calculated under the preceding sentence for the three most recent fiscal years. In the case of a student who has attended and borrowed at more than one institution, the student (and his or her subsequent repayment or default) is attributed to each institution for attendance at which the student received a loan that entered repayment in the fiscal year. A loan on which a payment is made by the institution, its owner, agent, contractor, employee, or any other affiliated entity or individual, in order to avoid default by the borrower, is considered as in default for purposes of this definition. Any loan that has been rehabilitated under section 428F of the HEA before the end of that following fiscal year is not considered as in default for purposes of this definition.

(ii)(A) A cohort default rate of an institution applies to all locations of the institution as it exists on the first day of the fiscal year for which the rate is calculated.

(B) A cohort default rate of an institution applies to all locations of the institution from the date the institution is notified of that rate until the institution is notified by the Secretary that the rate no longer applies.

(iii)(A) For institutions that change status from a location of one institution to a free-standing institution, the Secretary determines the cohort default rate based on the institution's status as of October 1 of the fiscal year for which a cohort default rate is being calculated.

(B) For institutions that change status from a free-standing institution to a location of another institution, the Secretary determines the cohort default rate based on the combined number of students who enter repayment during the applicable fiscal year and the combined number of students who default during the applicable fiscal years from both the former free-standing institution and the other institution. This cohort default rate applies to the new, consolidated institution and all of its current locations.

(C) For free-standing institutions that merge, the Secretary determines the cohort default rate based on the combined number of students who enter repayment during the applicable fiscal year and the combined number of students who default during the applicable fiscal years from both of the institutions that are merging. This cohort default rate applies to the new, consolidated institution.

(D) For institutions that change status from a location of one institution to a location of another institution, the Secretary determines the cohort default rate based on the combined number of students who enter repayment during the applicable fiscal year and the number of students who default during the applicable fiscal years from both of the institutions in their entirety, not limited solely to the respective locations.

* * * * *

(i) An institution loses its eligibility to participate in the SLS program if the Secretary determines that the institution's cohort default rate for the most recent fiscal year for which such rate is available is equal to or greater than 30 percent. However, the institution's loss of eligibility does not apply to a student who is not an undergraduate student or who has received an SLS loan previously for enrollment in the same program of instruction at the institution (except that previous receipt of an SLS loan shall not qualify a student for an SLS loan with respect to an extension of the duration of that program which was effected on or after November 8, 1989).

* * * * *

3. Section 668.25 is revised to read as follows:

§ 668.25 Loss of institutional eligibility to participate in the Title IV, HEA programs.

(a) If an institution closes, stops providing educational instruction, or loses its eligibility to participate in the Title IV, HEA programs it shall—

(1) Immediately notify the Secretary of that fact;

(2) Submit to the Secretary within 45 days after the date of the closing or cessation of instruction, or the date on which the loss of eligibility becomes final—

(i) All financial, performance, and other reports required by each applicable title IV, HEA program regulation; and

(ii) A letter of engagement for an independent audit of all title IV, HEA program funds it received, the report of which shall be reported to the Secretary within 45 days after the date of the engagement letter;

(3) Inform the Secretary of the arrangements it has made for the proper retention and storage for a minimum of five years of all records concerning the administration of title IV, HEA programs;

(4) Inform the Secretary of how it will provide for the collection of any outstanding loans made under the National Defense/Direct Student Loan, Perkins Loan, or ICL programs; and

(5) Continue to distribute refunds of unearned payments for institutional charges according to § 668.22.

(b) If an institution closes or stops providing educational instruction, it shall—

(1) Return to the Secretary, or otherwise dispose of under instructions from the Secretary, any unexpended title IV, HEA program funds it has, less its administrative allowance, if applicable; and

(2) Return to the appropriate lenders any GSL proceeds it has received but not delivered to the students or credited to the students' accounts.

(c) If an institution loses its eligibility to participate in title IV, HEA programs during a payment period, but continues to provide educational instruction to eligible students enrolled in its formerly eligible programs from the date that the institution lost its eligibility until the scheduled completion date of that payment period or period of enrollment, it may—

(i) For the Pell Grant and campus-based programs, use title IV, HEA program funds in its possession or request additional funds from the Secretary, under conditions specified by the Secretary, if it does not possess sufficient funds, to satisfy any unpaid commitment made for that payment period to a student prior to the institution's loss of eligibility; and

(2) For the Stafford and SLS programs, if the proceeds of the first disbursement of a Stafford or SLS loan were delivered to the student or credited to the student's account prior to the institution's loss of eligibility, credit the

student's account or deliver to the student any subsequent disbursement of that Stafford or SLS loan to satisfy any unpaid commitment made to a student for that period of enrollment for which the Stafford or SLS loan was made.

(d) For purposes of this section—

(1) A commitment under the Pell Grant Program occurs when a student is enrolled and attending the institution and has submitted a valid student aid report to the institution.

(2) A commitment under the campus-based and ICL programs occurs when a student is enrolled and attending the institution and has received a valid award letter from the institution; and

(3) A commitment under the GSL programs occurs when the Secretary or guarantee agency notifies the lender that the loan is guaranteed.

(Authority: 20 U.S.C. 1094).

§ 668.90 [Amended]

4. Section 668.90(a)(3)(iii) is amended by removing the term "fiscal year default rate" and adding in its place the term "cohort default rate".

PART 682—GUARANTEED STUDENT LOAN PROGRAMS

1. The authority citation for part 682 continues to read as follows:

Authority: 20 U.S.C. 1071 to 1087–2, and 1094, unless otherwise noted.

§§ 682.410, 682.603, 682.606 [Amended]

2. Sections 682.410(c)(1)(iii), 682.603(c), and 682.606(b)(2) are amended by removing the term "fiscal year default rate" and adding in their place the term "cohort default rate".

3. Section 682.401 is amended by adding a new paragraph (b)(14) to read as follows:

§ 682.401 Basic program agreement.

* * * * *

(b) * * *

(14) *Guarantee agency verification of default data.* A guarantee agency shall respond to an institution's written request for verification of its default rate data for purposes of an appeal pursuant to 34 CFR 668.15(g)(1)(i) within 15 working days of the date the agency receives the institution's written request pursuant to 34 CFR 668.15(g)(7), and simultaneously provide a copy of that response to the Secretary's designated Department official.

* * * * *

[FR Doc. 91–17117 Filed 7–18–91; 8:45 am]
BILLING CODE 4000–01–M

federal register

Friday
July 19, 1991

Part IV

Department of Education

Office of Special Education and Rehabilitative Services

Inviting Applications for New Awards Under the Training Personnel for the Education of Individuals With Disabilities for Fiscal Year 1991; Notice

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

[CFDA No. 84.029T]

Notice Inviting Applications for New Awards Under the Training Personnel for the Education of Individuals with Disabilities for Fiscal Year 1991

Note to Applicants: This notice is a complete application package. The notice contains information, application forms and instructions needed to apply for a grant under this competition.

The estimates of funding levels and awards in this notice do not bind the Department of Education to a specific level of funding or number of grants, unless the amount is otherwise specified by statute or regulation.

Purpose of Program: The Individuals with Disabilities Education Act (IDEA) recommends that the Secretary develop and implement a plan for providing outreach services to minority entities and underrepresented populations to assist them in participating more fully in the discretionary programs under the Act (section 610(j)(2)(C)). In adopting this recommendation, the Office of Special Education Programs has developed a plan that calls for changes in program regulations, including priorities and selection criteria; increased staff assistance to minority entities and underrepresented populations; and funding two awards for outreach centers to provide direct technical assistance to minority entities and underrepresented populations.

Eligible Applicants: The following are eligible for assistance under this priority:

(1) Public agencies; and

(2) Private nonprofit agencies, organizations, and institutions.

Deadline for Transmittal of Applications: August 19, 1991.

Deadline for intergovernmental review: October 17, 1991.

Applications Available: July 19, 1991.

