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Tuesday
October 1 1991

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**Reader Aids**

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

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# Presidential Documents

Title 3—

The President

**Proclamation 6340 of September 27, 1991**

## National Domestic Violence Awareness Month, 1991

**By the President of the United States of America**

**A Proclamation**

When we Americans celebrate Thanksgiving later this fall, most of us will be able to count home and family among our greatest blessings. Tragically, however, far too many of our fellow citizens have been denied the joys of a happy home as a result of domestic violence.

Domestic violence not only inflicts great physical pain and suffering but also undermines the very fabric of society. A tragic betrayal of personal trust and responsibility, it strikes at the fundamental bonds of family life—bonds that, in turn, hold together any truly stable community and nation. Thus, domestic violence cannot be dismissed as a simply "private" matter. Its impact warrants the attention and concern of all Americans.

Domestic violence is not limited to any one group; it affects individuals and families from every race and every walk of life. Neither is it just a series of hostile exchanges or the kind of simple quarrels that can occur from time to time in every family. On the contrary, domestic violence is a serious and destructive pattern of behavior that can lead to injury and death.

The Department of Health and Human Services reports that domestic violence is already the largest cause of injury to women in the United States, and that its incidence is rising. Other victims include the elderly, as well as abused and neglected children. Youngsters who suffer or simply witness domestic violence may carry emotional scars for a lifetime. Those scars can lead to vicious cycles of abuse and despair.

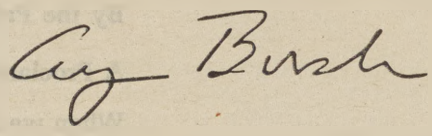
Fortunately, we have made progress in our campaign to end the tragedy of domestic violence. During the past decade, we have taken great strides in coordinating Federal support with local and private-sector efforts to expand prevention services—particularly in areas that have been traditionally underserved. We have also promoted greater coordination of services for abused spouses and their children, thereby helping to meet long-term needs—such as substance abuse treatment, child care, and counseling—as well as immediate needs for shelter. Of course, because domestic violence poses such a grave threat to individuals and families, we still have more work to do.

Every autumn since 1985, we have set aside National Domestic Violence Awareness Month as a time to reflect on this problem and on ways that we can assist its victims. This year, let us recognize the many dedicated volunteers and professionals who offer shelter and support to the victims of domestic violence. Let us also strive to learn more about domestic violence and how each of us can help bring an end to it.

The Congress, by Senate Joint Resolution 73, has designated October 1991 as "National Domestic Violence Awareness Month" and has authorized and requested the President to issue a proclamation in observance of this month.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim October 1991 as National Domestic Violence Awareness Month. I urge all Americans to observe this month with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-seventh day of September, in the year of our Lord nineteen hundred and ninety-one, and of the Independence of the United States of America the two hundred and sixteenth.



[FR Doc. 91-23745
Filed 9-27-91; 3:10 pm]
Billing code 3195-01-M

# Presidential Documents

**Proclamation 6341 of September 27, 1991**

## National Forest Products Week, 1991

**By the President of the United States of America**

**A Proclamation**

Ever since this country's earliest inhabitants hunted game and gathered food in their deep shade, America's forests have provided man with vital sustenance, as well as wood for fuel and shelter. During National Forest Products Week, we reflect on the continuing importance of our Nation's forests and remind ourselves of the need to manage them with care.

From our celebrated national forests to our prized State parks, from our vast industrial timberlands to the small, privately owned woodlots of rural America, our country's forests provide a wealth of benefits. Various species of plants and animals thrive on these rich tracts of land. Individuals and families find in them a wonderful setting for camping and other recreational activities. Yet our forests provide more than habitat for wildlife and beauty for the eye. Wood and wood products are used to make a multitude of products, from the floors beneath our feet to the roofs over our heads. All of our paper products come from wood—everything from the newspapers that help us stay informed to the stationery that helps us stay in touch with family, friends, and coworkers.

While today's antiques remind us that furniture made from wood can last for generations, scientists are demonstrating how wood products and derivatives can shape the look of tomorrow.

The development and use of forest products not only affect our personal comfort and well-being on a daily basis but also contribute substantially to our Nation's economy. According to the Department of the Interior, the forest industry employs nearly 1.6 million men and women, who together earn almost $43.6 billion in annual wages.

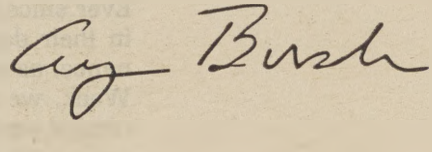
Given their contributions to our economy and to the livelihood of countless individuals and families, we must remember that our Nation's magnificent forests are, in many ways, precious and fragile. Trees can be destroyed needlessly by disease, by forest fires and other natural disasters, and by human carelessness. If we are to continue to meet a variety of consumer needs, our forests must be protected and renewed.

During the past 100 years, we have moved toward more efficient and responsible management of our forest resources. Indeed, through various methods (such as multiple-use and sustained yield management), we are helping nature to replenish our forests. State and local governments, private and voluntary organizations, and concerned individuals are promoting and participating in efforts to conserve and recycle paper products. Millions of people are also taking part in the America the Beautiful Initiative, helping to plant and maintain nearly 1 billion trees per year across the country, in both urban and rural areas. This month, let us acknowledge the importance of these efforts and renew our commitment to them.

In recognition of the value of our forests, the Congress, by Public Law 86–753 (36 U.S.C. 163), designated the week beginning on the third Sunday in October of each year as "National Forest Products Week" and authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the week beginning October 20, 1991, as National Forest Products Week and encourage all Americans to observe that week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-seventh day of September, in the year of our Lord nineteen hundred and ninety-one, and of the Independence of the United States of America the two hundred and sixteenth.



[FR Doc. 91–23751
Filed 9–27–91; 3:22 pm]
Billing code 3195–01–M

# Presidential Documents

**Proclamation 6342 of September 27, 1991**

## Leif Erikson Day, 1991

**By the President of the United States of America**

**A Proclamation**

Each October, Americans of all ages join in commemorating the voyages of Leif Erikson, the daring son of Iceland and grandson of Norway who explored the North American coast nearly a millennium ago, and, in so doing, charted a course for generations of Europeans to follow. However, on this occasion, we celebrate more than the remarkable journeys of Leif Erikson and his fellow Norse adventurers. We also celebrate the enduring ties of friendship that exist between the people of the United States and our friends in northern Europe.

Leif Erikson was part of a long line of Norse explorers who braved the vast waters of the Atlantic for the sake of their people's future. His father, Eric the Red, had led the first group of Europeans to colonize Greenland. According to the Icelandic Saga of Eric, young "Leif the Lucky" returned to Norway in the year 1000, and there became a convert to Christianity. When he was later commissioned by King Olaf I to carry the faith back to Greenland, the young navigator once again took to the high seas. Thus, over the course of several generations, Leif Erikson and his fellow Norsemen ventured from their ancestral homeland to places such as the British Isles, the Faroe Islands, Iceland, Greenland, and eventually North America.

Although the first Norse settlements on this continent did not become permanent, the voyages of Leif Erikson and other Norse explorers had a lasting impact on the development of the Western world. These pioneers presaged a later era of discovery that has included other great navigators such as Christopher Columbus, Magellan, and Sir Francis Drake, as well as latter-day explorers like Roald Amundsen, who was the first man to reach the South Pole. Of course, we know that the spirit of daring and discovery continues to thrive today. The fascinating work of our astronauts and engineers, the painstaking research of our physicians, archeologists, and other scientists—all reflect the timeless appeal of exploration and learning.

Among those who have kept alive the bold, industrious spirit of Leif Erikson are Americans who trace their roots to the Nordic countries. Immigrants from Denmark, Finland, Iceland, Norway, and Sweden have greatly enriched this country, not only through their unique customs and traditions, but also through their commitment to educational achievement and good government. Today, as we celebrate our Nordic American heritage with a series of special events—including a gala reenactment of the first Norse voyage to these shores—we also reaffirm our mutually rewarding ties with the countries of northern Europe.

In honor of Leif Erikson and our Nordic American heritage, the Congress, by joint resolution approved on September 2, 1964 (78 Stat. 849, 36 U.S.C. 169c), has authorized and requested the President to proclaim October 9 of each year as "Leif Erikson Day."

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim October 9, 1991, as Leif Erikson Day, and I direct the appropriate government officials to display the flag of the United States on all government buildings on that day. I also encourage the people of the United States to observe this occasion by learning more about our rich Nordic American heritage and the early history of our continent.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-seventh day of September, in the year of our Lord nineteen hundred and ninety-one, and of the Independence of the United States of America the two hundred and sixteenth.

George Bush

[FR Doc. 91-23754
Filed 9-27-91; 3:29 pm]
Billing code 3195-01-M

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Part 932

[Docket No. FV-91-232FR]

## Olives Grown in California; Suspending Provisions Relating to Size Requirements for California Olives for Limited Uses and Establishing Grade and Size Requirements for Olives Authorized for Such Uses During the 1991-92 Season

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This final rule suspends for an indefinite period, order provisions which specify minimum size requirements for California processed olives used in the production of limited use styles of olives such as wedges, halves, slices, or segments. This final rule also authorizes the use of smaller sized olives in the production of limited use styles during the 1991–92 crop year and establishes grade and alternative minimum size requirements for such olives in the order's rules and regulations. The 1991–92 crop year began August 1, 1991, and ends July 31, 1992. The suspension of order provisions which restrict the use of smaller size olives is necessary to permit olives smaller than those used heretofore to be authorized for use in the production of limited use styles. Olives used in limited use styles are too small to be desirable for use as whole or whole pitted canned olives because their flesh-to-pit ratio is too low. However, they are satisfactory for use in the production of limited use styles. This action will help the California olive industry meet the increasing market needs of the food service industry by making smaller olives available for use in the production of limited use styles. This is expected to increase returns to growers on smaller olives. This action was unanimously recommended by the California Olive Committee (committee), which works with the Department in administering the marketing order program for olives grown in California.

**EFFECTIVE DATE:** October 1, 1991.

**FOR FURTHER INFORMATION CONTACT:** Patrick Packnett, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2530–S, Washington, DC 20090–6456; telephone (202) 475–3862.

**SUPPLEMENTARY INFORMATION:** This final rule is issued under Marketing Agreement and Order No. 932 (7 CFR part 932), as amended, regulating the handling of olives grown in California, 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.

This final rule has been reviewed by the U.S. Department of Agriculture (Department) in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has considered the economic impact of this action on small entities.

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

There are six handlers of California olives subject to regulation under the order and approximately 1,350 producers in California. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. Most but not all of the olive producers may be classified as small entities. None of the olive handlers may be classified as small entities.

Nearly all of the olives grown in the United States are produced in California. The growing areas are scattered throughout California with most of the commercial production coming from inland valleys. In 1989, about 66 percent of the production came from the San Joaquin Valley and 34 percent from the Sacramento Valley.

Olive production has fluctuated from a low of 24,200 tons during the 1972–73 crop year to a high of 146,500 tons during the 1982–83 crop year. The committee indicated that 1989 production totalled about 118,990 tons. The various varieties of olives produced in California have alternate bearing tendencies with high production one year and low the next. The committee expects the 1990 production to be about 104,600 tons. It is too early to estimate with precision the 1991 production. However, based on past production and marketing experience, the committee believes that handlers will need smaller sized olives during the 1991–92 crop year to meet the needs for limited use styles of canned olives.

The primary use of California olives is for canned ripe whole and whole pitted olives which are eaten out of hand as hors d'oeuvres or used as an ingredient in cooking and in salads. The canned ripe olive market is essentially a domestic market. Very few California olives are exported.

Paragraph (a)(3) of § 932.51 of the order requires handlers, under the supervision of the inspection service, to dispose of olives smaller than certain sizes (specified in paragraphs (a)(3)(i) through (a)(3)(v)), and olives classified as culls (specified in paragraph (a)(3)(vi)) into non-canning uses. The sizes specified in paragraphs (a)(3)(i) through (a)(3)(iv) are the smallest sizes of olives currently permitted to be used for limited use.

Paragraph (a)(3) of § 932.52 of the order provides that processed olives smaller than the sizes prescribed for whole and whole pitted styles may be used for limited uses if recommended by the committee and approved by the Secretary. Paragraph (a)(3) also prescribes minimum sizes, by variety group, which may be authorized for use in the production of limited use styles by

the Secretary. The sizes are specified in terms of minimum weights for individual olives in various size categories. The section further provides for the establishment of size tolerances.

This action suspends certain non-canning size disposition requirements specified in § 932.51(a)(3) and minimum sizes which may be authorized for limited use specified in § 932.52(a)(3) of the marketing order. This action also authorizes the use of smaller sized California processed olives in the production of limited use styles of olives during the 1991–92 crop year and establishes grade and size requirements for such olives from the 1991–92 crop. These changes were unanimously recommended by the committee at its December 4, 1990, meeting.

The current minimum sizes which may be authorized for limited use specified in § 932.52(a)(3), were established in a 1971 amendment to the marketing order. Olives smaller than the prescribed minimum sizes must be disposed of for less profitable non-canning uses such as crushing for oil. Thus, returns to producers are lower on smaller fruit used for such purposes. The use of smaller sized olives for limited uses has been authorized in all but one crop year since 1971.

Since the 1971 amendment, there have been substantial changes within the olive industry. In spite of the annual limited use authorization, in recent years the industry has not been able to meet the market demand for its products, especially the limited use styles used primarily by the food service industry. The demand for processed olives and for limited use styles is expected to continue to increase. At the same time, the industry has not been able to increase production to meet the market needs for canned ripe olives. The only alternative available at this time is to utilize a larger portion of the fruit currently available.

In light of the current situation, the committee recommended that the portion of § 932.52(a)(3) which specifies minimum sizes which may be used in limited use styles be suspended indefinitely. The language which will be suspended begins with the words "but any such" in the first proviso of the introductory text of paragraph (a)(3) and extends through paragraph (a)(3)(iv). With the provisions suspended, paragraph (a)(3) of § 932.52 will specify that: "Subject to the provisions set forth in paragraph (a)(4) of this section and § 932.51(a) (1) and (2), processed olives to be used in the production of canned pitted ripe olives, other than those of the "tree-ripened" type, shall meet the same requirements as prescribed pursuant to paragraph (a)(2) of this section: *Provided,* that olives smaller than those so prescribed, as recommended annually by the committee and approved by the Secretary, may be authorized for limited use."

Suspending this language will allow the committee to recommend and the Secretary to establish minimum size requirements smaller than those currently specified. Thus, minimum size and grade requirements may be recommended annually by the committee for approval by the Secretary along with the committee's annual recommendation to authorize the use of olives smaller than the minimum canning sizes in the production of limited use styles.

The committee also recommended that a portion of the provisions in paragraph (a)(3) of § 932.51 also be suspended indefinitely recognizing that the sizes of olives required to be disposed of into noncanning uses now could be smaller than the sizes currently specified in paragraph (a)(3)(i) through paragraph (a)(3)(iv) of § 932.51 with the suspension of the provisions in § 932.52 (a)(3). The language to be suspended indefinitely in § 932.51 includes all of paragraphs (a)(3)(i), (a)(3)(ii), (a)(3)(iii), (a)(3)(iv), and the words "for the foregoing variety groups" in paragraph (a)(3)(v). With the provisions suspended, paragraph (a)(3) of § 932.51 would specify that: "Each handler shall, under the supervision of any such inspection service, dispose of into noncanning use an aggregate quantity of olives, comparable in size and characteristics and equal to the quantities shown on the certification for each lot to be: (v) Such other sizes as are not authorized for limited use pursuant to § 932.52; and (vi) Olives classified as culls."

The committee conducted a study during the 1990–91 crop year to determine the feasibility of utilizing smaller sized olives in the production of limited use styles and to determine which sizes could be efficiently processed into such styles. All olive handlers within the industry participated in the study and reported the results to the committee at the December 4 meeting. All handlers reported positive results and agreed that smaller sizes can be efficiently processed into limited use styles. Advanced technology in the form of better processing equipment is currently available. The new technology allows handlers to process smaller olives into limited use styles more efficiently than was possible in the past.

Upon direction from the Department, the committee conducted an informal poll of California olive growers to determine whether growers supported the suspension of these order provisions. Ballots were sent to all olive growers of record along with an explanation of the proposed suspension of order provisions. The results of the poll indicate that the majority of the growers who voted support suspension of the aforementioned order provisions so that the committee has authority to recommend smaller minimum size requirements for olives used in the production of limited use styles than currently specified.

This action will help growers and handlers meet the growing demand for limited use style olives by removing size restrictions from the order and allowing the committee to annually recommend size requirements based upon current conditions. The removal of size restrictions will allow the committee to recommend the use of sizes which currently must be disposed of for non-canning use. In turn, growers will receive a larger return from such olives than they would if the size restrictions currently contained in the order were to remain in effect. The action will also increase the amount of limited use size fruit available and thus decrease handlers' cost for fruit processed into limited use styles since handlers have been using larger size olives for limited use styles.

In conjunction with the suspension of the provisions discussed above, this final rule modifies § 932.153 of subpart-Rules and Regulations (7 CFR 932.108–932.161). The modification will authorize the use of olives smaller than the sizes prescribed for whole and whole pitted styles in the production of limited use styles and establish grade and size regulations for 1991–92 crop limited use size olives. The modification is issued pursuant to paragraph (a)(3) of § 932.52 of the order, as amended by this final rule. The grade requirements are the same as established last season. The size requirements are based on the study authorized by the committee and conducted by all olive handlers within the California olive industry during the 1990–91 crop year. The specific sizes for the variety groups are the minimum sizes which are desirable for use in the production of limited use styles at this time.