Available Funds: $2,000,000.

Number of Projects: Two projects.

Funding Range: $800,000 to 1,200,000.

Project Period: Up to 48 months.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86.

It is the policy of the Department of Education not to solicit applications before the publication of final priorities. However, in this case it is essential to solicit applications on the basis of the notice of proposed priorities published in the Federal Register on June 4, 1991 (56 FR 25454), because the Department's authority to obligate these funds will expire at the end of Fiscal Year 1991 on September 30, 1991.

The public comment period for the notice of proposed priority ended on July 5, 1991. Ten parties responded to the notice, nearly all of whom were strongly supportive of the priority in general. The only change expected in the final priority is the identification of two Centers to be funded. Otherwise, applicants are advised to submit their applications based on the priority as proposed. However, if other significant or substantial changes are made in the final priority, applicants will be provided the opportunity to amend or resubmit their applications.

The Secretary specifically requested comments on the desirability of funding one or more Centers to accomplish the required tasks, and the best way of dividing the workload if this was done. Several of the commenters favored funding more than a single Center. Comments on the topic of how to separate Center functions were mixed, but overall favored separate Centers based on type of Federal support. The Secretary will fund two Centers, one to provide outreach to minority entities seeking support for personnel preparation, (part D of the Act) and another for research and the other activities authorized (parts C, E, F, and G of the Act).

Priority: Under 34 CFR 75.105(c)(3) and section 610(j)(2)(C) of the IDEA the Secretary gives an absolute preference to applications that meet the following priority. The Secretary will fund under this competition only applications that meet the absolute priority in this notice.

The Secretary will make two 48-month awards for outreach Centers to provide technical assistance to the agencies, institutions, organizations, and populations identified by Congress in the minority outreach program under section 610(j) in order to increase the participation of those entities in competitions for grants, cooperative agreements, and contracts under any of parts C through G of the IDEA.

Under this priority, the Secretary will fund two Centers that provide effective and cost-efficient technical assistance to the agencies, institutions, organizations, and populations listed in section 610(j)(2)(C) to promote their participation in programs authorized under parts C through G of the IDEA.

Each Center shall establish an advisory group of at least 10 persons to provide advice and recommendations to the Center on all aspects of this project. The advisory group must represent relevant professional organizations, parents of minority children with disabilities, and different disciplinary areas (e.g., special education, health, social work). The Center shall select each member of the advisory group on the basis of experience and ability to provide sound recommendations and advice to the Center relative to both minority and disability issues.

Each Center shall establish and maintain a clearinghouse of critically important information and materials that can be used effectively to assess and meet the technical assistance needs of minority entities and underrepresented groups. As a part of this task, the Center shall, at least annually, conduct literature searches, identify and visit programs demonstrating exemplary practices, and conduct other activities to secure the most current and effective information available. The Center shall also develop materials and other information packages that may be necessary for conducting needs assessments, for delivering technical assistance, for evaluating technical assistance, and for providing training to the Center's core staff and national experts.

Each Center annually shall conduct technical assistance needs assessments and negotiate technical assistance agreements with target agencies, institutions, organizations, programs, and projects.

In establishing final plans, the Center may propose cross-institutional activities if similar objectives are established in several agencies, and if combining activities could create cost savings. In developing these plans, the Center shall analyze the needs of each entity and determine the most effective and cost efficient means of addressing them. As a final step, the Center shall develop a specific technical assistance agreement, with each entity identified, that—

(a) Reconciles technical assistance needs with the Center's designated fiscal and human resources for that entity;

(b) Describes the technical assistance objectives and mechanisms and strategies that will be used;

(c) Identifies the persons involved in the technical assistance activity;

(d) Specifies the beginning and end dates of the activity;

(e) Describes how the technical assistance activity will contribute to promoting the immediate and long-term goals of the project; and

(f) Describes a plan for coordinating with other technical assistance providers (e.g., the Regional Resource

Centers) that may be involved in related activities.

For each competition which the Secretary runs under parts C through G of the Act, as appropriate, the Center shall—

- Prepare special materials explaining the competition to the entities (that are the focus of this program);
- Disseminate these materials to these entities on a timely basis;
- If appropriate, conduct one or more special "potential bidders" conferences for these entities, at which representatives of the Secretary may appear, to explain in more detail how the entities might apply;
- Analyze the results of each competition in terms of the degree to which these entities applied and the degree to which they were successful, and make this analysis available to the Secretary and the entities; and
- Provide advice to the Secretary at least annually on ways in which competitions under parts C through G of the Act, as appropriate, might be modified to further advance the purposes of this program.

For the purpose of carrying out this function, the Secretary intends to make available to the Centers the maximum information on the selection process for each competition which the Secretary is permitted to make public under applicable law. The Secretary is using the selection criteria in 34 CFR 75.210 to evaluate applications under this competition.

Selection Criteria

(a)(1) The maximum score for all of the criteria in this section is 100 points.

(2) The maximum score for each criterion is indicated in parentheses with the criterion.

(b) *The criteria.*—(1) *Meeting the purposes of the authorizing statute.* (30 points) The Secretary reviews each application to determine how well the project will meet the purpose of the statute that authorizes the program including consideration of:

(i) The objectives of the project; and

(ii) How the objectives of the project further the purposes of the of the authorizing statute.

(2) *Extent of need for the project.* (20 points) The Secretary reviews each application to determine the extent to which the project meets specific needs recognized in the statute that authorizes the program, including consideration of:

(i) The needs addressed by the project;

(ii) How the applicant identified those needs;

(iii) How those needs will be met by the project; and

(iv) The benefits to be gained by meeting those needs.

(3) *Plan of operation.* (25 points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including:

(i) The quality of the design of the project;

(ii) The extent to which the plan of management is effective and ensures proper and efficient administration of the project;

(iii) How well the objectives of the project relate to the purpose to the program;

(iv) The quality of the applicant's plan to use its resources and personnel to achieve each objective;

(v) How the applicant will ensure that project participants who are otherwise eligible to participate are selected without regard to race, color, national origin, gender, age, or handicapping condition; and

(vi) For grants under a program that requires the applicant to provide an opportunity for participation of students enrolled in private schools, the quality of the applicant's plan to provide that opportunity.

(4) *Quality of key personnel.* (12 points)

(i) The Secretary reviews each application to determine the quality of key personnel the applicant plans to use on the project, including;

(A) The qualifications of the project director (if one is to be used);

(B) The qualifications of each of the other key personnel to be used in the project;

(C) The time that each person referred to in paragraphs (b)(4)(i) (A) and (B) of this section will commit to the project; and

(D) How the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping condition.

(ii) To determine personnel qualifications under paragraphs (b)(4)(i) (A) and (B) of this section, the Secretary considers:

(A) Experience and training in fields related to the objectives of the project; and

(B) Any other qualifications that pertain to the quality of the project.

(5) *Budget and cost effectiveness.* (5 points) The Secretary reviews each application to determine the extent to which:

(i) The budget is adequate to support the project; and

(ii) Costs are reasonable in relation to the objectives of the projects.

(6) *Evaluation plan.* (5 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation:

(i) Are appropriate to the project; and

(ii) To the extent possible, are objective and produce data that are quantifiable.

(Cross-reference: See 34 CFR 75.590 Evaluation by the grantee.)

(7) *Adequacy of resources.* (3 points) The Secretary reviews each application to determine the adequacy of the resources that the applicant plans to devote to the project, including facilities, equipment, and supplies.

(Approved by the Office of Management and Budget under control number 1820–0586)

(Authority: 20 U.S.C. 1221e–3(a)(1))

Instructions for Transmittal of Applications

(a) If an applicant wants to apply for a grant, the applicant shall—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA #84.029T), Washington, DC 20202–4725.

or

(2) Hand deliver the original and two copies of the application by 4:30 p.m. (Washington, DC time) on the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA #84.029T), room #3633, Regional Office Building #3, 7th and D Streets, SW., Washington, DC 20202.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) The Application Control Center will mail a Grant Application Receipt Acknowledgement to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the

date of mailing the application, the applicant should call the U.S. Department of Education Application Control Center at (202) 708–9494.

(3) The applicant must indicate on the envelope and—if not provided by the Department—in item 10 of the Application for Federal Assistance (Standard Form 424) the CFDA number—and suffix letter, if any—of the competition under which the application is being submitted.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR part 79.

The objective of the Executive Order is to foster an intergovernmental partnership and to strengthen federalism by relying on State and local government coordination and review of proposed Federal financial assistance.

Applicants must contact the appropriate State Single Point of Contact to find out about, and to comply with, the State's process under Executive Order 12372. Applicants proposing to perform activities in more than one State should immediately contact the Single Point of Contact for each of those States and follow the procedure established in each State under the Executive Order. If you want to know the name and address of any State Single Point of Contact, see the list published in the **Federal Register** on September 17, 1990 (55 FR 38210 and 38211).

In States that have not established a process or chosen a program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following address: The Secretary, E.O. 12372—CFDA#84.029T, U.S. Department of Education, room 4161, 400 Maryland Avenue SW., Washington, DC 20202–0125.

Proof of mailing will be determined on the same basis as applications (see 34 CFR 75.102). Recommendations or comments may be hand-delivered until 4:30 p.m. (Washington, DC time) on the date indicated in this notice.

Please Note: that the above address is not the same address as the one to which the applicant submits its completed application. Do not send applications to the above address.

Application Instructions and Forms.

The appendix to this application is divided into three sections plus a section on common questions and answers, a statement regarding estimated public reporting burden, and various assurances and certifications. These parts and additional materials are organized in the same manner that the submitted applications should be organized. The parts and additional materials are as follows:

Part I: Application for Federal Assistance (Standard Form 424 (Rev. 4–88)) and instructions.

Part II: Budget Information—Non-Construction Programs (Standard Form 424A) and instructions.

Part III: Application Narrative.

Additional materials:

Estimated Public Reporting Burden.

Assurances—Non-Construction Programs (Standard Form 424B).

Certifications regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013).

Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED 80–0014, 9/90) and instructions. (Note: ED 80–0014 is intended for the use of grantees and should not be transmitted to the Department.)

Disclosure of Lobbying Activities (Standard Form LLL) (if applicable) and instructions; and Disclosure of Lobbying Activities Continuation Sheet (Standard Form LLL–A).

An applicant may submit information on a photostatic copy of the application and budget forms, the assurances, and the certifications. However, the application form, the assurances, and the certifications must each have an original signature. No grant may be awarded unless a completed application form has been received.

Authority: 20 U.S.C. 1410.

Dated: July 16, 1991.

Michael E. Vader.

Acting Assistant Secretary, Office of Special Education and Rehabilitative Services.

Appendix

Application Forms and Instructions

Applicants are advised to reproduce and complete the application forms in this section. Applicants are required to submit an original and two copies of each application as provided in this section.

Common Questions and Answers

While we have always made every effort to make our application materials as clear and complete as possible, a major task of Division of Personnel Preparation staff from the date of the program announcement to the closing date is answering phone and mail requests with further questions. The next several pages list some of the most common issues raised by potential applicants in interpreting our regulations and application instructions.

The following issues are not hypothetical. They represent concerns repeatedly raised, even though in many cases they are answered in the regulations or application instructions. The problem seems to be that the issues are not sufficiently highlighted, or that they are disguised by the formal language of legislative documents. These issues and general responses are listed in approximately the frequency of occurrence.

• Extension of Deadlines

Waivers for individual applications are not granted, regardless of the circumstances. Under very extraordinary circumstances a closing date may be changed. Such changes are announced in the **Federal Register** and apply to all applications.

• Copies of the Application

Current Government-wide policy is that only an original and two copies need to be submitted. Division staff duplicate the two additional copies necessary to complete the review process by staff and peer readers. It is not required that applications be bound, though they may be if you wish. However, to facilitate our reproduction, please leave one copy unbound. Also, please do not use colored paper, foldouts, photographs, or other hard to duplicate materials. Some applicants prefer to make their own additional copies. If you do so, there is no need to submit more than two additional copies, as that is all that will be required for the review process.

• Help Preparing Applications

We are happy to provide general program information. Clearly it would *not* be appropriate for staff to participate in the actual writing of an application, but we can respond to specific questions about our application requirements and evaluation criteria, or about the announced priority. Applicants should understand that such previous contact is not required, nor does it guarantee the success of an application.

• Notification of Funding

The time required to complete the evaluation of applications is extremely variable. Once applications have been received staff must determine the areas of expertise needed to appropriately evaluate the applications, identify and contact potential reviewers, convene peer review panels, and summarize and review the recommendations of the review panels. You can expect to receive notification within 1 to 2 months of the application closing date. The requested start date should therefore be a minimum of 2 months after the closing date.

• Possibility of Learning the Outcome of Review Panels Prior to Official Notification

Every year we are called by a number of applicants who have really legitimate reasons for needing to know the outcome of the review prior to official notification. Some applicants need to make job decisions, etc. Regardless of the reason, we cannot share

information about the review with anyone prior to officially completing the review process for a competition, nor can we tell you when you will be notified. Please do not call us and ask us for this information. You will be notified as quickly as possible either by a grant negotiator (if your application is recommended for funding) or through a letter to the certifying representative (if your application is not successful).

• Length of Application

The Department of Education is making a concerted effort to reduce the volume of paper work in applications to discretionary programs. The following suggestions should assist applicants to prepare applications which will convey the information necessary for the review and selection process, and also save America's forests, professional time and energy. The scope and complexity of projects are too variable to establish firm limits on length. Your application should provide enough information to allow the review panel to evaluate the importance and impact of the project as well as to make knowledgeable judgments about the methods you propose to use (design, subjects, sampling procedures, measures, instruments, data analysis strategies, etc.). Many applications include voluminous appended material. In most cases this material is not useful in the evaluation process. Very few projects require much supporting material. However, it is often helpful to have:

(1) *Staff Vitae*—when these include each person's title and role *in the proposed project* and contain *only* information that is *relevant* to *this* proposed *project's* activities and/or publications. Vitae for consultants and Advisory Council members should be similarly brief.

(2) *Instruments*—except in the case of generally available and well known instruments.

(3) *Agreements*—when the participation of an agency other than the applicant is critical to the project. This is particularly critical when an intervention will be implemented within an agency, or when subjects will be drawn from particular agencies. Letters of cooperation should be specific, indicating agreement to implement a particular intervention or to provide access to a particular group. General letters of support are not useful.

Except for the three items noted above, most appendix material is rarely useful. Typical extraneous materials include:

(1) Related project descriptions completed by applicant
(2) Maps
(3) State plans
(4) Brochures
(5) Copies of publications

• Use of Person Loading Charts

Program officials and applicants often find person loading charts useful formats for showing project personnel and their time commitments to individual activities. A person loading chart is a tabular representation of major activities by number of days spent by each person involved in each activity, as shown in the following example.

TABLE—PERSON LOADING CHART

Activity	Time in day(s) by person [1]			
	Person A	Person B	Person C	Person D
Library research	15	20	0	0
Hire staff	0	0	0	5
Prepare materials	5	25	0	0
Train raters	0	2	0	0
Data collection	60	60	0	0
Data analysis	0	0	25	5
Dissemination (manuscripts, etc.)	0	1	0	10

[1] Note: All figures represent FTE for the academic year.

• Return of Non-Funded Applications

Because of budget restrictions, we are no longer able to return original copies of applications. Thus, applicants should retain at least one copy of the application. Copies of reviewer comments will be mailed to all applicants.