As in past years, permitting the use of the smaller olives in the production of limited use styles allows handlers to take advantage of the strong market for halved, segmented, sliced, and chopped canned ripe olives. Handlers will be able to market more olives than would be permitted in the absence of this relaxation in size requirements. This

additional opportunity is provided to maximize the use of the available olive supply and facilitate market expansion thereby increasing returns to handlers and growers. In the absence of this action, the smaller fruit would have to be disposed of for less profitable, non-canning uses.

Notice of this action was published in the **Federal Register** on May 31, 1991 (55 FR 24739). The comment period ended June 17, 1991. One comment in support of the proposed changes was received from an olive producer.

Based on available information, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities. This action will benefit both producers and handlers of California olives.

After consideration of all relevant matter presented, the information and unanimous recommendation submitted by the committee, the comment received and other available information, it is found that: (1) The order provisions specified herein do not tend to effectuate the declared policy of the Act and should be suspended for an indefinite period; and (2) the amendment to the order's rules and regulations made by this action will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it found and determined that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) The 1991–92 crop year began August 1 and it is important that the relaxed requirements implemented by this rule apply to as much of that year as possible; (2) this action relieves restrictions on handlers and (3) handlers are aware of this action and are prepared to begin operating thereunder.

**List of Subjects in 7 CFR Part 932**

Marketing agreements, Olives, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Part 932 is amended as follows:

[Note: These sections will appear in the annual Code of Federal Regulations.]

## PART 932—OLIVES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 932 continues to read as follows:

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

**§ 932.51 [Amended]**

2. In § 932.51(a)(3), paragraphs (a)(3)(i), (ii), (iii), (iv), and the words "for the foregoing variety groups" in paragraph (a)(3)(v) are suspended.

**§ 932.52 [Amended]**

3. In § 932.52(a)(3), the words in the introductory text "but any such limited use size olives so used shall be not smaller than the following applicable minimum size: *Provided further,* That each such minimum size may also include a size tolerance (specified as a percent) as recommended by the committee and approved by the Secretary", and paragraphs (a)(3)(i) through (a)(3)(iv) are suspended.

4. Section 932.153 is revised to read as follows:

**§ 932.153 Establishment of grade and size requirements for processed 1991–92 crop year olives for limited use.**

(a) *Grade.* On and after October 1, 1991, any handler may use processed olives of the respective variety group in the production of limited use styles of canned ripe olives if such olives were processed after July 31, 1991, and meet the grade requirements specified in paragraph (a)(1) of § 932.52 as modified by § 932.149.

(b) *Sizes.* On and after October 1, 1991, any handler may use processed olives in the production of limited use styles of canned ripe olives if such olives were harvested during the period August 1, 1991, through July 31, 1992, and meet the following requirements:

(1) The processed olives shall be identified and kept separate and apart from any olives harvested before August 1, 1991, or after July 31, 1992.

(2) Variety Group 1 olives, except the Ascolano, Barouni, or St. Agostino varieties, shall be of a size which individually weigh at least 1/105 pound: *Provided,* That no more than 35 percent of the olives in any lot or sublot may be smaller than 1/105 pound.

(3) Variety Group 1 olives of the Ascolano, Barouni, or St. Agostino varieties shall be of a size which individually weigh at 1east 1/180 pound: *Provided,* That no more than 35 percent of the olives in any lot or sublot may be smaller than 1/180 pound.

(4) Variety Group 2 olives, except the Obliza variety, shall be of a size which individually weigh at least 1/205 pound: *Provided,* That no more than 35 percent of the olives in any lot or sublot may be smaller than 1/205 pound.

(5) Variety Group 2 olives of the Obliza variety shall be of a size which individually weigh at least 1/180 pound: *Provided,* That no more than 35 percent of the olives in any lot or sublot may be smaller than 1/180 pound.

Dated: September 24, 1991.

**Jo Ann R. Smith,**

*Assistant Secretary, Marketing and Inspection Services.*

[FR Doc. 91–23408 Filed 9–30–91; 8:45 am]

BILLING CODE 3410–02–M

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**7 CFR Part 944**

**[Docket No. FV–91–240IFR]**

## Olives Imported Into the United States; Authorization To Import Smaller Sized Olives for Limited Uses and Establishment of Minimum Size Requirements

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** This interim final rule authorizes the importation of certain bulk olives into the United States to be used in the production of limited use styles of olives such as wedges, halves, slices, or segments. Such olives would not be required to meet the applicable minimum size requirements for use in the production of whole and whole pitted canned ripe olives. This rule also establishes minimum size requirements for such olives during the same period and updates the inspection offices address list contained in the import regulation. This action is required under section 8e of the Agricultural Marketing Agreement Act of 1937 to bring the olive import regulation into conformity with the requirements of the California olive marketing order.

**DATES:** This action is effective October 1, 1991, through July 31, 1992. Comments which are received by October 31, 1991, will be considered before the issuance of any final rule.

**ADDRESSES:** Written comments concerning this rule should be submitted in triplicate to the Docket Clerk, F&V Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456. All comments submitted will be made available for public inspection in the above office during regular business hours. Comments should reference the docket number and the date and page number of this issue of the **Federal Register.**

**FOR FURTHER INFORMATION CONTACT:** Patrick Packnett, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2529–S, Washington, DC 20090–6456; telephone (202) 475–3862.

**SUPPLEMENTARY INFORMATION:** This rule is issued under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act, which provides that whenever certain specified commodities, including olives, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality and maturity requirements as those in effect for the domestically produced commodity.

This rule has been reviewed by the Department of Agriculture in accordance with Departmental regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. There are approximately 25 importers of olives subject to the olive import regulation. Small agricultural service firms, which would include olive importers, have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $3,500,000. The majority of olive importers may be classified as small entities.

Canned ripe olives, and bulk olives for processing into canned ripe olives, imported into the United States must meet certain minimum quality (grade and size) requirements specified in (Olive Regulation 1; 7 CFR 944.401). All canned ripe olives are required to be inspected and certified prior to importation (release from custody of the United States Custom Service), and all bulk olives for processing into canned ripe olives must be inspected and certified prior to canning. "Canned ripe olives" means olives in hermetically sealed containers and heat sterilized under pressure, of two distinct types, "ripe" and "green-ripe", as defined in the current U.S. Standards for Grades of Canned Ripe Olives (7 CFR 52.3751–52.3764). The term does not include Spanish-style green olives. Any lot of olives failing to meet the import requirements may be exported or disposed of under the supervision of the Processed Products Branch of the Fruit and Vegetable Division, with the costs of certifying the disposal of the olives borne by the importer. Any person may import up to 100 pounds (drained weight) of canned ripe olives or bulk olives exempt from these grade and size requirements.

This interim final rule modifies paragraph (b)(12) of the olive import regulation (7 CFR 944.401 (b)(12)). The modification authorizes the importation of bulk olives which do not meet the applicable minimum size requirements for whole and whole pitted use to be used in the production of limited use styles. The authorization is effective during the period October 1, 1991 through July 31, 1992. This rule also establishes size regulations for such olives in paragraph (b)(12).

Import regulations issued under the Act are based on regulations established under Federal marketing orders to regulate domestically produced products. The grade and size requirements contained in the olive import regulation are based on those in effect for olives grown in California under Marketing Order No. 932. This action reflects a recommendation by the California Olive Committee (committee) to change the requirements for olives for limited use grown in California. The committee works with the Department in administering the marketing order program for California olives.

Paragraph (a)(3) of § 932.52 of the California olive marketing order provides that processed olives smaller than the sizes prescribed for whole and whole pitted styles may be used for limited uses if recommended by the committee and approved by the Secretary. The sizes are specified in terms of minimum weights for individual olives in various size categories by variety groups. This is to recognize the different sizing characteristics of the individual varieties and types of California olives. Olives used in limited use styles are too small to be desirable for use as whole or whole pitted canned olives because their flesh-to-pit ratio is too low. However, they are satisfactory for use in the production of limited use styles.

On December 4, 1990, the committee recommended suspension of the current minimum sizes which may be authorized for limited use and the establishment of smaller sizes that would be authorized for use in the production of limited use styles during the 1991–92 season. The authorization to use these smaller sized olives in the production of limited use styles would be effective during the period October 1, 1991 through July 31, 1992. The grade requirements for such olives would be the same as those implemented last season. The size requirements are based on a study authorized by the committee and conducted by the olive handlers within the California olive industry during the 1990–91 crop year. The sizes are specified in terms of minimum weights for individual olives in various variety groups and are the same for both domestic and imported olives. An extra category is continued in the import regulation to apply comparable requirements on varieties not grown domestically. The minimum sizes are as follows (current minimum sizes in parentheses):

| | |
|---|---|
| Variety Group I, except the Ascolano, Barouni, or St. Agostino varieties. | 1/105 pound (1/90) |
| Variety Group I of the Ascolano, Barouni, or St. Agostino varieties. | 1/180 pound (1/140) |
| Variety Group 2, except the Obliza variety. | 1/205 pound (1/180) |
| Variety Group 2 of the Obliza variety. | 1/180 pound (1/140) |
| Olives not identifiable as to variety or variety group. | 1/205 pound (1/180) |

Each of the categories includes a 35 percent tolerance for olives weighing less than the specified minimum size. These proposed sizes for the variety groups are the minimum sizes which are desirable for use in the production of limited use styles at this time.

This action is being initiated by the Department. It is necessary because section 8e of the Act provides that when domestically produced olives are regulated under a Federal marketing order, imported olives must meet the same or comparable grade, size, quality, and maturity requirements. Thus, authorizing the use of smaller sized California olives in the production of limited use styles and establishing grade and size regulations for such olives requires that the same authorization and comparable regulations be issued for imported bulk olives.

Permitting the use of the smaller olives in the production of limited use styles will allow importers to take better advantage of the strong market for halved, segmented, sliced, and chopped canned ripe olives. Importers will be able to import and market more olives than would be permitted in the absence of this relaxation in size requirements. This additional opportunity is provided to maximize the use of the available olive supply and facilitate market expansion thereby, increasing returns to importers. In the absence of this action, the smaller fruit could not be imported for limited use, and would have to be disposed of for less profitable, non-

canning uses under the supervision of the inspection service or exported.

The Department is also removing paragraphs (b)(12)(vi) through paragraphs (b)(12)(x) from the import regulation. These paragraphs pertain to pitted ripe olives offered for importation in bulk for use in the production of limited use styles. There is no evidence that there have ever been any pitted olives imported in bulk for limited use. The Department does not believe that such olives will be offered for importation in the future. Therefore, these paragraphs are not necessary and should be deleted.

A final change in paragraph (c) updates the list of regional inspection offices to reflect the consolidation of the Southeastern and Central offices into the Eastern Regional Office and the relocation of the Western Regional Office.

Based on available information, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, the information and recommendations submitted by the committee, and other information, it is found that the action, as set forth below, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined, upon good cause, that it is impracticable, unnecessary and contrary to the public interest to give preliminary notice prior to implementing this action, and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) This relaxation provides importers the opportunity to import additional supplies of olives to meet market needs for limited use styles; (2) no useful purpose would be served by providing preliminary notice before implementation; and (3) this rule provides a 30-day comment period and any comments received will be considered prior to finalization of this rule.

In accordance with section 8e of the Act, the United States Trade Representative (USTR) has concurred with the issuance of this interim final rule.

**List of Subjects in 7 CFR Part 944**

Avocados, Food grades and standards, Grapefruit, Grapes, Imports, Kiwi fruit, Limes, Olives and oranges.

## PART 944—FRUITS; IMPORT REGULATIONS

1. The authority citation for 7 CFR Part 944 continues to read as follows:

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

2. Section 944.401 is amended by revising paragraph (b)(12) and by amending paragraph (c) by revising the office and telephone listing and the address following the concluding text to read as follows:

**§ 944.401 Olive Regulation 1.**

* * * * *

(b) * * *

(12) Imported bulk olives when used in the production of canned ripe olives must be inspected and certified as prescribed in this section. Imported bulk olives which do not meet the applicable minimum size requirements specified in paragraphs (b)(2) through (b)(11) of this section may be imported during the period October 1, 1991, through July 31, 1992, for limited use, but any such olives so used shall not be smaller than the following applicable minimum size:

(i) Whole ripe olives of Variety Group 1, except the Ascolano, Barouni, or St. Agostino varieties, of a size that not more than 35 percent of the olives, by count, may be smaller than 1/105 pound (4.3 grams) each.

(ii) Whole ripe olives of Variety Group 1 of the Ascolano, Barouni, or St. Agostino varieties, of a size that not more than 35 percent of the olives, by count, may be smaller than 1/180 pound (2.5 grams) each.

(iii) Whole ripe olives of Variety Group 2, except the Obliza variety, of a size that not more than 35 percent of the olives, by count, may be smaller than 1/205 pound (2.2 grams) each.

(iv) Whole ripe olives of Variety Group 2 of the Obliza variety of a size that not more than 35 percent of the olives, by count, may be smaller than 1/180 pound (2.5 grams) each.

(v) Whole ripe olives not identifiable as to variety or variety group of size that not more than 35 percent of olives, by count, may be smaller than 1/205 pound (2.2 grams) each.

(c) * * *

Office and Telephone

Eastern Regional Office, 800 Roosevelt Road, Building A, suite 380 Glen Ellyn, IL 60137, (708) 790–6937, 6938, or 6939;

Western Regional Office, 2202 Monterey Street, suite 102–C, Fresno, CA 93721, (209) 487–5891.

* * * * *

Western Regional Office, 2202 Monterey Street, suite 102–C, Fresno, CA 93721, (209) 487–5891.

* * * * *

Dated: September 24, 1991.

**Robert C. Keeney,**

*Deputy Director, Fruit and Vegetable Division.*

[FR Doc. 91–23409 Filed 9–30–91; 8:45 am]

BILLING CODE 3410-02-M

## DEPARTMENT OF JUSTICE

### Immigration and Naturalization Service

### 8 CFR Parts 103, 299, 392, and 499

**[INS No. 1292–91]**

**RIN 1115–AC06**

### Posthumous United States Citizenship for Certain Aliens; Immigration and Nationality Forms; Display of Control Numbers; Fees

**AGENCY:** Immigration and Naturalization Service, Justice.

**ACTION:** Final rule.

**SUMMARY:** This rule implements the Posthumous Citizenship for Active Duty Service Act of 1990, Public Law 101–249, March 6, 1990, establishing the criteria and procedures for granting posthumous citizenship to an alien or noncitizen national of the United States who dies as a result of injury or disease incurred in, or aggravated by, service in the United States Armed Forces during a specified period of military hostilities. This rule also identifies who may request posthumous citizenship on the alien or noncitizen national's behalf. In addition, this rule updates the listings of forms contained in 8 CFR 229.5 and 499.1 and adds a filing fee for an application for posthumous citizenship. This is not a benefit program; rather, it is an honorific action intended to recognize the valor and sacrifices of aliens and noncitizen nationals who give or have given their lives in defense of the United States.

**EFFECTIVE DATE:** October 1, 1991.

**FOR FURTHER INFORMATION CONTACT:** Stella Jarina, Senior Immigration Examiner, Immigration and Naturalization Service, room 7228, 425 I Street, NW., Washington, DC 20536, Telephone: (202) 514–3946.

**SUPPLEMENTARY INFORMATION:** On May 17, 1991, the Commissioner of the Immigration and Naturalization Service published in the **Federal Register** at 56 FR 22821 an interim rule with request for comments to add a new part 392 to title 8 of the Code of Federal Regulations.

That interim rule also amended parts 103, 299, and 499 of title 8 in conformity with the new part 392. This rule was necessary to implement section 329A of the Immigration and Nationality Act, as added by the Posthumous Citizenship for Active Duty Service Act of 1990, Public Law 101–249. Section 329A provides for the granting of posthumous citizenship to an alien or noncitizen national of the United States who dies as a result of injury or disease incurred in or aggravated by service in an active-duty status in the United States Armed Forces during War I, World War II, the Korean Hostilities, the Vietnam Hostilities, or other periods of military hostilities. In addition, for a person to be eligible for a grant of posthumous citizenship, his or her induction, enlistment, or reenlistment in the Armed Forces must qualify under the provisions of section 329 (a)(1) or (a)(2) of the Act.

Congress has long recognized the patriotism and valor of aliens and noncitizen nationals who serve honorably on active duty with the United States Armed Forces by providing special naturalization benefits based upon such military service. However, for the first time in the history of our Nation's nationality laws, legislation has been enacted to administratively confer United States citizenship upon a deceased servicemember.

Public Law 101–249, enacted on March 6, 1990, duly recognized the bravery and sacrifices of persons who, although not citizens of the United States, nevertheless served honorably on active duty with the United States Armed Forces and gave their lives in the protection and defense of this Nation. By virtue of their military service and consequent loss of life, these persons have clearly demonstrated a commitment to support and defend the Constitution and laws of the United States. This new law acknowledges their commitment and helps ensure that their sacrifices were not made in vain. As this is a symbolic measure, the granting of posthumous citizenship does not confer any benefit or make applicable any provision of the Immigration and Nationality Act, as amended, to the surviving spouse, parent, son, daughter, or other relative of the decedent.

The public was provided with a 30-day comment period which ended on June 17, 1991. No comments were received during that period.