• Delivering/Sending Applications to the Competition Manager

Applications can be mailed or hand delivered, but in either case must go to the Application Control Center at the address listed in the Mailing Instructions in this packet. Delivering/sending the application to the competition manager in the program office may prevent it from being logged in on time to the appropriate competition.

• Format for Applications

Applications are more likely to receive favorable reviews by panels when they are organized according to the published evaluation criteria. If you prefer to use a different format you may wish to cross-reference the sections of your application to the evaluation criteria to be sure that reviewers are able to find all relevant information.

• Allowed Travel Under These Projects

Travel associated with carrying out the project is allowed (i.e. travel for data collection, etc.). Travel to conferences is the travel item that is most likely to be questioned during negotiations. Such travel is sometimes allowed when it is for purposes of dissemination, when there will be results to be disseminated, and when it is clear that a conference presentation or workshop is an effective way of reaching a particular target group.

• Funding of Approved Applications

It is often the case that the number of applications recommended for approval by the reviewers exceeds the dollars available for funding projects under a particular competition. When the panel reviews are completed for a particular competition, the individual reviewer scores and applications are ranked. The higher ranked, approved applications are funded first, and there are often lower ranked, approved applications that do not receive funding. Sometimes the one or two applications that are approved and fall next in rank order (after the projects selected for funding) are placed on hold. If dollars are freed up during negotiations or if a higher ranked applicant declines the award, the projects on hold may receive funding. If you receive a letter stating that you will not receive funding then your project has neither been selected for funding nor placed on hold.

• Issues Raised During Negotiations

During negotiations technical and budget issues may be raised. These are issues that have been identified during panel and staff review. Generally, technical issues are minor issues that require clarification. Alternative approaches may be presented for your consideration, or you may be asked to provide additional information or rationale for something you have proposed to do. Sometimes issues are stated as "conditions". These are issues that have been identified as so critical that the award cannot be made unless those conditions are met. Questions are also raised about the proposed budget during the negotiation phase. Generally, budget issues are raised because there is inadequate justification or explanation of the particular budget item, or because the budget item does not seem important to the successful completion of the project. The grants negotiator will present the negotiation questions or issues to you and ask you to respond. If you do not understand the question, you should ask for clarification. In responding to negotiation items you should provide any additional information or clarification requested. You may feel that an issue was addressed in the application. It may not, however, have been explained in enough detail to make it understood by reviewers, and more information should be provided. If you are asked to make changes that you feel could seriously affect the project's success you may provide reasons for not making the changes or provide

alternative suggestions. Similarly, if proposed budget reductions will, in your opinion, seriously affect the activities you may want to explain why and provide additional justification for the proposed expenses. Your changes, explanations, and alternative suggestions will be carefully evaluated by staff. In some instances additional negotiations or follow-up information may be needed. In such instances you will again be contacted by the grants negotiator. An award cannot be made until all negotiation issues have been resolved.

• Successful Applications and Estimated/Projected Budget Amounts in Subsequent Years

In this era of budget deficits and need for cost containment, a conservative policy toward current and out-year budget expenditures is necessary. Projects will not be funded in excess of the amount listed in the **Federal Register** announcement. Any project approved by the reviewers that exceeds the estimated size of award will be required to be performed within the announced amount. The budget estimates that you provide in your application for out-year costs are critical for planning purposes, but they in no way represent a commitment by the Department to a particular level of funding in subsequent years. Budget modifications during the negotiation process, the findings from the initial year, or needed changes in the research design can affect your budget requirements in subsequent years. However, keep in mind that multi-year projects are likely to be level funded unless there are increases in costs attributable to significant changes in activity level. Grantees having multi-year projects will be asked to submit a continuation application and a detailed budget request prior to each year of the project.

• Difference Between a Cooperative Agreement and a Grant

A cooperative agreement is similar to a grant in that its principal purpose is to accomplish a public purpose of support or stimulation as authorized by a Federal statute. It differs from a grant in the sense that in a cooperative agreement substantial involvement is anticipated between the executive agency (in this case the Department of Education) and the recipient during the performance of the contemplated activity.

• Obtaining Copies of the **Federal Register**, Program Regulations and Federal Statutes

Copies of these materials can usually be found at your local library. If not, they can be obtained from the Government Printing Office by writing to: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. Telephone: (202) 783–3238.

BILLING CODE 4000–01–M

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION: *Application* ☐ Construction ☐ Non-Construction; *Preapplication* ☐ Construction ☐ Non-Construction	2. DATE SUBMITTED	Applicant Identifier
	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address *(give city, county, state, and zip code)*:	Name and telephone number of the person to be contacted on matters involving this application *(give area code)*

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify): _____

8. TYPE OF APPLICATION:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other *(specify)*:

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐ . ☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT *(cities, counties, states, etc.)*:

13. PROPOSED PROJECT: Start Date	Ending Date	14. CONGRESSIONAL DISTRICTS OF: a. Applicant	b. Project

15. ESTIMATED FUNDING:		
a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE _____

b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item: Entry:

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:
   - "New" means a new assistance award.
   - "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
   - "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9. Name of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project. if more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

Item: Entry:

12. List only the largest political entities affected (e.g., State, counties, cities).
13. Self-explanatory.
14. List the applicant's Congressional District and any District(s) affected by the program or project.
15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

OMB Approval No. 0348-0044

BUDGET INFORMATION — Non-Construction Programs

SECTION A – BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. TOTALS		$	$	$	$	$

SECTION B – BUDGET CATEGORIES

6 Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)
	(1)	(2)	(3)	(4)	
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7. Program Income	$	$	$	$	$

Authorized for Local Reproduction

Standard Form 424A (4-88)
Prescribed by OMB Circular A-102

SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTALS (sum of lines 8 and 11)	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. NonFederal					
15. TOTAL (sum of lines 13 and 14)	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTALS (sum of lines 16 -19)	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION

(Attach additional Sheets if Necessary)

21. Direct Charges:	22. Indirect Charges:
23. Remarks	

SF 424A (4-88) Page 2
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

INSTRUCTIONS FOR THE SF-424A

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A,B,C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A,B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary
Lines 1-4, Columns (a) and (b)

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in *Column* (a) and the respective catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1-4, Columns (c) through (g.)

For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

Lines 1-4, Columns (c) through (g.) (continued)

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5 — Show the totals for all columns used.

Section B Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1-4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a-i — Show the totals of Lines 6a to 6h in each column.

Line 6j – Show the amount of indirect cost.

Line 6k – Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)-(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

INSTRUCTIONS FOR THE SF-424A *(continued)*

Line 7 – Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal-Resources

Lines 8-11 – Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a) – Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b) – Enter the contribution to be made by the applicant.

Column (c) – Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d) – Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e) – Enter totals of Columns (b), (c), and (d).

Line 12 — Enter the total for each of Columns (b)-(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13 – Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14 – Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15 – Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16 - 19 – Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20 – Enter the total for each of the Columns (b)-(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21 – Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22 – Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23 – Provide any other explanations or comments deemed necessary.

BILLING CODE 4000-01-C

Application Narrative and Instructions

Applications are more likely to receive favorable reviews by panels when they are organized according to the published evaluation criteria found elsewhere in this packet. If you prefer to use a different format you may wish to cross-reference the sections of your application to the evaluation criteria to ensure that reviewers are able to find all relevant information.

The following is a suggested format you may wish to use in preparing your application. This suggested format is advisory only, since the scope and complexity of projects is too variable to establish firm limits on length and format. In your application you may wish to include the following features in the order listed below:

(a) An abstract of the project;

(b) The extent the project meets the purposes of the authorizing statute;

(c) The extent the project meets specific needs recognized in the statute that authorizes the program;

(d) The plan of operation which the applicant proposes to use to administer the project;

(e) The quality of key personnel to be used to achieve each objective;

(f) Budget and cost effectiveness to achieve the proposed activity;

(g) The evaluation plan to evaluate the project; and

(h) The adequacy of resources available and needed to achieve each objective.

Instructions for Estimated Public Reporting Burden

Under terms of the Paperwork Reduction Act of 1980, as amended, and the regulations implementing that Act, the Department of Education invited comment on the public reporting burden in this collection of information. Public reporting burden for this collection of information is estimated to average 42 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. You may send comments regarding this burden estimate or any other aspect of this collection of the information, including suggestions for reducing this burden, to the U.S. Department of Education, Information Management and Compliance Division, Washington, DC 20202–4651; and to the Office of Management and Budget, Paperwork Reduction Project 1820–0586, Washington, DC 20503.

(Information collection approved under OMB Control number 1820–0586. Expiration date: 7/31/92.)

BILLING CODE 4000–01–M

FINANCIAL STATUS REPORT

(Short Form)

(Follow instructions on the back)

1. Federal Agency and Organizational Element to Which Report is Submitted	2. Federal Grant or Other Identifying Number Assigned By Federal Agency	OMB Approval No. 0348–0039	Page	of pages

3. Recipient Organization (Name and complete address, including ZIP code)

4. Employer Identification Number	5. Recipient Account Number or Identifying Number	6. Final Report ☐ Yes ☐ No	7. Basis ☐ Cash ☐ Accrual

8. Funding/Grant Period *(See Instructions)* From: (Month, Day, Year)	To: (Month, Day, Year)	9. Period Covered by this Report From: (Month, Day, Year)	To: (Month, Day, Year)

10. Transactions:	I Previously Reported	II This Period	III Cumulative
a. Total outlays			
b. Recipient share of outlays			
c. Federal share of outlays			
d. Total unliquidated obligations			
e. Recipient share of unliquidated obligations			
f. Federal share of unliquidated obligations			
g. Total Federal share *(Sum of lines c and f)*			
h. Total Federal funds authorized for this funding period			
i. Unobligated balance of Federal funds *(Line h minus line g)*			

11. Indirect Expense	a. Type of Rate *(Place "X" in appropriate box)* ☐ Provisional ☐ Predetermined ☐ Final ☐ Fixed			
	b. Rate	c. Base	d. Total Amount	e. Federal Share

12. *Remarks: Attach any explanations deemed necessary or information required by Federal sponsoring agency in compliance with governing legislation.*

13. Certification: **I certify to the best of my knowledge and belief that this report is correct and complete and that all outlays and unliquidated obligations are for the purposes set forth in the award documents.**

Typed or Printed Name and Title	Telephone (Area code, number and extension)
Signature of Authorized Certifying Official	Date Report Submitted

Previous Editions not Usable

Standard Form 269A (REV 4-88)
Prescribed by OMB Circulars A-102 and A-110

FINANCIAL STATUS REPORT

(Short Form)

Please type or print legibly. The following general instructions explain how to use the form itself. You may need additional information to complete certain items correctly, or to decide whether a specific item is applicable to this award. Usually, such information will be found in the Federal agency's grant regulations or in the terms and conditions of the award. You may also contact the Federal agency directly.

Item	Entry	Item	Entry

1, 2 and 3. Self-explanatory.

4. Enter the employer identification number assigned by the U.S. Internal Revenue Service.

5. Space reserved for an account number or other identifying number assigned by the recipient.

6. Check *yes* only if this is the last report for the period shown in item 8.

7. Self-explanatory.

8. Unless you have received other instructions from the awarding agency, enter the beginning and ending dates of the current funding period. If this is a multi-year program, the Federal agency might require cumulative reporting through consecutive funding periods. In that case, enter the beginning and ending dates of the grant period, and in the rest of these instructions, substitute the term "grant period" for "funding period."

9. Self-explanatory.

10. The purpose of columns, I, II and III is to show the effect of this reporting period's transactions on cumulative financial status. The amounts entered in column I will normally be the same as those in column III of the previous report in *the same funding period.* If this is the first or only report of the funding period, leave columns I and II blank. If you need to adjust amounts entered on previous reports, footnote the column I entry on this report and attach an explanation.

10a. Enter total program outlays less any rebates, refunds, or other credits. For reports prepared on a cash basis, outlays are the sum of actual cash disbursements for direct costs for goods and services, the amount of indirect expense charged, the value of in-kind contributions applied, and the amount of cash advances and payments made to sub-recipients. For reports prepared on an accrual basis, outlays are the sum of actual cash disbursements for direct charges for goods and services, the amount of indirect expense incurred, the value of in-kind contributions applied, and the net increase or decrease in the amounts owed by the recipient for goods and other property received, for services performed by employees, contractors, subgrantees and other payees, and other amounts becoming owed under programs for which no current services or performances are required, such as annuities, insurance claims, and other benefit payments.

10b. Self-explanatory.

10c. Self-explanatory.

10d. Enter the amount of unliquidated obligations, including unliquidated obligations to subgrantees and contractors.

Unliquidated obligations on a cash basis are obligations incurred, but not yet paid. On an accrual basis, they are obligations incurred, but for which an outlay has not yet been recorded.

Do not include any amounts on line 10d that have been included on lines 10a, b or c.

On the final report, line 10d must be zero.

10e, f, g, h and i. Self-explanatory.

11a. Self-explanatory.

11b. Enter the indirect cost rate in effect during the reporting period.

11c. Enter the amount of the base against which the rate was applied.

11d. Enter the total amount of indirect costs charged during the report period.

11e. Enter the Federal share of the amount in 11d.

Note: If more than one rate was in effect during the period shown in item 8, attach a schedule showing the bases against which the different rates were applied, the respective rates, the calendar periods they were in effect, amounts of indirect expense charged to the project, and the Federal share of indirect expense charged to the project to date.

OMB Approval No. 0348-0040

ASSURANCES — NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C.§§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program andto purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11 Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110 –

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 –

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about–

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will–

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office

Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted--

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

_____

_____

_____

Check ☐ if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 --

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013, 6/90 (Replaces ED 80-0008, 12/89; ED Form GCS-008, (REV. 12/88); ED 80-0010, 5/90; and ED 80-0011, 5/90, which are obsolete)

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV. 12/88), which is obsolete)

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0346-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change For Material Change Only: year _____ quarter _____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier _____, *if known*: Congressional District, *if known*:	Congressional District, *if known*:
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, *if applicable*: _____
8. Federal Action Number, *if known*:	9. Award Amount, *if known*: $
10. a. Name and Address of Lobbying Entity (*if individual, last name, first name, MI*):	b. Individuals Performing Services (*including address if different from No. 10a*) (*last name, first name, MI*):

(*attach Continuation Sheet(s) SF-LLL-A, if necessary*)

11. Amount of Payment (*check all that apply*):	13. Type of Payment (*check all that apply*):
$ _____ ☐ actual ☐ planned	☐ a. retainer ☐ b. one-time fee ☐ c. commission ☐ d. contingent fee ☐ e. deferred ☐ f. other; specify: _____
12. Form of Payment (*check all that apply*): ☐ a. cash ☐ b. in-kind; specify: nature _____ value _____	

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(*attach Continuation Sheet(s) SF-LLL-A, if necessary*)

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____

Print Name: _____

Title: _____

Telephone No.: _____ Date: _____

Federal Use Only:

Authorized for Local Reproduction
Standard Form - LLL

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.

12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.

13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.

14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.

15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.

16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 mintues per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.