This rule sets forth the eligibility criteria, identifies who may request posthumous citizenship on the person's behalf, and outlines the procedures the Immigration and Naturalization Service will use to grant posthumous citizenship. This rule also establishes and provides for the issuance of a document, in granted cases, that declares the person to be a citizen of the United States as of the time of death.

This rule also amends the list of forms contained in 8 CFR 299.5 and 499.1 and adds a fee for filing an application for posthumous citizenship to the list of fees contained in 8 CFR 103.7(b).

In accordance with 5 U.S.C. 605(b), the Commissioner certifies that this rule will not have a significant adverse economic impact on a substantial number of small entities. This rule 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 Federalism Assessment in accordance with E.O. 12612.

The information collection requirement contained in this regulation has been approved by the Office of Management and Budget under control number 1115–0173.

**List of Subjects**

*8 CFR Part 103*

Administrative practice and procedures, Archives and records, Authority delegations (Government agencies), Fees, Forms, Freedom of information, Privacy, Reporting and recordkeeping requirements, Surety bonds.

*8 CFR Part 299*

Forms, Immigration, Reporting and recordkeeping requirements.

*8 CFR Part 392*

Aliens, Citizenship, Reporting and recordkeeping requirements.

*8 CFR Part 499*

Citizenship and naturalization.

Accordingly, the interim rule amending parts 103, 299, 392 and 499 of chapter I of title 8 of the Code of Federal Regulations which was published at 56 FR 22821 on May 17, 1991, is adopted as final without change.

Dated: September 16, 1991.

**Gene McNary,**

*Commissioner, Immigration and Naturalization Service.*

[FR Doc. 91–23620 Filed 9–30–91; 8:45 am]

BILLING CODE 4410–10–M

## SMALL BUSINESS ADMINISTRATION

### 13 CFR Part 121

### Small Business Size Regulations; Waiver of the Nonmanufacturer Rule

**AGENCY:** Small Business Administration.

**ACTION:** Notice of termination of waiver of the Nonmanufacturer Rule for Hack Saw Blades.

**SUMMARY:** This notice advises the public that the Small Business Administration (SBA) is terminating its waiver of the "Nonmanufacturer Rule" for hack saw blades, under PSC 3405. The waiver was issued on August 8, 1991 (56 FR 37648), after a search for this class of products indicated there were no small business manufacturers in the Federal market. The Defense General Supply Center has since notified the SBA they recently awarded a contract to a small business to manufacture hack saw blades. The waiver must therefore be terminated because of the existence of a small business manufacturer available to participate in the Federal procurement market.

**EFFECTIVE DATE:** December 30, 1991.

**ADDRESSES:** Comments should be addressed to: Mr. Robert J. Moffitt, Chairman, Size Policy Board, Small Business Administration, 409 3rd Street, SW., Washington, DC 20416.

**FOR FURTHER INFORMATION CONTACT:** James Fairbairn, Industrial Specialist, phone (202) 205–6465.

**SUPPLEMENTARY INFORMATION:** On November 15, 1988, Public Law 100–656 incorporated into the Small Business Act the existing policy, commonly known as the "Nonmanufacturer Rule", that recipients of contracts set-aside for small business must only provide the products of small business manufacturers or processors. The law also provided for a waiver of this requirement by SBA for any class of products for which there are no small business manufacturers or processors in the Federal market. The Nonmanufacturer Rule applies to small business set-aside and SBA 8(a) Program procurements and is set forth in SBA regulations at 13 CFR 121.906(b) and 121.1106(b). Section 210 of Public Law 101–574 further amended the law to allow for waivers for classes of products for which *there are no small business manufacturers or processors available to participate in the Federal procurement market* (emphasis added).

The Defense General Supply Center in Richmond, VA recently notified SBA that they awarded a contract to a small business manufacturer of hack saw

blades. The waiver must therefore be terminated because of the existence of a small business manufacturer available to participate in the Federal procurement market. This is the final administrative action of the SBA on this matter.

Robert J. Moffitt,

*Chairman, Size Policy Board.*

[FR Doc. 91-23579 Filed 9-30-91; 8:45 am]

BILLING CODE 8025-01-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Parts 175 and 176

[Docket No. 90F-0207]

### Indirect Food Additives: Adhesives and Components of Coatings and Paper and Paperboard Components

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of siloxanes and silicones prepared by the platinum-catalyzed reaction of vinyl-containing dimethylpolysiloxane with methyl hydrogen polysiloxane, with optional components dimethyl maleate, vinyl acetate, dibutyl maleate, diallyl maleate, and $C_{16}$-$C_{18}$ olefins, as a release surface for adhesives, as a component of resinous and polymeric coatings for polyolefin films, and as a component of coatings for paper and paperboard. This action is in response to a petition filed by the General Electric Co.

**DATES:** Effective October 1, 1991; written objections and requests for a hearing by October 31, 1991.

**ADDRESSES:** Written objections may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** Julius Smith, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

**SUPPLEMENTARY INFORMATION:** In a notice published in the **Federal Register** of July 17, 1990 (55 FR 29105), FDA announced that a food additive petition (FAP 0B4208) had been filed by the General Electric Co., c/o 1120 G St. NW., Washington, DC 20005, proposing that § 175.105 Adhesives (21 CFR 175.105), § 175.125 Pressure-sensitive adhesives (21 CFR 175.125), § 175.320 Resinous and polymeric coatings for polyolefin films (21 CFR 175.320), and § 176.170 Components of paper and paperboard in contact with aqueous and fatty foods (21 CFR 176.170) be amended to provide for the safe use of the platinum-catalyzed reaction product of vinyl-containing dimethylpolysiloxane with methyl hydrogen polysiloxane as a release surface for adhesives, as a component of resinous and polymeric coatings for polyolefin films, and as a component of coatings for paper and paperboard for food-contact use. It was also proposed that the regulations be amended to provide for the safe use of butylallyl maleate, diallyl maleate, dimethyl maleate, and vinyl acetate as polymerization inhibitors, and for the safe use of $C_{16}$-$C_{18}$ olefins as a release agent in the additive.

In its review of the petition, the agency determined that the optional component butylallyl maleate is actually a 50:50 mixture of diallyl maleate and dibutyl maleate. The agency has therefore reviewed the safe use of these two components instead of butylallyl maleate.

FDA has evaluated the data in the petition and other relevant material and concludes that the proposed uses of siloxanes and silicones prepared by the platinum-catalyzed reaction of vinyl-containing dimethylpolysiloxane with methyl hydrogen polysiloxane, and the optional components dimethyl maleate, vinyl acetate, dibutyl maleate, diallyl maleate, and $C_{16}$-$C_{18}$ olefins, are safe. The agency also concludes that the amendments to § 175.320 Resinous and polymeric coatings for polyolefin films and § 176.170 Components of paper and paperboard in contact with aqueous and fatty foods would cover the petitioned use of the additive as a release coating for adhesives and it is therefore unnecessary to amend § 175.105 Adhesives and § 175.125 Pressure-sensitive adhesives. Therefore, as indicated below, this rule only amends § 175.320 and § 176.170 of the food additive regulations by alphabetically adding two new entries to each section as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

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

Any person who will be adversely affected by this regulation may at any time on or before October 31, 1991 file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

**List of Subjects**

*21 CFR Part 175*

Adhesives, Food additives, Food packaging.

*21 CFR Part 176*

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR parts 175 and 176 are amended as follows:

## PART 175—INDIRECT FOOD ADDITIVES: ADHESIVES AND COMPONENTS OF COATINGS

1. The authority citation for 21 CFR part 175 continues to read as follows:

**Authority:** Sections 201, 402, 409, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 376).

2. Section 175.320 is amended in the table of paragraph (b)(3) by alphabetically adding two new entries under "(i) Resins and polymers" to read as follows:

**§ 175.320 Resinous and polymeric coatings for polyolefin films.**

* * * * *

(b) * * *

(3) * * *

| List of substances | Limitations |
|---|---|
| (i) * * * | |
| Siloxanes and silicones; platinum-catalyzed reaction product of vinyl-containing dimethylpolysiloxane (CAS Reg. Nos. 67762-94-1 and 68083-18-1), with methyl hydrogen polysiloxane (CAS Reg. No. 63148-57-2). Dimethyl maleate (CAS Reg. No. 624-48-6) and vinyl acetate (CAS Reg. No. 108-05-4) may be used as optional polymerization inhibitors. | Platinum content not to exceed 100 parts per million. For use only as a surface coating under the following conditions:<br>1. In coatings for olefin polymers provided the coating contacts food only of the types identified in § 176.170(c) of this chapter, Table 1, under Types I, II, VI, and VII-B when used under conditions of use E, F, and G described in Table 2 in § 176.170(c) of this chapter.<br>2. In coatings for olefin polymers provided the coating contacts food only of the types identified in § 176.170(c) of this chapter, Table 1, under Types III, IV, V, VII-A, VIII, and IX when used under conditions of use A through H described in Table 2 in § 176.170(c) of this chapter. |
| Siloxanes and silicones; platinum-catalyzed reaction product of vinyl-containing dimethylpolysiloxane (CAS Reg. Nos. 67762-94-1 and 68083-18-1), with methyl hydrogen polysiloxane (CAS Reg. No. 63148-57-2). Dimethyl maleate (CAS Reg. No. 624-48-6), vinyl acetate (CAS Reg. No. 108-05-4), dibutyl maleate (CAS Reg. No. 105-76-0) and diallyl maleate (CAS Reg. No. 999-21-3) may be used as optional polymerization inhibitors. The polymer may also contain $C_{16}$-$C_{18}$ olefins (CAS Reg. No. 68855-60-7) as a control release agent. | Platinum content not to exceed 100 parts per million. For use only as a release coating for pressure sensitive adhesives. |

* * * * *

## PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

3. The authority citation for 21 CFR part 176 continues to read as follows:

**Authority:** Sections 201, 402, 406, 409, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 346, 348, 376).

4. Section 176.170 is amended in the table of paragraph (b)(2) by alphabetically adding two new entries under the headings "List of Substances" and "Limitations" to read as follows:

**§ 176.170 Components of paper and paperboard in contact with aqueous and fatty foods.**

* * * * *

(b) * * *

(2) * * *

| List of substances | Limitations |
|---|---|
| * * * * | * * * |
| Siloxanes and silicones; platinum-catalyzed reaction product of vinyl-containing dimethylpolysiloxane (CAS Reg. Nos. 67762-94-1 and 68083-18-1), with methyl hydrogen polysiloxane (CAS Reg. No. 63148-57-2). Dimethyl maleate (CAS Reg. No. 624-48-6) and vinyl acetate (CAS Reg. No. 108-05-4) may be used as optional polymerization inhibitors. | Platinum content not to exceed 100 parts per million. For use only as a surface coating under the following conditions:<br>1. In coatings for paper and paperboard provided the coating contacts food only of the types identified in paragraph (c) of this section, Table 1, under Types I, II, VI, and VII-B when used under conditions of use E, F, and G described in Table 2 of paragraph (c) of this section.<br>2. In coatings for paper and paperboard provided the coating contacts food only of the types identified in paragraph (c) of this section, Table 1, under Types III, IV, V, VII-A, VIII, and IX when used under conditions of use A through H described in Table 2 of paragraph (c) of this section. |
| Siloxanes and silicones; platinum-catalyzed reaction product of vinyl-containing dimethylpolysiloxane (CAS Reg. Nos. 67762-94-1 and 68083-18-1), with methyl hydrogen polysiloxane (CAS Reg. No. 63148-57-2). Dimethyl maleate (CAS Reg. No. 624-48-6), vinyl acetate (CAS Reg. No. 108-05-4), dibutyl maleate (CAS Reg. No. 105-76-0) and diallyl maleate (CAS Reg. No. 999-21-3) may be used as optional polymerization inhibitors. The polymer may also contain $C_{16}$-$C_{18}$ olefins (CAS Reg. No. 68855-60-7) as a control release agent. | Platinum content not to exceed 100 parts per million. For use only as a release coating for pressure sensitive adhesives. |
| * * * * | * * * |

* * * * *

Dated: September 23, 1991.

**Fred R. Shank,**

*Director, Center for Food Safety and Applied Nutrition.*

[FR Doc. 91-23636 Filed 9-30-91; 8:45 am]

BILLING CODE 4160-01-M

## DEPARTMENT OF STATE

## Bureau of Consular Affairs

## 22 CFR Part 42

[Public Notice 1491]

## Visas: Documentation of Immigrants Under the Immigration and Nationality Act, as Amended; Immigrants Not Subject to Numerical Limitations of INA 201 and 202; Immigrants Subject to Numerical Limitation

**AGENCY:** Bureau of Consular Affairs, DOS.

**ACTION:** Interim Rule with request for comments.

**SUMMARY:** This rule amends part 42, title 22 of the Code of Federal Regulations, to implement sections 101, 111, 112, 121 and 162(b)(1)(E) of Public Law 101-649 which restructured section 203 of the Immigration and Nationality Act. Most of the changes in the regulations to part 42 are editorial and relate primarily to designations and citations. As a result of the provisions in section 121 of the Immigration Act of 1990, however, this rule also transfers to subpart D of this part the regulations relating to special immigrant classes not previously subject to numerical limitation and currently listed in subpart C. Changes have also been made to the regulations in § 42.21 to add language benefiting spouses of deceased U.S. citizens entitled to immediate relative status.

**DATES:** This interim rule is effective October 1, 1991. Written comments must be received on or before October 31, 1991.

**ADDRESSES:** Please submit comments in duplicate, to the: Director, Office of Legislation, Regulations, and Advisory Assistance, Visa Services, Department of State, Washington, DC 20522-0113.

**FOR FURTHER INFORMATION CONTACT:** Cornelius D. Scully, III, Director, Office of Legislation, Regulations, and Advisory Assistance, (202) 663-1184.

**SUPPLEMENTARY INFORMATION:**

### Immigration Act of 1990

Sections 111 and 121 of Public Law 101-649, Immigration Act of 1990, restructured section 203 of the Immigration and Nationality Act (INA) by dividing family-related immigration from employment-related immigration and creating several new preference classes under the latter heading. This has required the substitution of new terminology and, in some cases, a change in primary decision-making authority in some of the regulations in title 22, part 42.

### Section 121 of the Immigration Act of 1990—INA 201, 203, 204

Section 121 of Public Law 101-649 included Special Immigrants (other than those under INA 101(a)(27)(A) and (B)) in the fourth employment-related class, thereby subjecting them to the numerical limits of INA 201. Subpart C of part 42 contains regulations pertaining to aliens who are not subject to the numerical limitations in INA 201 which, until October 1, 1991, includes both Immediate Relatives under INA 201(b) and Special Immigrants under INA 101(a)(27). Clearly, therefore, regulations pertaining to those classes had to be removed from subpart C and incorporated into subpart D, which relates to aliens who are subject to a numerical ceiling. Accordingly, §§ 42.24—42.27 have been redesignated as § 42.32(d)(1) through (4). Similarly, the imposition of a petition requirement under INA 204, as amended by section 162(b)(1)(E) of Public Law 101-649, on those special immigrant classes has altered the primary decision-making authority with respect to eligibility for classification in such status. Current regulations impose on the consular officer the responsibility for determining that the alien has established his or her claim to status in the Special Immigrant classes. The petition requirement vests this determination in the Service (except with respect to aliens under INA 101(a)(27)(D)) and the regulations had to be changed accordingly.

Not least, the change in designations caused by having separate (and, to an extent, duplicative) lists of preference classes (e.g., family-related first preference and employment-related first preference) has necessitated editorial changes reflecting such nomenclature. Thus, what has been § 42.33, Third Preference Immigrants, has become § 42.32(a), First (employment-based) Preference—Priority Workers. Similar changes in designations and terminology have been made for the other employment-related classes.

### Immigrants Not Subject to Numerical Limitations

Specifically, subpart C, Immigrants Not Subject to Numerical Limitations under INA 201 and 202, has been modified in three minor respects: Section 42.21, Immediate Relatives, has been designated paragraph (a) and a new paragraph (b) has been added to take note of the continuing entitlement to Immediate Relative status of certain spouses of deceased U.S. citizens.

Section 42.22(c), Relief provisions under INA 212(c), was amended editorially to restate the exceptions in accordance with the change in the statute and to add the limitation of applicability of INA 212(c). No changes were made in § 42.23. Sections 42.24 through 42.27 have been deleted from this subpart.

### Immigrants Subject to Numerical Limitations

Subpart D, relating to immigrants subject to numerical limitations, has undergone substantial restructuring because of the number of classes added to this category of immigrants by Public Law 101-649, as suggested above.

Section 42.31 has been retitled "Family-sponsored Immigrants", appropriate changes in statutory designations have been made, and a new subsection (c) contains the usual injunction against issuance of an immigrant visa, this time under section 112 of the Immigration Act of 1990, unless the Immigration and Naturalization Service has approved a petition according that status and the consular officer is satisfied that the alien is within the class described in that section.

Section 42.32, which had been reserved, has become "Employment-based Preference Immigrants", with various subsections devoted to the five such classes: Section 42.32(a), First Preference—Priority Workers; § 42.32(b), Second Preference—Professionals with Advanced Degrees or Persons of Exceptional Ability; § 42.32(c), Third Preference—Skilled Workers, Professionals, Other Workers—no substantive changes have been made from the comparable regulations relating to current third and sixth preference cases, but nomenclature and statutory designations have, of course, been appropriately modified. § 42.32(d), Fourth Preference—Special Immigrants. The special immigrant classes that were moved from subpart C, with two additions, are incorporated in this section and divided into paragraphs: (1) Religious Workers; (2) U.S. Government Employees (reserved); (3) Panama Canal Employees; (4) Spouses and Children of Certain Foreign Medical Graduates; (5) Certain International Organization Employees; and (6) Certain Aliens Dependent on a Juvenile Court.

All of the above regulations, most of which were transferred from sections 42.24–27, have been modified to require receipt of an approved petition to accord the appropriate status prior to classification by a consular officer of an alien in any of these classes. Section 42.32(d)(5), regarding international organizations aliens, is new but patterned after the others. It also contains a regulatory reference to the time limits for application imposed in the statute. Section 42.32(d)(6), which relates to classification as an alien dependent on a juvenile court, contains the standard requirement for an approved petition according the status. Section 42.32(e), Fifth Preference—Employment Creation Immigrants, also contains the standard language requiring receipt of an approved petition according such status. Section 42.33, relating to the new class of diversity immigrants which does not become effective until October 1, 1994, is reserved.

The former §§ 42.34—Sixth preference immigrants, 42.35—Nonpreference, and 42.36—Administering labor certification provisions—have been deleted.

Regulations pertaining to special immigrants under INA 101(a)(27)(D), § 42.32(d)(2), (employees and former employees of the United States Government abroad), will be the subject of separate rulemaking because they entail new responsibilities for the Department of State.

This rule is not considered to be a major rule for purposes of E.O. 12291 nor is it expected to have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. With regard to the information collection requirement contained in this rule, Form OF–230 has been reinstated by the Office of Management and Budget under the Paperwork Reduction Act of 1980.

**List of Subjects in 22 CFR Part 42**

Aliens, Immigrants, Numerical limitations, Special immigrants, Visas.

In view of the foregoing, title 22 of the Code of Federal Regulations, subparts C and D of part 42 are revised to read as follows:

## PART 42—[AMENDED]

1. Authority citation for part 42 is revised to read as follows:

Authority: 8 U.S.C. 1104; 8 U.S.C. 1101 note.

2. Subpart C (consisting of §§ 42.21 through 42.23) is revised to read as follows:

**Subpart C—Immigrants Not Subject to Numerical Limitations of INA 201 and 202**

Sec.



## Subpart C—Immigrants Not Subject to Numerical Limitations of INA 201 and 202

### § 42.21 Immediate relatives.

(a) *Entitlement to status.*

An alien who is a spouse or child of a United States citizen, or a parent of a U.S. citizen at least 21 years of age, shall be classified as an immediate relative under INA 201(b) if the consular officer has received from INS an approved Petition to Classify Status of Alien Relative for Issuance of an Immigrant Visa, filed on the alien's behalf by the U.S. citizen and approved in accordance with INA 204, and the officer is satisfied that the alien has the relationship claimed in the petition. An immediate relative shall be documented as such unless the U.S. citizen refuses to file the required petition, or unless the immediate relative is also a special immigrant under INA 101(a)(27) (A) or (B) and not subject to any numerical limitation.

(b) *Spouse of a deceased U.S. Citizen.* The spouse of a deceased U.S. citizen shall be entitled to immediate relative status after the date of the citizen's death provided he or she meets the criteria of INA 201(b)(2)(A)(i) and the consular office has received an approved petition from the INS which accords such status, or official notification of such approval, and the consular officer is satisfied that the alien meets those criteria.

### § 42.22 Returning resident aliens.

(a) *Requirements for returning resident status.*

An alien shall be classifiable as a special immigrant under INA 101(a)(27)(A) if the consular officer is satisfied from the evidence presented that:

(1) The alien had the status of an alien lawfully admitted for permanent residence at the time of departure from the United States;

(2) The alien departed from the United States with the intention of returning and has not abandoned this intention; and

(3) The alien is returning to the United States from a temporary visit abroad and, if the stay abroad was protracted, this was caused by reasons beyond the alien's control and for which the alien was not responsible.

(b) *Documentation needed.* Unless the consular officer has reason to question the legality of the alien's previous admission for permanent residence or the alien's eligibility to receive an immigrant visa, only those records and documents required under INA 222(b) which relate to the period of residence in the United States and the period of the temporary visit abroad shall be required. If any required record or document is unobtainable, the provisions of § 42.65(d) shall apply.

(c) *Relief provisions for certain returning resident aliens under INA 212(c).* The exercise by the Attorney General of discretionary authority under INA 212(c) to grant relief from certain grounds of ineligibility (other than those specified therein) to certain returning resident aliens shall remove the alien's ineligibility to receive a visa only under the conditions specified in the Attorney General's order. This relief shall not apply to an alien who has been convicted of an aggravated felony and has served a term of imprisonment of at least 5 years.

(d) *Returning resident alien originally admitted under the Act of December 28, 1945.* An alien admitted into the United States under Section 1 of the Act of December 28, 1945 ("GI Brides Act") shall not be refused an immigrant visa after a temporary absence abroad solely because of a mental or physical defect or defects that existed at the time of the original admission.

### § 42.23 Certain former U.S. citizens.

(a) *Women expatriates.* An alien woman, regardless of marital status, shall be classifiable as a special immigrant under INA 101(a)(27)(B) if the consular officer is satisfied by appropriate evidence that she was formerly a U.S. citizen and that she meets the requirements of INA 324(a).

(b) *Military expatriates.* An alien shall be classifiable as a special immigrant under INA 101(a)(27)(B) if the consular officer is satisfied by appropriate evidence that the alien was formerly a U.S. citizen and that the alien lost citizenship under the circumstances set forth in INA 327.

4. Subpart D (consisting of §§ 42.31 through 42.33) is revised to read as follows:

**Subpart D—Immigrants Subject to Numerical Limitations**

Sec.

## Subpart D—Immigration Subject to Numerical Limitations

### § 42.31 Family-sponsored immigrants.

(a) *Entitlement to status.* An alien shall be classifiable as a family-sponsored immigrant under INA 203(a) (1), (2), (3) or (4) if the consular officer has received from INS a Petition to Classify Status of Alien Relative for Issuance of Immigrant Visa approved in accordance with INA 204 to accord the alien such preference status, or official notification of such an approval, and the consular officer is satisfied that the alien has the relationship to the petitioner indicated in the petition. In the case of a petition according an alien status under INA 203(a) (1) or (3) or status as an unmarried son or daughter under INA 203(a)(2), the petitioner must be a "parent" as defined in INA 101(b)(2) and 22 CFR 40.1. In the case of a petition to accord an alien status under INA 203(a)(4) filed on or after January 1, 1977, the petitioner must be at least twenty-one years of age.

(b) *Entitlement to derivative status.* Pursuant to INA 203(d), and whether or not named in the petition, the child of a family-sponsored first, second, third or fourth preference immigrant or the spouse of a family-sponsored third or fourth preference immigrant, if not otherwise entitled to an immigrant status and the immediate issuance of a visa, is entitled to a derivative status corresponding to the classification and priority date of the beneficiary of the petition.

(c) *Spouses and children of legalized aliens.* An alien shall be classifiable as a spouse or child of a legalized alien pursuant to Section 112 of Public Law 101–649, if the consular officer has received from INS an approved petition which accords such status, or official notification of such an approval, and the consular officer is satisfied that the alien is within the class described in that section.

### § 42.32 Employment based immigrants.

Aliens subject to the worldwide level specified in section 201(d) for employment-based immigrants in a fiscal year shall be allotted visas as indicated below.

(a) *First preference.—Priority workers.* (1) *Entitlement to status.* An alien shall be classifiable as an employment-based first preference immigrant under INA 203(b)(1) if the consular office has received from INS a Petition for Immigrant Worker approved in accordance with INA 204 to accord the alien such Preference status, or official notification of such an approval, and the consular officer is satisfied that the alien is within one of the classes described in INA 203(b)(1).

(2) *Entitlement to derivative status.* Pursuant to INA 203(d), and whether or not named in the petition, the child or spouse of an employment-based first preference immigrant, if not otherwise entitled to an immigrant status and the immediate issuance of a visa, is entitled to a derivative status corresponding to the classification and priority date of the beneficiary of the petition.

(b) *Second preference—Professionals with advanced degrees or persons of exceptional ability*—(1) *Entitlement to status.* An alien shall be classifiable as an employment-based second preference immigrant under INA 203(b)(2) if the consular officer has received from INS a Petition for Immigrant Worker approved in accordance with INA 204 to accord the alien such preference status, or official notification of such an approval, and the consular officer is satisfied that the alien is within one of the classes described in INA 203(b)(2).

(2) *Entitlement to derivative status.* Pursuant to INA 203(d), and whether or not named in the petition, the child or spouse of an employment-based second preference immigrant, if not otherwise entitled to an immigrant status and the immediate issuance of a visa, is entitled to a derivative status corresponding to the classification and priority date of the beneficiary of the petition.

(c) *Third preference—Skilled workers, professionals, other workers*—(1) *Entitlement to status.* An alien shall be classifiable as an employment-based third preference immigrant under INA 203(b)(3) if the consular officer has received from INS a Petition for Immigrant Worker approved in accordance with INA 204 to accord the alien such preference status, or official notification of such an approval, and the consular officer is satisfied that the alien is within one of the classes described in INA 203(b)(3).

(2) *Entitlement to derivative status.* Pursuant to INA 203(d), and whether or not named in the petition, the child or spouse of an employment-based third preference immigrant, if not otherwise entitled to an immigrant status and the immediate issuance of a visa, is entitled to a derivative status corresponding to the classification and priority date of the beneficiary of the petition.

(d) *Fourth preference—Special immigrants*—(1) *Religious workers.* (i) *Classification based on qualifications under INA 101(A)(27)(C).* An alien shall be classifiable under INA 203(b)(4) as a special immigrant described in INA 101(a)(27)(C) if:

(A) The consular officer has received a petition approved by INS to accord such classification, or an official notification of such approval; and

(B) The consular officer is satisfied from the evidence presented that the alien qualifies under that section; or

(C) The consular officer is satisfied the alien is the spouse or child of a religious worker so classified and is accompanying or following to join the principal alien.

(ii) *Timeliness of application.* An immigrant visa issued under INA 203(b)(4) to an alien described in INA 101(a)(27)(C), other than a minister of religion, who qualifies as a "religious worker" as defined in 8 CFR 204.5(1), shall bear the usual validity except that in no case shall it be valid later than September 30, 1994.

(2) *Certain U.S. Government employees.* (Reserved)

(3) *Panama Canal employees.* (i) *Entitlement to status.* An alien who is subject to the numerical limitations specified in section 3201(c) of the Panama Canal Act of 1979, Public Law 96–70, is classifiable under INA 203(b)(4) as a special immigrant described in INA 101(a)(27) (E), (F) or (G) if the consular officer has received a petition approved by INS to accord such classification, or official notification of such an approval, and the consular officer is satisfied that the alien is within one of the classes described in INA 101(a)(27) (E), (F), or (G).

(ii) *Entitlement to derivative status.* Pursuant to INA 203(d), and whether or not named in the petition, the spouse or child of any alien classified under INA 203(b)(4) as a special immigrant qualified under this section, if not otherwise entitled to an immigrant status and the immediate issuance of a visa, is entitled to a derivative status corresponding to the classification and priority date of the beneficiary of the petition.

(4) *Spouse and children of certain Foreign Medical graduates.* The accompanying spouse and children of a graduate of a foreign medical school or of a person qualified to practice medicine in a foreign state who has adjusted status as a special immigrant under the provisions of INA 101(a)(27)(H) are classifiable under INA 203(b)(4) as special immigrants defined in INA 101(a)(27)(H) if the consular officer has received an approved petition from INS which accords such status and the consular officer is satisfied that the alien is within the class described in INA 101(a)(27)(H).

(5) *Certain International Organization employees.* (i) *entitlement to status.* An alien is classifiable under INA 203(b)(4) as a special immigrant described in INA 101(a)(27)(I) if the consular officer has received a petition approved by the INS to accord such classification or official notification of such approval, and the consular officer is satisfied from the evidence presented that the alien is within one of the classes described in that section.

(ii) *Timeliness of application.* An alien accorded status under INA 203(b)(4) because of qualification under INA 101(a)(27)(I) must appear for a final visa interview and issuance of the immigrant visa within six months of establishing entitlement to status.

(6) *Certain juvenile court dependents.* An alien shall be classifiable under INA 203(b)(4) as a special immigrant defined in INA 101(a)(27)(J) if the consular officer has received from INS an approved petition to accord such status, or an official notification of such an approval, and the consular officer is satisfied the alien is within the class described in that section.

(e) *Fifth preference—Employment-creation immigrants.*

(1) *Entitlement to status.* An alien shall be classifiable as a fifth preference employment-creation immigrant if the consular officer has received from INS an approved petition to accord such status, or official notification of such an approval, and the consular officer is satisfied that the alien is within the class described in INA 203(b)(5).

(2) *Entitlement to derivative status.* Pursuant to INA 203(d), and whether or not named in the petition, the spouse or child of an employment-based fifth preference immigrant, if not otherwise entitled to an immigrant status and the immediate issuance of a visa, is entitled to a derivative status corresponding to the classification and priority date of the beneficiary of the petition.

**§ 42.33 Diversity immigrants. [Reserved]**

Dated: September 11, 1991.

**James Ward,**

*Acting Assistant Secretary for Consular Affairs.*

[FR Doc. 91-23466 Filed 9-30-91; 8:45 am]

BILLING CODE 4710-06-M

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**22 CFR Part 42**

**[Public Notice 1490]**

## Visas: Documentation of Immigrants Under the Immigration and Nationality Act, as Amended

**AGENCY:** Bureau of Consular Affairs, DOS.

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

**SUMMARY:** This interim rule amends part 42, title 22 of the Code of Federal Regulations, to implement statutory revisions and/or new provisions in the Immigration Act of 1990, Public Law 101-649. Most of the amendments are primarily editorial. In addition to the editorial changes, this rule provides a table of new immigrant visa symbols at § 42.11 and a revised substantive procedure at § 42.83 for initiating action to terminate the registration of an alien entitled to an immigrant status.

**DATES:** This interim rule is effective October 1, 1991. Comments are invited and must be received on or before October 31, 1991.

**ADDRESSES:** Director, Office of Legislation, Regulations, and Advisory Assistance, Visa Services, Department of State, Washington, DC 20522-0113, (202) 663-1184.

**FOR FURTHER INFORMATION CONTACT:** Cornelius D. Scully, III, Director, Office of Legislation, Regulations, and Advisory Assistance, Visa Office, Department of State, Washington, DC 20522-0113, (202) 663-1184.

**SUPPLEMENTARY INFORMATION:**

### Background

The Immigration Act of 1990, Public Law 101-649, redesignated many sections/subsections of the Immigration and Nationality Act, added classes subject to self-contained numerical limitations not under sections 201 and 202, restructured INA 203, and added a petition requirement for classes not now subject to such a prerequisite.

### Sections to This Part Not Included in This Rule

Except for § 42.32(d)(2), the regulations in subparts C and D of part 42, which relate to individual classes of aliens, are the subject of a separate interim rule. Also the subject of a separate interim rule is § 42.32(d)(2) of subpart D, which relates to special immigrants under INA 101(a)(27)(D) (employees and former employees of the United States Government). The regulations relating to changes in subpart F of part 42 also will be the subject of a separate interim rule.

### Amendments by the Immigration Act of 1990

This regulatory order contains all other regulations in part 42 which have been changed in any respect. The majority of these changes are editorial and, whether or not substantive, are required for conformity with the law. Substantive changes of a discretionary character are to be found only in §§ 42.2, 42.63, 42.65, and 42.83, as discussed below.

*Section 42.2, Aliens Not Required To Present Passports*

Paragraph (d), benefiting third preference applicants, was added to § 42.2 on or around 1967. It was designed to assist those immigrants most needed by U.S. industry, primarily scientists, who were natives of but not resident in totalitarian countries, unable or unwilling to obtain a passport from the authorities of their native land, and bearers of travel documents which did not meet the statutory definition of a "passport." In light of the fact that almost all aliens now have a suitable travel document and there has been little, if any, need for it, this provision has been withdrawn and the succeeding subsections (e) through (h) redesignated as (d) through (g). It should be noted, however, that any alien can still be the beneficiary of an individual passport waiver for good cause shown, and this deletion does not affect that right.

*Section 42.11, Classification Symbols*

New immigrant visa symbols are shown in § 42.11. The list of exceptions to the general rule that aliens are chargeable to the foreign state or dependent area of birth, contained in § 42.12, has been expanded to include those classes not subject to the numerical limitations of INA 201 and 202, i.e.: Spouses and children of legalized aliens documented under section 112 of the Immigration Act of 1990; Certain employees of U.S. businesses in Hong Kong; Natives of certain adversely affected foreign states; Displaced Tibetans; and Amerasians under section 584(b)(1), as contained in section 101(e) of Public Law 100-202. Reference therein to special immigrants, on the other hand, has been narrowed to those under INA 101(a)(27) (A) or (B), inasmuch as all others become subject to numerical limitation as the fourth employment-based preference under Public Law 101-649, section 121.

*Section 42.41, Effect of Approved Petition, and Section 42.42, Petition for Immediate Relative or Preference Status*

Because INA 204, as amended by section 162(b) of the Immigration Act of 1990, vests the authority and responsibility to approve petitions in the Secretary of State, rather than the Attorney General, with respect to certain classifications, § 42.41 and § 42.42 contain the minor editorial

change of deleting the reference to INS as the source of the petition approval.