DISCLOSURE OF LOBBYING ACTIVITIES
CONTINUATION SHEET

Approved by OMB
0348-0046

Reporting Entity: _____ Page _____ of _____

[FR Doc. 91-17229 Filed 7-18-91; 8:45 am]
BILLING CODE 4000-01-C

Authorized for Local Reproduction
Standard Form - LLL-A

Reader Aids

Federal Register

Vol. 56, No. 139

Friday, July 19, 1991

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	523-5227
Public inspection desk	523-5215
Corrections to published documents	523-5237
Document drafting information	523-5237
Machine readable documents	523-3447

Code of Federal Regulations

Index, finding aids & general information	523-5227
Printing schedules	523-3419

Laws

Public Laws Update Service (numbers, dates, etc.)	523-6641
Additional information	523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the Presidents	523-5230
Weekly Compilation of Presidential Documents	523-5230

The United States Government Manual

General information	523-5230

Other Services

Data base and machine readable specifications	523-3408
Guide to Record Retention Requirements	523-3187
Legal staff	523-4534
Library	523-5240
Privacy Act Compilation	523-3187
Public Laws Update Service (PLUS)	523-6641
TDD for the hearing impaired	523-5229

FEDERAL REGISTER PAGES AND DATES, JULY

29889-30306.....1
30307-30492.....2
30483-30678.....3
30679-30856.....5
30857-31042.....8
31043-31304.....9
31305-31532.....10
31533-31854.....11
31855-32060.....12
32061-32318.....15
32319-32498.....16
32499-32950.....17
32951-33188.....18
33189-33366.....19

CFR PARTS AFFECTED DURING JULY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:

Memorandums:
June 25, 1991.....31041

Presidential Determinations:
No. 91-41 of June 19, 1991.....31303
No. 91-42 of June 21, 1991.....30483
No. 91-43 of June 24, 1991.....31037
No. 91-44 of June 24, 1991.....31039

Proclamations:

3019 (See Proc. 6313)
6310.....30303
6311.....30307
6312.....30855
6313.....31853
6314.....32059
6315.....32497

Executive Orders:

12473 (See EO 12767).....30283
12484 (See EO 12767).....30283
12532 (Revoked by EO 12769).....31855
12535 (Revoked by EO 12769).....31855
12550 (See EO 12767).....30283
12571 (See EO 12769).....31855
12586 (See EO 12767).....30283
12700 (Amended by EO 12768).....30301
12708 (See EO 12767).....30283
12767.....30283
12768.....30301
12769.....31855

5 CFR

532.....31305
2412.....33189

Proposed Rules:

842.....30701
843.....30701

7 CFR

2.....32951
20.....32951
29.....31533
51.....32474
58.....30485
210.....32919
215.....32919
220.....30309, 32919
235.....32919
245.....32919
301.....29889, 33190
458.....30489
905.....32061
917.....32062
929.....32499
947.....31534
1005.....31857
1205.....31284
1210.....32063
1220.....31043
1230.....32952
1403.....32319
1475.....33190
1530.....30857
1942.....31535
1944.....30311, 30494

Proposed Rules:

1.....32340
28.....30618
52.....32121
210.....30339, 32241
235.....30339, 32241
245.....30339, 32241
800.....29907, 30342
810.....29907, 30342
905.....32340
910.....30878, 30879, 33213
916.....30881
917.....30881
945.....32128
967.....32129
1007.....32519
1124.....32130
1126.....32131
1205.....31209
1211.....30517
1413.....32132
1421.....29912
1942.....31548
1943.....30347
1951.....30347
1980.....30347
3400.....30256

8 CFR

103.....31060, 32500
214.....31305
217.....32952
240.....32500
242.....33204
245a.....31060
251.....31305
258.....31305
287.....33204
338.....30679

Proposed Rules:

204.....30703
214.....31553

9 CFR

78.....32604, 32605

92 31858
Proposed Rules:
54 32342
79 32342

10 CFR

2 32066
9 32070
20 32071
50 31306
52 31472
55 32066
71 31472
170 31472
171 31472
Proposed Rules:
707 30644

12 CFR

268 32954
312 29893
563 ..... 31061, 32474
584 31061
612 32956
1618 30836

13 CFR

107 ..... 30850, 31774

14 CFR

39 ..... 30313–30316, 30319–30324, 30680–30683, 31070–31072, 31324–31326, 31868, 31869, 32072–32075, 32320, 32957, 32958, 33213
71 ..... 30684, 30685, 31689, 32076, 33961
73 30685
95 30686
97 ..... 30317, 32502
129 30122
158 30867
1214 31073
Proposed Rules:
Ch. I 33213
21 31879
25 31879
39 ..... 30350, 30351, 31881–31885, 32136, 33214, 33215
71 ..... 30353, 30354, 30618, 30883, 32138, 32519–32522, 32991, 33217
73 30355
91 30618
207 31092
208 31092
212 31092
241 32992
294 31092
298 31092
380 31092

15 CFR

8a 29896
29a 29896
29b 29896

16 CFR

305 30494
1000 30495
Proposed Rules:
1500 ..... 31348, 32352
1700 30355

17 CFR

200 30036
201 30036
210 30036
229 30036
230 30036
239 30036
240 ..... 30036, 32077
249 30036
260 30036
269 30036
289 32078
290 32081
Proposed Rules:
146 32358
240 31349

18 CFR

4 31327
284 30692
401 30500

19 CFR

4 32084
122 32085
178 32085
Proposed Rules:
24 31576

20 CFR

Proposed Rules:
320 30714
340 32523
404 ..... 31266, 33130
416 ..... 30884, 33130
656 32244

21 CFR

58 32087
520 31075
522 31075
524 31075
558 29896
812 32241
Proposed Rules:
101 ..... 30452, 30468
102 30452
310 32282
357 32282
864 32359
888 32145

22 CFR

40 30422
41 30422
42 ..... 30422, 32322
43 30422
44 30422
45 32503
47 32324

24 CFR

Subtitle A 32325
50 30325
58 30325
86 30430
Proposed Rules:
961 30176

25 CFR

Proposed Rules:
151 32278

26 CFR

Proposed Rules:
1 ..... 30718–30721, 31349, 31350, 31689, 31887–31890, 32525, 32533
20 31362
25 31362
48 30359
301 ..... 31362, 31890

27 CFR

4 31076
5 31076
6 31076
7 31076
9 31076
19 31076
24 31076
53 31076
70 31076
178 32507
252 31076
Proposed Rules:
4 29913

28 CFR

0 30693
2 30867–30872
50 32326
64 32327
500 31350
503 31350
524 30676
541 31350
545 31350
546 31350
Proposed Rules:
75 29914

29 CFR

500 30326
870 32254
1600 30502
2610 32088
2622 32088
2644 32089
2676 32090
Proposed Rules:
1910 32302

30 CFR

56 32091
57 32091
250 ..... 31890, 32091
901 ..... 30502, 32509
904 32961
Proposed Rules:
218 31891
230 31891
772 32050
913 31577
914 31093
917 30722
920 30517
935 31986
950 31898
963 31094
Proposed Rules:
740 33152
761 ..... 33152, 33170
772 33152
784 33170
817 33170

31 CFR

545 32055

32 CFR

Ch. I 31085, 31537
192 32964
195 32965
199 32965
286b 32965
300 32965
301 32964
352 31537
362 31540
861 30327
Proposed Rules:
153 33218
199 ..... 30360, 30887
228 30365

33 CFR

1 30242
100 ..... 29897–29899, 30507, 31085, 31872–31875
117 30332
165 ..... 30334, 30507–30509, 31086, 31876, 32111, 32112
Proposed Rules:
100 ..... 29916, 31879, 32115
117 32151

34 CFR

361 33148
668 33332
682 33332
Proposed Rules:
361 30620

35 CFR

Proposed Rules:
101 31362

36 CFR

7 30694

37 CFR

Proposed Rules:
201 ..... 31580, 32474

38 CFR

21 31331
36 29899
Proposed Rules:
3 30893

39 CFR

Proposed Rules:
265 31363

40 CFR

52 ..... 30335, 32511, 32512
82 30873
141 ..... 30264, 32112, 33050
142 ..... 30264, 32212, 33050
143 30264
180 ..... 29900, 32514
260 32688
261 ..... 30192, 32688, 32993
262 30192
264 ..... 30192, 30200, 32688
265 ..... 30192, 30200, 32688
266 32688
270 ..... 30192, 32688
271 ..... 30336, 32328, 32688, 33206
721 ..... 29902, 29903
Proposed Rules:
28 29996
52 ..... 29918, 31364
79 33228
80 ..... 29919, 31148–31176, 32533