*Section 42.43, Suspension or Termination of Action in Petition Cases*

Section 42.43(a)(2), relative to suspension of action upon expiration of the labor certification, has been deleted as no longer relevant. Section 42.43(b) reflects the new statutory citation.

*Section 42.62, Personal Appearance and Interview of Applicant*

Section 42.62 has been amended with respect to a cross-reference which is no longer correct, due to a change in § 42.63.

*Section 42.63, Application Form and Other Documentation*

Section 42.63 reflects a change in Form OF–230, which has been divided into parts I and II, and deletes current paragraph (a), which authorizes the use of a Preliminary Questionnaire. That procedure was developed in 1965 to assist aliens in understanding appropriate measures to take to obtain entitlement to an immigrant classification, primarily nonpreference, in light of the 1965 Act's changes in the structure of immigrant classes. It fell into disuse after nonpreference numbers became unavailable in 1978 and is not necessary under current conditions. The other subsections have been redesignated accordingly.

*Section 42.65 Supporting Documents*

Section 42.65 was amended in January, 1991, to base the period of residence that necessitates a police certificate on the location in which the alien had been resident; i.e., if the residence was in the United States, the alien's home country, or place of last permanent residence, a police certificate is required for a period of six months or longer, whereas a temporary stay in any other third country does not require a police certificate unless the stay was for a year or more. The Department subsequently found that it is not feasible to continue obtaining an FBI records check, a system that had been instituted about 15 years ago as a substitute for local/State police checks. The FBI determined such checks do not fall within the definition of a law enforcement activity, a position upheld by the Justice Department's Office of Legal Counsel. Inasmuch as the FBI has also informed the Department that such checks had rarely been productive (i.e., fewer than 1% were positive "hits" and many, if not most, of those were not grounds for exclusion or pertained to aliens who were able to obtain waivers), it would appear that discontinuing this procedure is not deleterious to determining visa eligibility. Not least, since the FBI processes any personal requests for criminal records checks under FOIA procedures—which involve a delay of approximately a year—it is clearly not practicable or reasonable to require applicants to request such checks and still maintain an orderly processing of immigrant visa cases. Consequently, in March, 1991, the Department instructed all posts to consider police records in the United States as constructively "unobtainable". This regulation has therefore been amended to delete the reference to "the United States."

*Section 42.67 Execution of Application, Registration, and Fingerprinting; Section 42.73, Procedure in Issuing Visas; and Section 42.74, Issuance of New or Replacement Visas*

Section 42.67, § 42.73 and § 42.74 contain only editorial changes.

*Section 42.83 Termination of Registration*

Section 42.83 has been substantively as well as editorially amended. The Immigration Act of 1990, in restructuring INA 203, among other things redesignated as subsection (g) the provision relating to termination of registration, currently in paragraph (e) of this section. The revised regulations reference the new designation of the underlying statutory authority for terminating a registration. The change, although somewhat substantive is basically procedural and is designed to benefit the applicants. Under standard procedures, an applicant is requested to obtain the necessary documents to apply formally for a visa only when it appears that a visa number may become available within the following six months for persons with the applicant's priority date. The notice also instructs the applicant to notify the consular officer when the alien has complied with all the requirements therein. An appointment for an interview is customarily sent only upon receipt of the applicant's response and the allocation of a visa number for the purpose of visa issuance.

Some applicants have taken advantage of those procedures to delay their response to the initial instruction for several years, thereby negating the intent of INA 203(g). In order to further the intent of that section, the current regulation in § 42.83(a) requires the applicant to respond to a notice to appear at the consular office. This procedure has proven confusing to some applicants (inasmuch as they have not indicated to the consular office a readiness to apply for a visa), is clearly an inconvenience, and is not necessary for compliance with the law.

In the revised regulation to this rule, the consular office will simply notify the applicant in writing that an immigrant visa number is available and put the applicant on notice that termination procedures will commence if no action is taken to obtain a visa within one year from the date of the letter. From the standpoint of the applicant, this eliminates the unnecessary and confusing step of visiting the consular office unprepared to apply formally for an immigrant visa and yet provides an appropriate alert to statutory requirements.

**Interim Rule**

The purpose of this rule is to reflect changes made to the Immigration and Nationality Act by the Immigration Act of 1990. The regulations contained in this rule are essentially editorial in nature and necessary for implementation of and compliance with that act. Those regulations which are of a substantive nature, § 42.65 and § 42.83, have been discussed in the preamble. The former deletes a procedural requirement which is no longer necessary, and the latter, while a substantive change, is basically procedural in nature and favorable to immigrant visa applicants in that it eliminates an unnecessary and costly requirement.

This interim rule becomes effective on October 1, 1991, the date mandated by the Immigration Act of 1990. However, it provides for post-promulgation comments, which must be submitted on or before October 31, 1991.

**List of Subjects in 22 CFR Part 42**

Aliens, Numerical limitations, Special immigrants, Visas.

This rule is not considered to be a major rule for purposes of E.O. 12291 nor is it expected to have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. With regard to the information collection requirement contained in this rule, Form OF–230 has been reinstated by the Office of Management and Budget under the Paperwork Reduction Act of 1980.

In view of the foregoing, part 42 to title 22 of the Code of Federal Regulations is amended to read as indicated below.

**PART 42—[AMENDED]**

1. The authority citation for part 42 is revised to read:

Authority: 8 U.S.C. 1104; 8 U.S.C. 1101 note.

**§ 42.2 [Amended]**

2. Section 42.2 is amended by removing paragraph (d) and redesignating paragraphs "(e), (f), (g), and (h)" as "(d), (e), (f) and (g)."

3. Section 42.11 is revised to read as follows:

**§ 42.11 Classification symbols.**

A visa issued to an immigrant alien within one of the classes described below shall bear an appropriate visa symbol to show the classification of the alien.

IMMIGRANTS IMMEDIATE RELATIVES

| Visa and Class | Section of Law |
|---|---|
| IR-1—Spouse of U.S. Citizen | 201(b). |
| CR-1—Spouse of U.S. Citizen (Conditional Status) | 201(b) & 216(a)(1). |
| IW-1—Certain spouses of Deceased U.S. Citizens | 201(b). |
| IR-2—Child of U.S. Citizen | 201(b). |
| CR-2—Child of U.S. Citizen (Conditional Status) | 201(b) & 216. |
| IR-3—Orphan Adopted Abroad by U.S. Citizen | 201(b). |
| IR-4—Orphan to be Adopted In the United States by U.S. Citizen | 201(b). |
| IR-5—Parent of U.S. Citizen at Least 21 Years of Age | 201(b). |
| VI-5—Parent of U.S. Citizen Who Acquired Permanent Resident Status Under the Virgin Islands Nonimmigrant Alien Adjustment Act. | 201(b) & Sec. 2 of the Virgin Islands Non-immigrant Alien Adjustment Act (P.L. 97-271). |
| **Vietnam Amerasian Immigrants** | |
| AM-1—Vietnam Amerasian Principal | 584(b)(1)(A) of P.L. 100-202. |
| AM-2—Spouse/Child of AM-1 | 584(b)(1)(B) of P.L. 100-202. |
| AM-3—Natural Mother of AM-1 (and Spouse or Child of Such Mother), or Person Who has Acted in Effect as the Mother, Father, or Next-of-Kin of AM-1 (and Spouse or Child of Such Person). | 584(b)(1)(C) of P.L. 100-202. |
| **Special Immigrants** | |
| SB-1—Returning Resident | 101(a)(27)(A). |
| SC-1—Person Who Lost U.S. Citizenship by Marriage | 101(a)(27)(B) & 324(a). |
| SC-2—Person Who Lost U.S. Citizenship by Serving in Foreign Armed Forces | 101(a)(27)(B) & 327. |
| **Family-Sponsored Preferences** | |
| 1st Preference: | |
| F11—Unmarried Son/Daughter of U.S. Citizen | 203(a)(1) |
| F12—Child of F11 | 203(d). |
| 2nd Preference (Subject to Country Limitations): | |
| F21—Spouse of Alien Resident | 203(a)(2). |
| C21—Spouse of Alien Resident (Conditional) | 216(a)(1). |
| F22—Child of Alien Resident | 203(a)(2). |
| C22—Child of Alien Resident (Conditional) | 216(a)(1). |
| F23—Child of F21 or F22 | 203(d). |
| C23—Child of C21 or C22 (Conditional) | 216(a)(1). |
| F24—Unmarried Son/and Daughter of Alien Resident | 203(a)(2)(B) |
| C24—Unmarried Son/Daughter of Alien Resident (Conditional) | 216(a)(1). |
| F25—Child of F24 | 203(d). |
| C25—Child of C24 (Conditional) | 216(a)(1). |
| 2nd Preference (Exempt from Country Limitations): | |
| FX1—Spouse of Alien Resident | 203(a)(2)(A). |
| CX1—Spouse of Alien Resident (Conditional) | 216(a)(1). |
| FX2—Child of Alien Resident | 203(a)(2)(A). |
| CX2—Child of Alien Resident (Conditional) | 216(a)(1). |
| FX3—Child of FX1 or FX2 | 203(d). |
| CX3—Child of CX1 or CX2 (Conditional) | 216(a)(1). |
| 3rd Preference: | |
| F31—Married Son/Daughter of U.S. Citizen | 203(a)(3). |
| C31—Married Son/Daughter of U.S. Citizen (Conditional) | 216(a)(1). |
| F32—Spouse of F31 | 203(d). |
| C32—Spouse of C31 | 203(d). |
| F33—Child of F31 | 203(d). |
| C33—Child of C31 | 203(d). |
| 4th Preference: | |
| F41—Brother/Sister of U.S. Citizen | 203(a)4. |
| F42—Spouse of F41 | 203(d). |
| F43—Child of F41 | 203(d). |
| **Employment Based Preferences** | |
| Employment 1st Preference (Priority Workers): | |
| E11—Alien with Extraordinary Ability | 203(b)(1)(A). |
| E12—Outstanding Professor or Researcher | 203(b)(1)(B). |
| E13—Multinational Executive or Manager | 203(b)(1)(C). |
| E14—Spouse of Alien Classified E11, E12, or E13 | 203(d). |
| E15—Child of Alien Classified E11, E12, or E13 | 203(d). |
| Employment 2nd Preference (Professional Holding Advanced Degrees or Persons of Exceptional Ability): | |
| E21—Professional Holding Advanced Degree or Alien of Exceptional Ability | 203(b)(2). |
| E22—Spouse of Alien Classified E21 | 203(d). |
| E23—Child of Alien Classified E21 | 203(d). |
| Employment 3rd Preference (Skilled Workers, Professionals, and Other Workers): | |
| E31—Skilled Worker | 203(b)(3)(A)(i). |
| E32—Professional Holding Baccalaureate Degree | 203(b)(3)(A)(ii). |
| E34—Spouse of Alien Classified E31 or E32 | 203(d). |

IMMIGRANTS IMMEDIATE RELATIVES—Continued

| Visa and Class | Section of Law |
|---|---|
| E35—Child of Alien Classified E31 or E32 | 203(d). |
| EW3—Other Workers (Subgroup Numerical Limit) | 203(b)(3)(A)(iii). |
| EW4—Spouse of Alien Classified EW3 | 203(d). |
| EW5—Child of Alien Classified EW3 | 203(d) |
| Employment 4th Preference (Certain Special Immigrants): | 203(b)(4) and: |
| SD1—Minister of Religion | 101(a)(27)(C)(i)(I). |
| SD2—Spouse of Alien Classified SD1 | 203(d). |
| SD3—Child of Alien Classified SD1 | 203(d). |
| SE1—Certain Employees or Former Employees of the U.S. Government Abroad | 101(a)(27)(D). |
| SE2—Spouse of Alien Classified as SE1 | 203(d). |
| SE3—Child of Alien Classified as SE1 | 203(d). |
| SEH—Employees of the U.S. Mission in Hong Kong or their Immediate Family Members | 101(a)(27)(D) or Section 152 of the Immigration Act of 1990. |
| SF1—Certain Former Employees of the Panama Canal Company or Canal Zone Government | 101(a)(27)(E). |
| SF2—Spouse or Child of Alien Classified SF1 | 203(d). |
| SG1—Certain Former Employees of the U.S. Government in the Panama Canal Zone | 101(a)(27)(F). |
| SG2—Spouse or Child of Alien Classified of SF1 | 203(d). |
| SH1—Certain Former Employees of the Panama Canal Company or Canal Zone Government on April 1, 1979 | 101(a)(27)(G). |
| SH2—Spouse or Child of Alien Classified SH1 | 203(d). |
| SJ2—Accompanying Spouse or Child of Alien Classified SJ1 (Certain Foreign Medical Graduates) | 101(a)(27)(H) 203(b)(4). |
| SK1—Certain Retired International Organization Employees | 101(a)(27)(I)(iii); |
| SK2—Spouse of Alien Classified SK–1 | 101(a)(27)(I)(iv). |
| SK3—Certain Unmarried Sons or Daughters of International Organization Employee | 101(a)(27)(I)(i). |
| SK4—Certain Surviving Spouse of Deceased International Organization Employee | 101(a)(27)(I)(ii). |
| SL1—Certain Juvenile Court Dependents | 101(a)(27)(J). |
| SR1—Certain Religious Workers | 101(a)(27)(C)(ii)(II) and (III). |
| SR2—Spouse of Alien Classified SR1 | 203(d). |
| SR3—Child of Alien Classified SR1 | 203(d). |
| Employment 5th Preference (Employment Creation) (Conditional Status): | |
| C51—Employment Creation *OUTSIDE* Targeted Area | 203(b)(5)(A). |
| C52—Spouse of Alien Classified C51 | 203(d). |
| C53—Child of Alien Classified C51 | 203(d). |
| T51—Employment Creation *IN* Targeted Rural/High Unemployment Area | 203(b)(5)(B). |
| T52—Spouse of Alien Classified T51 | 203(d). |
| T53—Child of Alien Classified T51 | 203(d). |
| **Other Numerically Limited Categories** | |
| Diversity Immigrants (Beginning in 1995): | |
| DV1—Diversity Immigrant | Section 203(c). |
| DV2—Spouse of DV1 | Section 203(d). |
| DV3—Child of DV1 | Section 203(d). |
| Transition for Spouse or Child of Legalized Aliens (Fiscal Years 1992–1994): | |
| LB1—Spouse of Legalized Alien | Section 112 of the Immigration Act of 1990. |
| LB2—Child of an Alien Classified LB1 | Section 112 of the Immigration Act of 1990. |
| Transition for Employees of Certain U.S. Businesses in Hong Kong (Fiscal Years 1991–1993): | |
| HK1—Employee of U.S. Business in Hong Kong | Section 124 of the Immigration Act of 1990. |
| HK2—Spouse of Alien Classified HK1 | Section 124 of the Immigration Act of 1990. |
| HK3—Child of Alien Classified HK1 | Section 124 of the Immigration Act of 1990. |
| Diversity Transition for Natives of Certain Adversely Affected Foreign States (Fiscal Years 1992–1994): | |
| AA1—Diversity Transition Immigrant | Section 132 of the Immigration Act of 1990. |
| AA2—Spouse of Alien Classified AA1 | Section 132 of the Immigration Act of 1990. |
| AA3—Child of Alien Classified AA1 | Section 132 of the Immigration Act of 1990. |
| Transition for Displaced Tibetans. (Fiscal Years 1991–1993): | |
| DT1—Displaced Tibetan | Section 134 of the Immigration Act of 1990. |
| DT2—Spouse of Alien Classified DT1 | Section 134 of the Immigration Act of 1990. |
| DT3—Child of Alien Classified DT1 | Section 134 of the Immigration Act of 1990. |

4. Section 42.12(a) is revised to read as follows:

**§ 42.12 Rules of chargeability.**

(a) *Applicability.* An immigrant shall be charged to the numerical limitation for the foreign state or dependent area of birth, unless the case falls within one of the exceptions to the general rule of chargeability provided by INA 202(b) and paragraphs (b) through (e) of this section to prevent the separation of families or the alien is classifiable under:

(1) INA 201(b);
(2) INA 101(a)(27) (A) or (B);
(3) Section 112 of Public Law 101–649;
(4) Section 124 of Public Law 101–649;
(5) Section 132 of Public Law 101–649;
(6) Section 134 of Public Law 101–649;

or

(7) Section 584(b)(1) as contained in section 101(e) of Public Law 100–202.

* * * * *

5. Sections 41.41 and 41.42 and 42.43 are revised to read as follows:

**§ 42.41 Effect of approved petition.**

Consular officers are authorized to grant to an alien the immediate relative or preference status accorded in a petition approved in the alien's behalf upon receipt of the approved petition or official notification of its approval. The status shall be granted for the period authorized by law or regulation. The approval of a petition does not relieve the alien of the burden of establishing to the satisfaction of the consular officer that the alien is eligible in all respects to receive a visa.

**§ 42.42 Petitions for immediate relative or preference status.**

*Petition for immediate relative or preference status.* The consular officer may not issue a visa to an alien as an immediate relative entitled to status under 201(b), a family-sponsored immigrant entitled to preference status under 203(a)(1)–(4), or an employment-based preference immigrant entitled to status under INA 203(b)(1)–(5), unless the officer has received a petition filed and approved in accordance with INA 204 or official notification of such filing and approval.

**§ 42.43 Suspension or termination of action in petition cases.**

(a) *Suspension of action.* The consular officer shall suspend action in a petition case and return the petition, with a report of the facts, for reconsideration by INS if the petitioner requests suspension of action, or if the officer knows or has reason to believe that approval of the petition was obtained by fraud, misrepresentation, or other unlawful means, or that the beneficiary is not entitled, for some other reason, to the status approved.

(b) *Termination of action.* (1) The consular officer shall terminate action in a petition case upon receipt from INS of notice of revocation of the petition in accordance with INS regulations.

(2) The consular officer shall terminate action in a petition case subject to the provisions of INA 203(g) in accordance with the provisions of § 42.83.

**§ 42.62 [Amended]**

6. In paragraph (a) to § 42.62, change the reference "42.63(a)(3)" to read "42.63(a)(2)."

7. In § 42.63, paragraph (a)(1) is removed. Paragraph (a)(2) is redesignated as paragraph (a)(1), newly redesignated (a)(1) is revised, and paragraph (a)(3) is redesignated as paragraph (a)(2) to read as follows:

**§ 42.63 Application forms and other documentation.**

(a) *Application Forms.*—(1) *Application on Form OF–230 Required.* Every alien applying for an immigrant visa must make application on Form OF–230, Application for Immigrant Visa and Alien Registration. This requirement may not be waived. Form OF–230 consists of parts I and II which, together, are meant in any reference to this Form.

* * * * *

**§ 42.65 [Amended]**

8. In § 42.65, paragraph (c), in line 6, "the United States," is removed and in line 11, after the word "means", the words "those of" are inserted.

9. Section 42.67(a)(2) is revised to read as follows:

**§ 42.67 Execution of application, registration, and fingerprinting.**

(a) *Execution of Visa Application.* (1) * * *

(2) *Oath and signature.* The applicant shall be required to read the Form OF–230, Application for Immigrant Visa and Alien Registration, when it is completed, or it shall be read to the alien in the alien's language, or the alien otherwise informed of its full contents. Aliens shall be asked whether they are willing to subscribe thereto. If the alien is not willing to subscribe to the application unless changes are made in the information stated therein, the required changes shall be made. The application shall then be sworn to or affirmed and signed by or on behalf of the applicant before a consular officer, or a designated officer of the American Institute of Taiwan, who shall then sign the application over the officer's title.

* * * * *

10. Paragraph (a)(3) of § 42.73 is revised to read as follows:

**§ 42.73 Procedure in issuing visas.**

(a) *Insertion of data.* * * *

(3) No entry need be made in the space provided for foreign state or other applicable area limitation on visas issued to aliens in the classifications set forth in § 42.12(a)(1)–(7), but such visas may be numbered if a post voluntarily uses a consecutive post numbering system.

* * * * *

11. In § 42.74 paragraphs (a) and (b) are revised to read as follows:

**§ 42.74 Issuance of new or replacement visas.**

(a) *New immigrant visa for an alien not subject to numerical limitation.* An immediate relative under INA 201(b), or a special immigrant under INA 101(a)(27) (A) or (B), who establishes that a visa has been lost or mutilated or has expired, or that the alien will be unable to use it during the period of its validity, may be issued a new visa at the same or any other consular office, if the consular officer then finds the alien qualified. The alien must pay anew the statutory application and issuance fees. Prior to issuing a new immigrant visa at a consular office other than the one that issued the original visa, the consular officer must also ascertain whether the original issuing office knows of any reason why a new visa should not be issued.

(b) *Replacement immigrant visa for an alien subject to numerical limitation.* An immigrant documented under INA 203 (a), (b), or (c), or under sections 112, 124, or 132 of the Immigration Act of 1990, who was or will be unable to use the visa during the period of its validity because of reasons beyond the alien's control and for which the alien is not responsible may be issued a replacement immigrant visa under the original number during the same fiscal year in which the original visa was issued (provided the number has not been returned to the Department), if the consular officer then finds the alien qualified. The alien must pay anew the statutory application and issuance fees. Prior to issuing a replacement immigrant visa at a consular office other than the one that issued the original visa, the consular officer must also ascertain whether the original issuing office knows of any reason why a replacement visa should not be issued. In issuing a visa under this paragraph, the consular officer shall insert the word "REPLACE" on Form OF–155A, Immigrant Visa and Alien Registration, before the word "IMMIGRANT" in the title of the visa.

* * * * *

12. In § 42.83, paragraph (a) is revised to read as follows:

**§ 42.83 Termination of registration.**

(a) *Termination following failure of applicant to apply for visa.* In accordance with INA 203(g), an alien's registration for an immigrant visa shall be terminated if, within one year after transmission of a notification of the availability of an immigrant visa, the applicant fails to apply for an immigrant visa.

* * * * *

Dated: September 11, 1991.

**James Ward,**

*Acting Assistant Secretary for Consular Affairs.*

[FR Doc. 91-23467 Filed 9-30-91; 8:45 am]

BILLING CODE 4710-06-M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of the Secretary

### 24 CFR Part 91

**[Docket No. R-91-1507; FR-2932 I-04]**

**RIN 2501-AB13**

### Comprehensive Housing Affordability Strategy; Extension of Comment Period

**AGENCY:** Office of the Secretary, HUD.

**ACTION:** Interim rule and request for comments; extension of comment period.

**SUMMARY:** The comment period announced in the interim rule establishing the new Comprehensive Housing Affordability Strategy (CHAS) published on February 4, 1991 (56 FR 4480) was May 6, 1991. This notice extends the comment period on the rule, and invites comment on the forms, procedures prescribed by HUD, and the CHAS development process, as well, until a date after the October 31 recommended date for submission of the CHAS to HUD. This change is being made in recognition of the fact that jurisdictions submitting CHAS documents will then be able to respond on the basis of experience under the interim rule. Comments received during this extended period will be considered along with those previously submitted during the development of a final rule, scheduled for publication in early 1992.

**DATES:** Comment due date: November 15, 1991.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by title and docket number and should be sent to the Rules Docket Clerk, Office of the General Counsel, room 10276, Department of Housing and Urban Development, 451 Seventh St., SW., Washington, DC 20410.

As a convenience to commenters, the Rules Docket Clerk will accept brief public comments transmitted by facsimile ("FAX") machine. The telephone number of the FAX receiver is (202) 708-4337. Only public comments of six or fewer total pages will be accepted via FAX transmittal. This limitation is necessary in order to assure reasonable access to the equipment. Comments sent by FAX in excess of six pages will not be accepted. Receipt of FAX transmittals will not be acknowledged, except that the sender may call the Rules Docket Clerk at (202) 708-2084, TDD (202) 708-3259 to confirm receipt. (These are not toll-free numbers.)

**FOR FURTHER INFORMATION CONTACT:** David M. Cohen, Director, Office of Urban Rehabilitation, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 708-2685. This is not a toll-free number.

**SUPPLEMENTARY INFORMATION:** A CHAS is a planning document comprised of fifteen statutory elements, principal among which are an assessment of housing assistance needs, a description of market conditions, a statement of resources available, and a plan of action to address the needs. The CHAS, authorized by title I of the Cranston-Gonzalez National Affordable Housing Act of November 28, 1990, Public Law 101-625, replaces two other documents—the Housing Assistance Plan and the Comprehensive Homeless Assistance Plan—used in HUD programs before October 31, 1991. In order to receive direct funding for a wide variety of HUD programs, applicants that are governmental units must have an approved CHAS, and applicants that are not governments must obtain a certification that their applications are in compliance with the CHAS for the jurisdiction.

This notice requests comments that will be used in determining the content of the final rule. The extended comment due date will permit public comments to reflect jurisdictions' actual experience with the interim rule, forms, procedures, and the CHAS development process. (Those having commented previously are requested not to reiterate their earlier comments.)

Development of a final rule after the new comment closing date also will allow the Department to evaluate its experience with the comprehensive housing affordability strategies submitted under the interim rule.

**Authority:** Sections 101-108, Cranston-Gonzalez National Affordable Housing Act (Pub. L. 101-625, 104 Stat. 4079); sec. 7(d), Department of Housing and Urban Development Act of 1965 (42 U.S.C. 3535(d)).

Dated: September 24, 1991.

**Anna Kondratas,**

*Assistant Secretary for Community Planning and Development.*

[FR Doc. 91-23539 Filed 9-30-91; 8:45 am]

BILLING CODE 4210-32-M

### Office of the Assistant Secretary for Housing—Federal Housing Commissioner

### 24 CFR Part 235

**[Docket No. R-91-1565; FR-3169-F-01]**

### Mortgage Insurance—Changes in Interest Rates

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

**ACTION:** Final rule.

**SUMMARY:** This change in the regulations decreases the maximum allowable interest rate on Section 235 (Homeownership for Lower Income Families) insured loans. This final rule is intended to bring the maximum permissible financing charges for this program into line with competitive market rates.

**EFFECTIVE DATE:** September 18, 1991.

**FOR FURTHER INFORMATION CONTACT:** James B. Mitchell, Director, Financial Services Division, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone (202) 708-4325. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** The following amendments to 24 CFR chapter II have been made to decrease the maximum interest rate which may be charged on loans insured by this Department under section 235 of the National Housing Act. The maximum interest rate on the HUD/FHA section 235 insurance programs has been reduced from 9.0 percent to 8.5 percent.

Until recently, HUD regulated interest rates not only for the section 235 Program, but also for fire safety equipment loans insured under section 232 of the National Housing Act. However, section 429(e)(2) of the Housing and Community Development Act of 1987 (Pub. L. 100-242, approved February 5, 1988) amended the National Housing Act to provide that interest on fire safety equipment loans under section 232(i) of the Act will be "at such rate as may be agreed upon by the mortgagor and the mortgagee." Accordingly, these loans, like most other National Housing Act-authorized loans, now have their interest rates determined by negotiation. Accordingly, this announcement of a change in interest rate ceilings for FHA-insured mortgages is limited to the section 235 Program. The Secretary has determined that this change is immediately necessary to meet the needs of the market and to

prevent speculation in anticipation of a change.

As a matter of policy, the Department submits most of its rulemaking to public comment, either before or after effectiveness of the action. In this instance, however, the Secretary has determined that advance notice and public comment procedures are unnecessary and that good cause exists for making this final rule effective immediately. HUD regulations published at 47 FR 56266 (1982), amending 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969, contain categorical exclusions from their requirements for the actions, activities, and programs specified in § 50.20. Since the amendments made by this rule fall within the categorical exclusions set forth in paragraph (*1*) of § 50.20, the preparation of an Environmental Impact Statement or Finding of No Significant Impact is not required for this rule. This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation issued on February 17, 1981. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local governmental agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. In accordance with the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule provides for a small adjustment in the mortgage interest rate in programs of limited applicability, and thus of minimal effect on small entities. This rule was not listed in the Department's Semiannual Agenda of Regulations published on April 22, 1991 (56 FR 17360) pursuant to Executive Order 12291 and the Regulatory Flexibility Act. The Catalog of Federal Domestic Assistance Program numbers are 14.108, 14.117, and 14.120.

**List of Subjects in 24 CFR Part 235**

Condominiums, Cooperatives, Low- and Moderate-Income Housing, Mortgage insurance, Homeownership, Grant programs: Housing and community development.

Accordingly, the Department amends 24 CFR part 235 as follows:

## PART 235—MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOMEOWNERSHIP AND PROJECT REHABILITATION

1. The authority citation for 24 CFR part 235 continues to read as follows:

**Authority:** Sections 211, 235, National Housing Act (12 U.S.C. 1715b, 1715z); section 7(d), Department of Housing and Urban Development Act, (42 U.S.C. 3535(d)).

2. In § 235.9, paragraph (a) is revised as follows:

**§ 235.9 Maximum interest rate.**

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 8.5 percent per annum with respect to mortgages insured on or after September 18, 1991.

* * * * *

3. In § 235.540, paragraph (a) is revised to read as follows:

**§ 235.540 Maximum interest rate.**

(a) The mortgage shall bear interest at the rate agreed on by the mortgagee and the mortgagor, which rate shall not exceed 8.5 percent per annum with respect to mortgages insured on or after September 18, 1991.

Dated: September 24, 1991.

**Arthur J. Hill,**

*Assistant Secretary for Housing—Federal Housing Commissioner.*

[FR Doc. 91–23540 Filed 9–30–91; 8:45 am]

BILLING CODE 4210–27–M

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### 26 CFR Part 301

**[T.D. 8369]**

**RIN 1545–AP80**

## Authority of the Secretary of Agriculture To Require Employer Identification Numbers From Retail Food Stores and Wholesale Food Concerns for Purposes of the Food Stamp Act of 1977.

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Final regulations.

**SUMMARY:** This document contains final regulations relating to the authority of the Secretary of Agriculture to require retail food stores and wholesale food stores and wholesale food concerns to furnish employer identification numbers for purposes of administering the Food Stamp Act of 1977. The authority to solicit employer identification numbers was conferred upon the Secretary of Agriculture by section 1735(c) of the Food, Agriculture, Conservation, and Trade Act of 1990.

**EFFECTIVE DATE:** These regulations are effective on February 1, 1992.

**FOR FURTHER INFORMATION CONTACT:** Lisa J. Byun of the Office of Assistant Chief Counsel (Income Tax & Accounting), Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224 (Attention: CC:IT&A:4) or telephone 202–566–5985 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

On July 24, 1991, the **Federal Register** (56 FR 33888) published a notice of proposed rulemaking to provide guidance under section 6109 of the Internal Revenue Code as amended by section 1735(c) of the Food, Agriculture, Conservation, and Trade Act of 1990, Public Law No. 101–624, 104 Stat. 3359 (November 28, 1990). Although written comments were requested and a public hearing was convened on August 30, 1991, no written or oral comments were received. Accordingly, the Service adopts the proposed regulations without any revisions.

**Special Analyses**

It has been determined that these regulations are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therfore, a final Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

**Drafting Information**

The principal author of these regulations is Lisa J. Byun, Office of the Assistant Chief Counsel (Income Tax & Accounting), Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in their development.

**List of Subjects in 26 CFR Part 301**

Administrative practice and procedure, Alimony, Bankruptcy, Child

support, Continental shelf, Courts, Crime, Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Investigations, Law enforcement, Oil pollution, Penalties, Pensions, Reporting and recordkeeping requirements, Statistics, Taxes.

**Adoption of Amendments to the Regulations**

Accordingly, part 301 of title 26 of the Code of Federal Regulations is amended as follows:

## PART 301—PROCEDURE AND ADMINISTRATION

**Paragraph 1.** The authority for part 301 is amended by removing "Section 7805, I.R.C. 1954; 68A Stat. 917;".

**Par. 2.** As amended, the authority for part 301 reads in part:

**Authority:** 26 U.S.C. 7805 * * *

**Par. 3.** Section 301.6109–2 is added to read as follows.

**§ 301.6109–2 Authority of the Secretary of Agriculture to collect employer identification numbers for purposes of the Food Stamp Act of 1977.**

(a) *In general.* The Secretary of Agriculture may require each applicant retail food store or wholesale food concern to furnish its employer identification number in connection with the administration of section 9 of the Food Stamp Act of 1977 (7 U.S.C. 2018) (relating to the determination of the qualifications of applicants under the Food Stamp Act).

(b) *Limited purpose.* The Secretary of Agriculture may have access to the employer identification numbers obtained pursuant to paragraph (a) of this section, but only for the purpose of establishing and maintaining a list of the names and employer identification numbers of the stores and concerns for use in determining those applicants who have been previously sanctioned or convicted under section 12 or 15 of the Food Stamp Act of 1977 (7 U.S.C. 2021 or 2024). The Secretary of Agriculture may use this determination of sanctions and convictions in administering section 9 of the Food Stamp Act of 1977.

(c) *Safeguards*—(1) *Restrictions on access to employer identification numbers.* The persons permitted access to employer identification numbers obtained pursuant to paragraph (a) of this section are officers and employees of the United States whose duties or responsibilities require access to the employer identification numbers for the administration or enforcement of the Food Stamp Act of 1977.

(2) *Other safeguards.* The Secretary of Agriculture must provide for any additional safeguards that the Secretary of the Treasury determines to be necessary or appropriate to protect the confidentiality of the employer identification numbers. The Secretary of Agriculture may also provide for any additional safeguards to protect the confidentiality of employer identification numbers so long as these safeguards are consistent with any safeguards determined by the Secretary of the Treasury to be necessary or appropriate.

(d) *Confidentiality and disclosure of employer identification numbers.* Employer identification numbers obtained pursuant to paragraph (a) of this section are confidential. No officer or employee of the United States who has or had access to any such employer identification number may disclose that number in any manner, except to persons described in paragraph (c) of this section. For purposes of this paragraph (d), the term "officer or employee" includes a former officer or employee.

(e) *Sanctions*—(1) *Unauthorized, willful disclosure of employer identification numbers.* Sections 7213(a)(1), (2), and (3) apply with respect to the unauthorized, willful disclosure to any person of employer identification numbers that are maintained by the Secretary of Agriculture pursuant to this section in the same manner and to the same extent as sections 7213(a)(1), (2), and (3) apply with respect to unauthorized disclosures of returns and return information described in those sections.

(2) *Willful solicitation of employer identification numbers.* Section 7213(a)(4) applies with respect to the willful offer of any item of material value in exchange for any employer identification number maintained by the Secretary of Agriculture pursuant to this section in the same manner and to the same extent as section 7213(a)(4) applies with respect to offers (in exchange for any return or return information) described in that section.

(f) *Delegation.* All references in this section to the Secretary of Agriculture are references to the Secretary of Agriculture or his delegate.

(g) *Effective date.* The provisions of this section are effective on February 1, 1992.

Dated: September 17, 1991.