86.....30228, 32533
136.....30519
180.....33236
185.....33236
186.....33236
260.....30519
261.....30519, 33238
264.....30201
265.....30201
280.....30201
300.....31900
761.....30201
798.....32537
799.....32292

41 CFR

50-202.....32257

42 CFR

405.....31332
442.....30696
484.....32967

Proposed Rules:

417.....30723, 31597

43 CFR

Public Land Orders:

6865.....32515

Proposed Rules:

11.....30367
415.....31601
3160.....29920
3400.....32002
3410.....32002
3420.....32002
3440.....32002
3450.....32002
3460.....32002
3470.....32002
3480.....32002
3800.....31602
3810.....30367
3820.....30367
4700.....30372

44 CFR

8.....32328
64.....31337-31339
65.....32329, 32330
67.....32330
302.....29903
361.....32490

Proposed Rules:

67.....32490

45 CFR

Proposed Rules:

233.....32152
1160.....32155

46 CFR

16.....31030
221.....30654

Proposed Rules:

586.....30373

47 CFR

2.....32474
73.....30337, 30510-30512, 31087, 31545, 31546, 31876, 32113, 32114, 32371, 32372, 32975-32978
90.....32515
94.....30698
97.....32515

Proposed Rules:

Ch. I.....30373
2.....31095
73.....30374, 30375, 30524-30526, 31902, 32158, 32474, 33013
76.....30526, 30726
90.....31097

48 CFR

232.....31341
252.....31341
519.....30618
1513.....32518
1804.....32115
1806.....32115
1807.....32115
1825.....32115
1839.....32115
1842.....32115
1845.....32115
1852.....32115
1853.....32115

Proposed Rules:

10.....31844
15.....33330
28.....31278
52.....31278, 31844, 33330
209.....32159
242.....32159

49 CFR

1.....31343
40.....30512
190.....31087, 33208
192.....31087, 33208
193.....31087, 33208
195.....31087, 33208
199.....31087, 33208
1017.....32333
1039.....31546
1051.....30873
1152.....32336
1220.....30873

Proposed Rules:

571.....30528, 32544, 33239
1039.....32159

50 CFR

17.....32978
611.....33208
630.....29905, 31347
641.....30513
646.....33210
650.....30514
663.....30338
672.....30874, 31547, 32119, 32983
675.....30515, 30699, 30874, 32338, 32984, 33210
685.....31689, 33211

Proposed Rules:

17.....31902, 33241
20.....32264-32275
298.....32160
646.....32000
642.....29920
646.....29922, 32000
651.....29934
663.....32165
680.....30893
685.....30376

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List July 15, 1991

Would you like to know...

if any changes have been made to the Code of Federal Regulations or what documents have been published in the Federal Register without reading the Federal Register every day? If so, you may wish to subscribe to the *LSA (List of CFR Sections Affected)*, the *Federal Register Index*, or both.

LSA • List of CFR Sections Affected

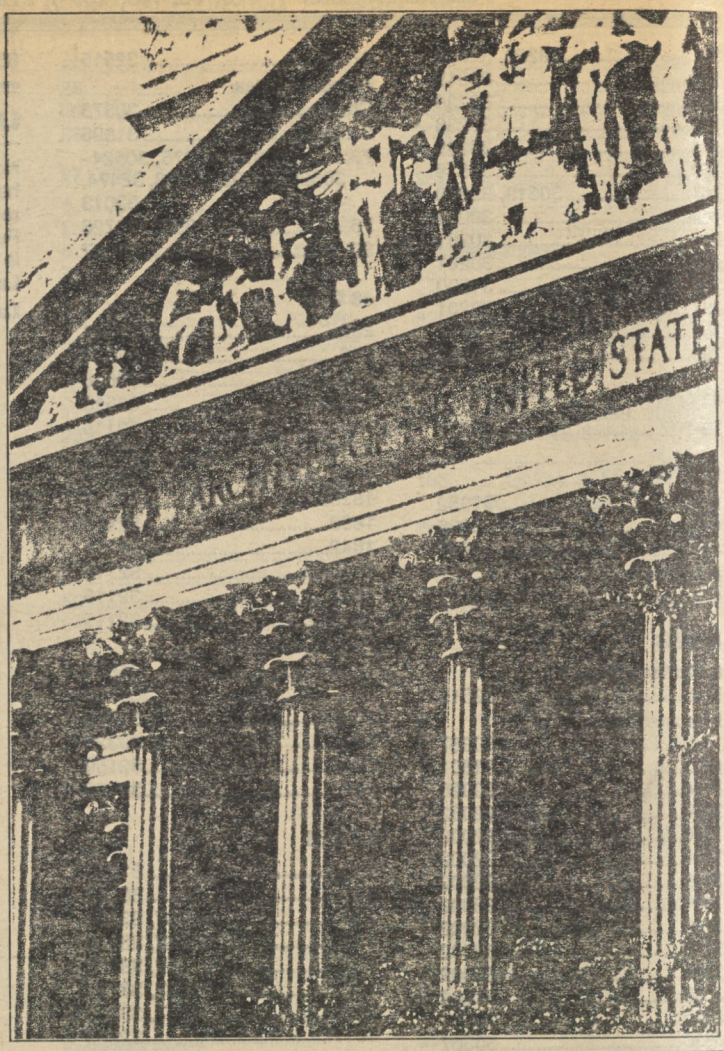
The LSA (List of CFR Sections Affected) is designed to lead users of the Code of Federal Regulations to amendatory actions published in the Federal Register. The LSA is issued monthly in cumulative form. Entries indicate the nature of the changes—such as revised, removed, or corrected.
$21.00 per year

Federal Register Index

The index, covering the contents of the daily Federal Register, is issued monthly in cumulative form. Entries are carried primarily under the names of the issuing agencies. Significant subjects are carried as cross-references.
$19.00 per year.

A finding aid is included in each publication which lists Federal Register page numbers with the date of publication in the Federal Register.

Note to FR Subscribers:
FR Indexes and the LSA (List of CFR Sections Affected) are mailed automatically to regular FR subscribers.



Superintendent of Documents Subscriptions Order Form

Order Processing Code:
*6483

Charge your order. It's easy!

Charge orders may be telephoned to the GPO order desk at (202) 783-3238 from 8:00 a.m. to 4:00 p.m. eastern time, Monday-Friday (except holidays).

☐ **YES,** please send me the following indicated subscriptions:

☐ LSA • List of CFR Sections Affected—one year as issued—$21.00 (LCS)

☐ Federal Register Index—one year as issued—$19.00 (FRSU)

1. The total cost of my order is $_____ . All prices include regular domestic postage and handling and are subject to change. International customers please add 25%.

Please Type or Print

2. _____
(Company or personal name)

_____
(Additional address/attention line)

_____
(Street address)

_____
(City, State, ZIP Code)

(_____)
_____
(Daytime phone including area code)

3. **Please choose method of payment:**

☐ Check payable to the Superintendent of Documents

☐ GPO Deposit Account ☐☐☐☐☐☐☐☐-☐

☐ VISA or MasterCard Account

☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

_____
(Credit card expiration date)

Thank you for your order!

_____
(Signature)

(REV. 10-1-88)

4. **Mail To:** Superintendent of Documents, Government Printing Office, Washington, DC 20402-9371

Order Now!