**Fred T. Goldberg, Jr.,**

*Commissioner of Internal Revenue.*

Approved:

**Kenneth W. Gideon,**

*Assistant Secretary of the Treasury.*

[FR Doc. 91–23582 Filed 9–30–91; 8:45 am]

BILLING CODE 4830–01–M

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### 32 CFR Part 290

**[DCAA 5410.8]**

### Defense Contract Audit Agency (DCAA); Freedom of Information Act Program

**AGENCY:** Defense Contract Audit Agency.

**ACTION:** Final rule.

**SUMMARY:** This final rule updates the Defense Contract Audit Agency Freedom of Information Act Program which implements the Freedom of Information Act of 1974, as amended (5 U.S.C. 552) within the Agency. This document revises 32 CFR part 290 (54 FR 31014) published on July 26, 1989 to provide substantive and administrative changes and conforms to recent significant court rulings in Freedom of Information Act litigation and reflects minor modifications to appendixes B and C to incorporate the changes necessitated as a result of the deactivation of the Western region.

**DATES:** This rule will be effective November 15, 1991. Comments must be received by October 31, 1991.

**ADDRESSES:** Forward comments to: Headquarters, Defense Contract Audit Agency, Attn: CMR, Cameron Station, Alexandria, Virginia 22304–6178.

**FOR FURTHER INFORMATION CONTACT:** Mr. Dave Henshall, (703) 274–4400.

**SUPPLEMENTARY INFORMATION:** This rule implements the provisions of DoD 5400.7–R (32 CFR 286) "DoD Freedom of Information Act Program," as published on December 26, 1990 (55 FR 53194) and amended on May 8, 1991 (56 FR 21300).

**List of Subjects in 32 CFR Part 290**

Freedom of Information.

Accordingly, Title 32, chapter I, subchapter O, is amended by revising part 290 to read as follows:

## PART 290—DEFENSE CONTRACT AUDIT AGENCY (DCAA) FREEDOM OF INFORMATION ACT PROGRAM

Sec.

Authority: 5 U.S.C. 552.

**§ 290.1 Purpose.**

This part assigns responsibilities and establishes policies and procedures for a uniform DCAA Freedom of Information Act (FOIA) program pursuant to the provisions of the Freedom of Information Act, 5 U.S.C. 552, as implemented by DoD Directive 5400.7 [1] and DoD 5400.7–R.[2]

**§ 290.2 Cancellation.**

DCAA Regulation 5410.8, DCAA Freedom of Information Act (FOIA) Program, dated 17 May 1989; DCAAR 5200.1, Control and Protection of "For Official Use Only" Information, dated 12 November 1985; and DCAA HQ Instruction 5200.9, Physical Security of "For Official Use Only" Information within Headquarters, DCAA, dated 20 November 1974, are superseded.

**§ 290.3 Applicability and scope.**

This rule applies to all DCAA organizational elements, and is to govern written responses by DCAA officials for requests from members of the public for permission to examine, or to be provided with copies of DCAA records. This rule also addresses Agency policies and procedures for handling "For Official Use Only" information, including Field Detachment sensitive information.

**§ 290.4 Policy.**

It is the policy of DCAA to:

(a) Promote public trust by making the maximum amount of information available to the public, upon request, pertaining to the operation and activities of the Agency.

(b) Allow a requester to obtain records from the Agency that are available through other public information services without invoking the FOIA.

(c) Make available, under the procedures established by DCAAP 5410.14,[3] those records that are requested by a member of the general public who cites the FOIA.

(d) Answer promptly all other requests for information and records under established procedures and practices.

[1] Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

[2] See footnote 1 to § 290.1.

[3] Copies may be obtained, if needed, from the Defense Contract Audit Agency, Attn: CMO, Cameron Station, Alexandria, VA 22304–6178.

**§ 290.5 Definitions.**

The terms used in this rule with the exception of the following are defined in DCAAP 5410.14.

(a) *Initial Denial Authorities (IDAs).* The regional directors, and the Chief, Information Resources Management Branch (CMR), have been delegated the authority by the Director, DCAA, to make initial determinations as to the releasability of DCAA records to the public, including Defense contractors. This authority may not be redelegated.

(b) *Appellate Authority.* The Assistant Director, Resources, or his designee.

(c) *Electronic Data.* Electronic data are those records and information which are created, stored, and retrievable by electronic means. This does not include computer software, which is the tool by which to create, store, or retrieve electronic data.

(d) *FOIA Request.* A written request for DCAA records, made by any person, including a member of the public (U.S. or foreign citizen), an organization, or a business, but not including a Federal agency or a fugitive from the law that either explicitly or implicitly invokes the FOIA, DoD 5400.7–R, DCAAR 5410.8,[4] or regional instruction on the FOIA.

(e) *Administrative Appeal.* A request by a member of the general public, made under the FOIA, asking the appellate authority to reverse an IDA decision to withhold all or part of a requested record or to deny a request for waiver or reduction of fees.

**§ 290.6 Responsibilities.**

(a) *Headquarters.* (1) The Assistant Director, Resources is responsible for:

(i) The overall Agency-wide administration of the DCAA FOIA Program through the Information Resources Management Branch (CMR), Information and Privacy Advisor, to ensure compliance with the policies and procedures that govern the program.

(ii) Acting as the designee for the Director, DCAA, serving as the sole appellate authority for appeals to decisions of respective IDAs.

(iii) Advising the Assistant Secretary of Defense (Public Affairs) (ASD(PA)) of cases of public interest, particularly those on appeal, when the issues raised are unusual or precedent setting, matters of disagreement among DoD components, are of concern to agencies outside the Department of Defense, or may otherwise require special attention or guidance.

(iv) Advising the ASD(PA) and the Executive Officer, DCAA, concurrent with the denial of a request or an appeal, when circumstances suggest a news media interest.

(v) Conferring with the General Counsel; the Assistant Director, Operations; and the Assistant Director, Policy and Plans, on the desirability of reconsidering a final decision to deny a record, if that decision becomes a matter of special concern because it involves either an issue of public concern or DoD-wide consequences.

(vi) Accomplishing program overview, in cooperation with the General Counsel, to ensure coordinated guidance to components, and to provide the means of assessing the overall conduct of the Agency's FOIA Program.

(vii) Responding to corrective action recommended by the Special Counsel of the Merit Systems Protection Board for arbitrary or capricious withholding of records by designated employees of the Agency.

(2) The Chief, Information Resources Management Branch, CMR, under the supervision and guidance of the Chief, Administrative Management Division (CM) is responsible for:

(i) Establishing, issuing, and updating policies for the DCAA FOIA Program; monitoring compliance with this rule; and providing policy guidance for the FOIA program.

(ii) Resolving conflicts that may arise regarding implementation of DCAA FOIA policy.

(iii) Designating an Agency FOIA Advisor, as a single point of contact, to coordinate on matters concerning Freedom of Information Act policy.

(3) The DCAA Information and Privacy Advisor, under the supervision and guidance of the Chief, Information Resources Management Branch is responsible for:

(i) Managing the DCAA FOIA Program in accordance with this rule, DCAAP 5410.14, applicable DCAA policies as well as DoD and Federal regulations.

(ii) Providing guidelines for managing, administering, and implementing the DCAA FOIA program. This would include issuing the DCAA FOIA rule, developing and conducting training for those individuals who implement the FOIA, and publishing in the **Federal Register** any instructions necessary for the administration of the FOIA program. This also includes serving as the informational point of contact for regional FOIA coordinators.

(iii) Maintaining and publishing DCAA Pamphlet 5410.12,[5] "Freedom of

[4] See footnote 3 to § 290.4(c).

[5] See footnote 3 to § 290.4(c).

Information Act, A Manager's Guide to a Complex Law", and DCAA Pamphlet 5410.14, "DCAA Freedom of Information Act Processing Guide".

(iv) Preparing the Annual Freedom of Information Report to Congress as required by DoD 5400.7–R.

(v) Establishing and maintaining a control system for assigning FOIA case numbers to FOIA requests received by Headquarters and regional offices.

(vi) Maintaining a record of FOIA requests received by Headquarters. This record is to contain the requester's identification, the date of the request, type of information requested, and type of information furnished. This record will be maintained and disposed of in accordance with DCAA records maintenance and disposition regulations and schedules.

(vii) Preparing and submitting the quarterly FOIA status report.

(viii) Making available for public inspection and copying in an appropriate facility or facilities, in accordance with rules published in the **Federal Register** the records specified in paragraph (a)(2) of 5 U.S.C. 552, unless such records are published and copies are offered for sale. Maintain and make available for public inspection and copying current indices of these records.

(4) Heads of Principal Staff Elements are responsible for:

(i) Reviewing all regulations or other policy and guidance issuances for which they are the proponent to ensure consistency with the provisions of this rule.

(ii) Ensuring that the provisions of DCAAP 5410.14 and this rule are followed in processing requests for records.

(iii) Forwarding to the DCAA Information and Privacy Advisor, any FOIA requests received directly from a member of the public so that the request may be administratively controlled and processed.

(iv) Ensuring the prompt review of all FOIA requests, and when required, coordinating those requests with other organizational elements.

(v) Providing recommendations regarding the releasability of DCAA records to members of the public, along with the responsive documents.

(vi) Providing the appropriate documents, along with a written justification for any denial, in whole or in part, of a request for records. Those portions to be excised should be bracketed in red pencil, and the specific exemption or exemptions cited which provide the basis for denying the requested records.

(vii) Ensuring that documents are marked FOUO at the time of their creation if information contained within is considered exempt from disclosure.

(5) The General Counsel is responsible for:

(i) Ensuring uniformity is maintained in the legal position, and the interpretation of the Freedom of Information Act, DoD 5400.7–R, and this rule.

(ii) Consulting with General Counsel, DoD on final denials that are inconsistent with decisions of other DoD components, involving issues not previously resolved, or raise new or significant legal issues of potential significance to other Government agencies.

(iii) Providing advice and assistance to the Assistant Director, Resources; Regional Directors; and the Regional FOIA Coordinators, through the DCAA Information and Privacy Advisor, as required, in the discharge of their responsibilities.

(iv) Coordinating Freedom of Information Act litigation with the Department of Justice.

(v) Coordinating on Headquarters denials of initial requests and administrative appeals.

(vi) Ensuring that documents are marked FOUO at the time of their creation if information contained within is considered exempt from disclosure.

(6) The Executive Officer shall serve as the coordinator for the release of information to the news media.

(b) Each Regional Director is responsible for the overall management of the Freedom of Information Act program within his respective region. Under his direction, the Regional Resources Manager is responsible for the management and staff supervision of the program and for designating a regional FOIA Coordinator. (1) Regional Directors are responsible for:

(i) Implementing and administering the Freedom of Information Act program throughout the region.

(ii) Making the initial determination pertaining to the releasability of DCAA records to members of the public. This authority cannot be delegated.

(iii) Delegating signature authority for FOIA correspondence which is considered only to be routine in nature, e.g., referrals and the release of information.

(iv) Ensuring that documents are marked FOUO at the time of their creation if information contained within is considered exempt from disclosure.

(2) FOIA Coordinators are responsible for:

(i) Issuing regional instructions that are consistent with the policies and procedures defined in DCAAP 5410.14 and this rule.

(ii) Conducting training on the FOIA program to the FAOs.

(iii) Submitting a DCAA Form 5410–4, "Freedom of Information Case Summary", to the DCAA Information and Privacy Advisor at the completion of each FOIA case to facilitate the preparation of the annual FOIA report to Congress. All case summaries must be submitted no later than January 10th for cases completed during the previous calendar year.

(iv) Establishing and maintaining a control system to ensure proper accountability and processing of FOIA requests.

(v) Contacting the DCAA Information and Privacy Act Advisor for a FOIA case number upon receipt of a FOIA request.

(c) Managers, Field Audit Offices (FAOs) are responsible for:

(1) Overall management and administration of the FOIA program within organizations under their cognizance.

(2) Ensuring that the regional FOIA Coordinator promptly receives all incoming FOIA requests. Use of facsimile transmission is appropriate for all requests received directly by the FAO.

(3) Ensuring that documents are marked FOUO at the time of their creation if information contained within is considered exempt from disclosure.

**§ 290.7 Procedures.**

(a) Procedures for processing material in accordance with the FOIA are outlined in DCAAP 5410.14. General provisions are outlined in the following paragraphs.

(b) Requests for Audit Reports. Audit reports prepared by DCAA are the property of and are prepared for the use of DoD contracting officers. As a result, their release should be at the sole discretion of the DoD contracting activity. Requesters seeking audit reports should send their requests directly to the DoD contracting activity to avoid administrative delay. Typically, requests for copies of DCAA audit reports may be identified by requesting those that relate to a specific contract number (e.g. DLA600-89–P0222). DoD contract numbers may be easily matched to the cognizant DoD contracting activity by referring to 48 CFR, "DoD FAR Supplement" Appendix N.

**Note:** Although DCAA can make a release determination on audit reports produced for non-DoD agencies, administrative procedure routinely dictates coordination with that agency prior to responding to the request. Requesters seeking expeditious processing

should forward their requests directly to the cognizant contracting officer for processing.

(c) Public Inspection and Copying. Section (a)(2) of the Freedom of Information Act requires agencies to make available for public inspection and copying, final opinions made in the adjudication of cases, statements of policy not yet published in the Federal Register, and administrative manuals and instructions. This requirement is satisfied by the quarterly publication of DCAAI 5025.2,[6] "DCAA Index of Publications" and DCAAI 5025.13,[7] "Index of DCAA Memorandums for Regional Directors".

(d) Requests for the Examination or copies of Records. (1) Members of the public may make written requests for copies of DCAA records or for permission to examine such records during normal business hours. Such requests must be in writing and either explicitly or implicitly invoke the Freedom of Information Act, or this rule. These requests should be submitted directly to the appropriate DCAA organizational element listed in Appendix B of this rule. If the appropriate DCAA organizational element is either unknown or cannot be ascertained, and the record is likely to be in the possession of DCAA, the request may be submitted to Headquarters, DCAA, ATTN: CMR, Cameron Station, Alexandria, Virginia 22304–6178.

(2) When submitting requests, requesters should:

(i) Identify each record sought with sufficient detail to facilitate the location and easy access to the record requested. Information as to where the record originated, subject, date, number, or any other identifying particulars should be provided whenever possible. DCAA organizational elements receiving requests which do not reasonably describe the record requested will advise the requester accordingly. Generally, a record is not reasonably described unless the requester provides information permitting an organized, nonrandom search of DCAA files and/or information systems. In providing descriptions based on events, the requester must provide information which permits DCAA organizational elements to, at least, infer the specific record sought.

(ii) Identify all other Federal agencies subject to the provisions of the FOIA to which the request has been sent. This will reduce both processing and coordination time between agencies and redundant referrals.

(iii) Provide a statement of their willingness to pay assessable charges. The statement must include a specific monetary amount if the assessable fees are likely to exceed the fee waiver threshold of $15.00 or a specific justification for any waiver or reduction of fees sought based on public interest in release or disclosure. DCAA organizational elements will notify requesters of deficiencies in fee declarations, and provide them the opportunity to amend initial declarations. Determinations on the adequacy of requester fee declarations are not subject to appeal unless: The DCAA organizational element has denied a specific request for the assessment of fees under one of the established requester categories; or has denied a request for the waiver or reduction of fees in the public interest.

(3) When a DCAA organizational element has no records responsive to a request, the requester will be notified promptly that should he or she determine such request to be adverse in nature, he or she may exercise their appeal rights. In cases where the request has been misdirected and the DCAA organizational element is aware of the appropriate FOIA respondent, they shall refer the request to the appropriate DCAA organizational element or other Federal agency through FOIA channels, and notify the requester of the referral. The 10 working day period allowed for responding to requests will not begin until the DCAA organizational element having the responsive records receives a request complying with procedural requirements of this rule, including statements on the payment of fees.

(4) The provisions of the FOIA are intended for parties with private interests. Officials seeking documents or information on behalf of foreign governments, other Federal agencies, and state or local agencies should be encouraged to employ official channels. The release of records to individuals under the FOIA is a public release of information. DCAA organizational elements will consider FOIA requests from such officials as made in a private, rather than official capacity, and will make disclosure and fee determinations accordingly.

(e) Referrals. (1) Records originating in or based on information obtained from other Federal agencies subject to the FOIA may be referred to that agency. In processing FOIA requests for such records, DCAA elements, after coordinating with the originating agency, may refer the request, along with a copy of the responsive records in its possession, to that agency for direct response. The requester is to be notified of the referral. However, if for investigative or intelligence purposes, the outside agency desires anonymity, FOIA Coordinators may only respond directly to the requester after coordination with the agency.

(2) Referral of Audit Reports. Audit reports prepared by DCAA are the property of and are prepared for the use of the DoD contracting officers. Their release is at the discretion of the DoD contracting activity. Therefore any FOIA request for audit reports prepared for DoD components should be referred to the cognizant DoD contracting activity and the requester notified of the referral. To avoid the delay associated with the referral process, requesters should be advised to send requests for audit reports directly to the cognizant DoD contracting activity. Requests for audit reports prepared for non-DoD agencies should be treated as requests for DCAA records.

(3) Referral of Work Papers. When a requester seeks workpapers, the cognizant contracting officer must furnish a notice of disposition to the appropriate activity pertaining to the releasability of the audit report. The notice of disposition will then be used to determine releasability of the workpapers. Details concerning the appropriate processing procedures may be found in DCAAP 5410.14.

(4) All other requests should be directed to the appropriate regional director, if known. When the location of the record is not known, the request should be directed to the DCAA Information and Privacy Advisor.