The United States Government Manual 1990/91

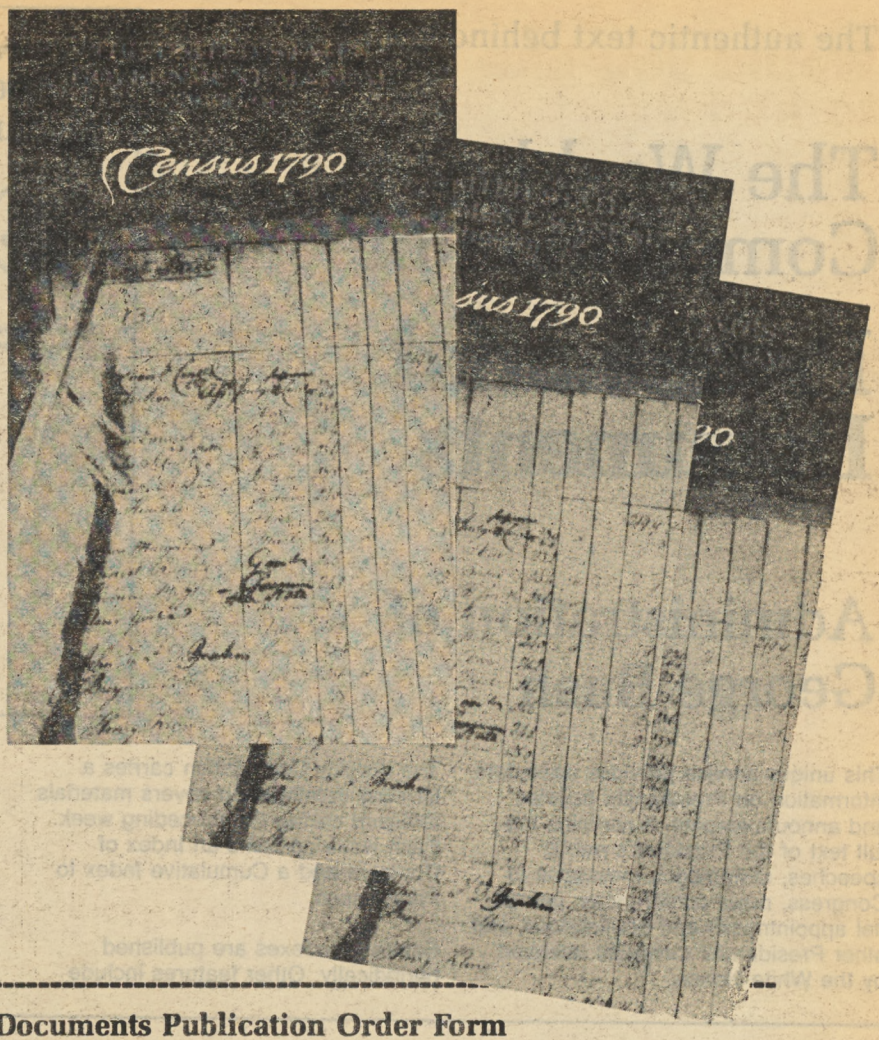
As the official handbook of the Federal Government, the *Manual* is the best source of information on the activities, functions, organization, and principal officials of the agencies of the legislative, judicial, and executive branches. It also includes information on quasi-official agencies and international organizations in which the United States participates.

Particularly helpful for those interested in where to go and who to see about a subject of particular concern is each agency's "Sources of Information" section, which provides addresses and telephone numbers for use in obtaining specifics on consumer activities, contracts and grants, employment, publications and films, and many other areas of citizen interest. The *Manual* also includes comprehensive name and agency/subject indexes.

Of significant historical interest is Appendix C, which lists the agencies and functions of the Federal Government abolished, transferred, or changed in name subsequent to March 4, 1933.

The *Manual* is published by the Office of the Federal Register, National Archives and Records Administration.

$21.00 per copy



Superintendent of Documents Publication Order Form

Order processing code: *6901

Charge your order. It's easy! MasterCard VISA

To fax your orders and inquiries. 202-275-2529

☐ **YES,** please send me the following indicated publication:

_____ copies of THE UNITED STATES GOVERNMENT MANUAL, 1990/91 at $21.00 per copy. S/N 069-000-00033-9.

1. The total cost of my order is $_____ (International customers please add 25%). All prices include regular domestic postage and handling and are good through 5/91. After this date, please call Order and Information Desk at 202-783-3238 to verify prices.

Please Type or Print

2. _____
(Company or personal name)

_____
(Additional address/attention line)

_____
(Street address)

_____
(City, State, ZIP Code)

(_____)
(Daytime phone including area code)

3. Please choose method of payment:

☐ Check payable to the Superintendent of Documents

☐ GPO Deposit Account ☐☐☐☐☐☐☐–☐

☐ VISA, or MasterCard Account

☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

_____
(Credit card expiration date)

Thank you for your order!

_____
(Signature)

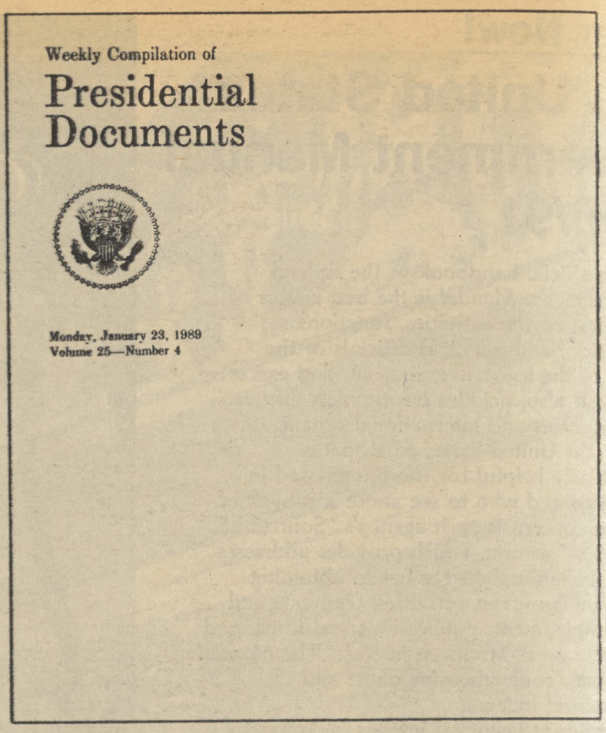
(Rev. 10-90)

4. **Mail To:** Superintendent of Documents, Government Printing Office, Washington, DC 20402-9325

The authentic text behind the news . . .

The Weekly Compilation of **Presidential Documents**

Administration of George Bush



This unique service provides up-to-date information on Presidential policies and announcements. It contains the full text of the President's public speeches, statements, messages to Congress, news conferences, personnel appointments and nominations, and other Presidential materials released by the White House.

The Weekly Compilation carries a Monday dateline and covers materials released during the preceding week. Each issue contains an Index of Contents and a Cumulative Index to Prior Issues.

Separate indexes are published periodically. Other features include lists of acts approved by the President, nominations submitted to the Senate, a checklist of White House press releases, and a digest of other Presidential activities and White House announcements.

Published by the Office of the Federal Register, National Archives and Records Administration.

Superintendent of Documents Subscriptions Order Form

Order Processing Code:
***6466**

Charge your order. It's easy!

MasterCard VISA

Charge orders may be telephoned to the GPO order desk at (202) 783-3238 from 8:00 a.m. to 4:00 p.m. eastern time, Monday-Friday (except holidays)

☐ **YES,** please enter my subscription for one year to the **WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS (PD)** so I can keep up to date on Presidential activities.

☐ $96.00 First Class ☐ $55.00 Regular Mail

1. The total cost of my order is $_____. All prices include regular domestic postage and handling and are subject to change. International customers please add 25%.

Please Type or Print

2. _____
(Company or personal name)

_____
(Additional address/attention line)

_____
(Street address)

_____
(City, State, ZIP Code)

(_____) _____
(Daytime phone including area code)

3. Please choose method of payment:

☐ Check payable to the Superintendent of Documents

☐ GPO Deposit Account ☐☐☐☐☐☐☐–☐

☐ VISA or MasterCard Account

☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

_____
(Credit card expiration date)

Thank you for your order!

_____
(Signature)

(Rev. 1-20-89)

4. Mail To: Superintendent of Documents, Government Printing Office, Washington, D.C. 20402-9371