(5) Time Limits. DCAA organizational elements are to respond promptly to requesters complying with the procedural requirements outlined in this rule. When a significant number of requests are being processed, e.g. 10 or more, the requests shall be completed in order of receipt. However, this does not preclude completing action on a request which can be easily answered, regardless of its ranking within the order of receipt. Action may be expedited on a request regardless of its ranking within the order of receipt upon a showing of exceptional need or urgency. Exceptional need or urgency is determined at the discretion of the FOIA Coordinator.

(i) Upon receipt of a properly submitted FOIA request, DCAA organizational elements should contact the DCAA Information and Privacy Advisor for a FOIA case number. IDAs should:

[6] See footnote 3 to § 290.4(c).

[7] See footnote 3 to § 290.4(c).

(A) Locate and assemble responsive records.

(B) Determine releasability under the provisions of this rule.

(C) Determine the appropriate fees to be charged and

(D) Advise the requester accordingly. Initial determinations on either the release or denial of records, and notice to requesters, must be provided within 10 working days following receipt of the request by the cognizant DCAA organizational element.

(ii) In certain cases, IDAs may need to exercise an extension to the normal 10 working day period cited above. IDAs are to notify the requester, within the initial 10 working day period, of the extension, the circumstances necessitating it, and the anticipated date of a determination. Approved extensions are not to exceed 10 working days, and all extensions should be indicated on DCAA Form 5410–4, section 6. Circumstances where such extensions may be approved include:

(A) The record(s) sought are geographically located at places other than the DCAA organizational element processing the request.

(B) The request requires the collection and review of a substantial number of records.

(C) The disclosure determination requires consultation with another DCAA organizational element or other Federal agency with a substantial interest.

(iii) As an alternative to the previously mentioned, DCAA organizational elements may seek informal agreements with requesters for extensions in unusual circumstances when time limits become an issue in the response to the request.

(iv) Misdirected requests should be referred within 10 working days to the proper Federal agency or DCAA organizational elment through FOIA channels, and the requester notified of the referral. The 10 working day period allowed for responding to requests will not begin until the DCAA organizational element having the responsive records receives the request.

(6) Intial Disclosure Determinations. (i) Initial determinations to make records available may only be made by those IDAs designated in this rule.

Note: Requests for audit reports should be directed to the cognizant contracting officer for release determination. (See § 290.7(b)).

When a decision is made to release records in response to a FOIA request, DCAA organizational elements will promptly make the records available to the requester. When the request is for the examination of releasable records, DCAA organizational elements will advise the requester when and where he/she may appear. Examinations will be held during normal business hours. If a record is not provided in response to a FOIA request, the IDA will advise the requester, in writing, of the rationale for not providing the record.

(ii) IDAs should consult the Executive Officer, prior to releasing records on matters considered newsworthy or when releasing records to media representatives. Copies of all media requests should be submitted to the Executive Officer.

(iii) The following reasons, other than the statutory exemptions cited in the FOIA, are provided for not releasing a record in response to a FOIA request.

(A) The request is transferred to another DoD component, or to another Federal agency.

(B) The Agency determines through knowledge of its files and reasonable search efforts that it neither controls nor otherwise possesses the requested record.

(C) A record has not been described with sufficient particularity to enable the Agency to locate it by conducting a reasonable search.

(D) The requester has failed unreasonably to comply with procedural requirements, including payment of fees, imposed by this rule.

(E) The request is withdrawn by the requester.

(F) The information requested is not a record within the meaning of the FOIA and this rule.

(7) Denials. (i) A record in the possession and control of DCAA may be withheld *only* when the record falls within one or more of the nine categories of records exempt from mandatory disclosure under the FOIA, and the use of discretionary authority to release the record is determined to be unwarranted. (Note: Since audit reports are prepared for the use of DoD contracting officers, their release is at the discretion of the DoD contracting activity. To facilitate an expeditious response, requesters should send their requests directly to the DoD contracting activity. (See § 290.7(b)). The specific exemptions are detailed in DCAAP 5410.14.

(ii) Although exempt portions of records may be denied, nonexempt portions must be released to the requester when it can reasonably be assumed that the excised information could not be reconstructed. When a record is denied in whole, based on distortion or reconstruction potential, the IDA will prepare a response advising the requester of the determination, and the response will specifically state that it is not possible to reasonably segregate meaningful portions for release.

(iii) When a request for a record is denied in whole or in part, the IDA will inform the requester in writing of the specific exemption(s) on which the denial is based and explain the determination in sufficient detail to permit the requester to make a decision concerning appeal. The determination will also inform the requester of his/her appeal rights. All appeals should be made within 60 calendar days from the date of the initial denial, contain the reasons for the requester's disagreement with the determination, and be addressed to the Assistant Director, Resources, Headquarters, DCAA, Cameron Station, Alexandria, VA 22304–6178.

(iv) Records or portions of records which have been previously released become part of the public domain, and cannot be denied thereafter.

(8) Administrative Appeals of Denials. (i) If the IDA declines to provide a record because he/she considers it exempt, that decision may be appealed by the requester, in writing, to the Assistant Director, Resources, DCAA.

Note: Normally, IDAs would not issue denials for requests for audit reports. The denial authority for such records generally rests with the cognizant DoD contracting activity. (See § 290.7(b)). The appeal should be accompanied by a copy of the letter denying the initial request. Such appeals should contain the basis for disagreement with the initial refusal. Appeal procedures also apply to the disapproval of a request for waiver or reduction of fees. A "no record" finding may be appealed which allows the requester to challenge the adequacy of the Agency's search. Records which are denied should be retained during the time permitted for appeal.

(ii) IDAs shall advise the requester that an appeal should be filed so that it reaches the designated appellate authority no later than 60 calendar days after the date of the initial denial letter. At the conclusion of this period, except for good cause shown as to why the appeal was not timely, the case may be considered closed; however, such closure does not preclude the requester from filing litigation for denial of his appeal. If the requester has been provided a series of determinations for a single request, the time for appeal will begin on the date of the last determination of the series. Records which are denied shall be retained for a period of six years to meet the statute of limitations of claims requirement.

(iii) Final determinations normally shall be made within 20 working days of

receipt of an appropriately submitted appeal.

(9) Delay in Responding to an Appeal. (i) When additional time is required to respond to the appeal, the final determination may be delayed for the number of working days (not to exceed 10 days) that were not utilized as additional time for responding to the initial request. Requesters shall be advised that, if the delay exceeds the statutory extension provision or is for reasons other than the unusual circumstances previously described, they may consider their administrative remedies exhausted. They may, however, without prejudicing their right of judicial remedy, await a substantive response. DCAA shall continue to process the case expeditiously, whether or not the requester seeks a court order for release of the records, but a copy of any response provided subsequent to filing a complaint shall be forwarded to the Department of Justice through the DCAA General Counsel.

(ii) When the Assistant Director, Resources, DCAA, makes a determination to release all or a portion of the records on appeal, the records shall be made available promptly to the requester after compliance with procedural requirements. The final denial of a request will be made in writing, explain the exemption(s) invoked, advise that the material being denied does not contain meaningful portions that are reasonably segregable, and also advise the requester of the right of judicial review.

(10) Judicial Action. A requester will be deemed to have exhausted his administrative remedies after he has been denied the requested record by the Assistant Director, Resources, or when the Agency fails to respond to his request within the time limits prescribed by the FOIA and this rule. The requester may then seek an order from a U.S. District Court in the district in which he resides or has his principal place of business; the district in which the record is situated; or in the U.S. District Court for the District of Columbia, enjoining the Agency from withholding the record and ordering its production.

**§ 290.8 Fees.**

(a) Fees shall be determined in accordance with the DoD fee schedule, which is detailed in DCAAP 5410.14. Fees reflect direct costs for search, review (in the case of commercial requesters), and duplication of documents, collection of which is permitted by the FOIA. Fees are subject to limitations on the nature of assessable fees based on the category of the requester; statutory and automatic waivers based on the category determination and cost of routine collection; and either the waiver or reduction of fees when disclosure serves the public interest.

(b) Fees will not be charged when direct costs for a FOIA request are $15.00 or less, the automatic fee waiver threshold, regardless of category.

(c) Fee Assessment. In order to be as responsive as possible to FOIA requests, DCAA organizational elements should adhere to the following when assessing fees:

(1) Evaluate each request to determine the requester category and adequacy of the fee declaration. An adequate fee declaration requires a willingness by the requester to pay fees in an amount equal to, or greater than, the assessable charges for the request.

(2) Provide requesters an opportunity to amend inadequate fee declarations and provide estimates of prospective charges when required. When a requester fails to provide an adequate fee declaration within 30 days after notification of a deficiency, the request for information will be considered withdrawn.

(3) A requester's claims for assessment of fees under a specific category will be carefully considered. The IDA may require a requester to substantiate a claim for assessment under a claimed category. In the absence of requester claims, the IDA will determine the category into which a requester falls, basing its determination on all available information.

(4) When a DCAA organizational element disagrees with a requester claim for fee assessment under a specific category, the IDA will provide the requester with written determination indicating the following:

(i) The requester should furnish additional justification to warrant the category claimed.

(ii) A search for responsive records will not be initiated until agreement has been attained relative to the category of the requester.

(iii) If further category information has not been received within a reasonable period of time, the component will render a final category determination; and

(iv) The determination may be appealed to the Assistant Director, Resources, within 60 calendar days of the date of the determination.

(d) When a DCAA organizational element estimates or determines that allowable charges that a requester may be required to pay are likely to exceed $250.00, they shall notify the requester of the likely cost and obtain satisfactory assurance of full payment. This fee declaration generally applies when the requester has a history of prompt payments, however, an advance payment may be required of an amount up to the full estimated charges in the case of requesters with no history of payment.

(e) Where a requester has previously failed to pay a fee charged within 30 calendar days from the date of billing, DCAA organizational elements may require the requester to pay the full amount due, plus any applicable interest or demonstrate satisfaction of the debt, and to make an advance payment of the full amount of estimated fees, before processing begins on a new or pending request.

(f) After all work is completed on a request, and the documents are ready for release, DCAA organizational elements may request payment before forwarding the documents if there is no payment history on the requester, or if the requester has previously failed to pay a fee in a timely fashion (i.e., within 30 calendar days from the date of billing). Documents may not be held for release pending payment from requesters with a history of prompt payment.

(g) The administrative time limits for responding to a request will begin only after the DCAA organizational element has received an adequate declaration from the requester stating a willingness to pay fees, and satisfaction that all outstanding debts have been paid.

(h) DCAA organizational elements can bill requesters for services provided in responding to a request. Payment of fees may be made by personal check, bank draft drawn on a U.S. bank, or by U.S. Postal money order. All payments of this type are to be made payable to the U.S. Treasurer.

(i) Aggregating Requests. Occasionally, a requester may file multiple requests at the same time, each seeking portions of a document or documents, solely to avoid payments of fees. When a DCAA organizational element reasonably believes that a requester is attempting to do so, the DCAA organizational element may aggregate such requests and charge accordingly. One element to be considered would be the time period in which the requests have occurred. In no case may DCAA organizational elements aggregate multiple requests on unrelated subjects from one requester.

(j) Fee Waivers. (1) The determination to waive fees is at the discretion of IDAs designated in this rule. When direct costs for a FOIA request total the automatic fee waiver threshold, or is

less, fees shall be waived automatically for all requesters, regardless of category.

(2) Documents will be furnished without charge, or at a charge reduced below fees assessed to the categories of requesters, when the IDA determines that a waiver or reduction of fees is in the public interest because furnishing the information is likely to contribute significantly to public understanding of the operations of DCAA, and is not primarily in the commercial interest of the requester. DCAA organizational elements should refer to DCAAP 5410.14 for factors to consider in applying fee waivers due to public interest. Each fee decision must be considered on a case-by-case basis and upon the merits of the information provided in each request. When the question of whether to charge or waive the fee cannot be clearly resolved, DCAA organizational elements should rule in favor of the requester.

**Appendix A to Part 290—DCAA's Organization and Mission**

(a) Purpose. This section implements 5 U.S.C. 552 by describing the central and field organizations of DCAA.

(b) Origin and Authority. DCAA was established by the Secretary of Defense under Department of Defense (DoD) Directive 5105.36 [1] (32 CFR part 357) and began operating on July 1, 1965. Its Director reports to the Comptroller of the Department of Defense.

(c) Objective. Assist in achieving the objective of prudent contracting by providing DoD officials responsible for procurement and contract administration with financial information and advice on proposed or existing contracts and contractors, as appropriate.

(d) Mission. (1) DCAA performs all necessary contract audits for the Department of Defense, and provides accounting and financial advisory service regarding contracts to all DoD components responsible for procurement and contract administration. These services are provided in connection with negotiation, administration, and settlement of contracts and subcontracts. It also furnishes advisory contract audit service to a number of other government agencies under agreements between the Department of Defense and such agencies.

(2) DCAA audits contractors' and subcontractors' accounts, records, documents, and other evidence; systems of internal control, accounting, costing, estimating, and general business practices and procedures to give advice and recommendations to procurement and contract administration personnel on: acceptability of costs incurred under cost, redetermination, incentive, and similar type contracts; acceptability of estimates of costs to be incurred as represented by contractors incident to the award, negotiation, and modification of contracts; and adequacy of contractors' accounting and financial management systems and estimating procedures. DCAA also performs post-award audits of contracts for compliance with the provisions of Public Law 87–653 (Truth in Negotiations), and reviews contractor compliance with the Cost Accounting Standards.

(3) DCAA assists responsible procurement or contract administration activities in their surveys of the purchasing-procurement systems of major contractors; and cooperates with other DoD components on reviews, audits, analyses, or inquiries involving contractors' financial positions or financial and accounting policies, procedures, or practices. DCAA also maintains liaison auditors at major procuring and contract administration offices and provides assistance in the development of procurement policies and regulations.

(e) Composition. (1) DCAA consists of six major organizational elements: A Headquarters and six regions. The five regional offices manage over 400 field audit offices (FAOs) and suboffices located throughout the United States and overseas. An FAO is identified as either a branch office or a resident office. Suboffices are established by regional directors as extensions of FAOs when required to furnish contract audit service more economically. A suboffice is dependent on its parent FAO for release of audit reports and other administrative support.

(2) The Headquarters located at Cameron Station, Alexandria, Virginia consists of:

(i) The Director who exercises worldwide direction and control of DCAA.

(ii) The Deputy Director who serves as principal assistant to the Director and acts for the Director in his absence.

(iii) The Assistant Director, Operations, authorized to act for the Director and Deputy Director in their absence, is responsible for staff functions related to audit management, and technical audit programs, supervises the Technical Services Center in Memphis, Tennessee and the procurement/contract administration liaison offices.

(iv) The Assistant Director, Policy and Plans, is responsible for audit policy and procedures and related liaison functions, and supervises the Defense Contract Audit Institute in Memphis, Tennessee.

(v) The Assistant Director, Resources, is responsible for the programs and procedures related to the management and administration of resources required to support the audit mission.

(vi) The General Counsel provides legal and legislative advice to the Director and all members of the Agency staff.

(vii) The Executive Officer performs a variety of special projects and assignments for the Director and Deputy Director.

(viii) The Special Assistant for Quality reviews the Agency's compliance with established audit quality control standards, policies, and procedures and other internal control requirements.

(3) Regional offices are located in Smyrna, GA; Lexington, MA; Irving, TX; La Mirada, CA; and Philadelphia, PA. Regional directors direct and administer the DCAA audit mission, and manage personnel and other resources assigned to the regions; manage the contract audit program; and direct the operation of FAOs within their region. Principal elements of regional offices are the Regional Director, Deputy Regional Director, Regional Audit Managers, Regional Special Programs Manager, and Regional Resources Manager.

(4) A resident office is established at a contractor's location when the amount of audit workload justifies the assignment of a permanent staff of auditors and support staff. A resident office may also perform procurement or contract administration liaison functions.

(5) A branch office is established at a strategically situated location within the region, responsible for performing all contract audit service within the assigned geographical area, exclusive of contract audit service performed by a resident or liaison office within the area. A branch office may also perform procurement or contract administration liaison functions.

(6) If requested, a DCAA liaison office is established at a DoD procurement or contract administration office when required on a full-time basis to provide effective communication and coordination among procurement, contract administration, and contract audit elements. Liaison offices assist in effective utilization of contract audit services.

**Appendix B to Part 290–DCAA's FOIA Points of Contact**

(Regional Offices Listed Alphabetically by State and City)

**California**

**DCAA Western Regional Office,** Attn: RCI–4 (FOIA Coordinator), 16700 Valley View Avenue, suite 300, La Mirada, CA 90638–5830, (714) 228–7017

Geographical Area of Responsibility: Alaska, California, Hawaii, Idaho, Montana, Nevada, Oregon, Washington, and Wyoming.
Pacific Ocean and Asian Islands.
Asia except the Middle East.
Australia.

**Georgia**

**DCAA Eastern Regional Office,** Attn: RCI–1 (FOIA Coordinator), 2400 Lake Park Drive, suite 300, Smyrna, GA 30080–7644, (404) 319–4510

Geographical Area of Responsibility: Alabama, Florida, Georgia, Indiana, Kentucky, Louisiana, Mississippi, North Carolina, Ohio, Tennessee, Virginia, West Virginia, Central America, South America, Bermuda, Puerto Rico and nearby Islands, and Mexico.

**Massachusetts**

**DCAA Northeastern Regional Office,** Attn: RCI–2 (FOIA Coordinator), 83 Hartwell Avenue, Lexington, MA 02173–3163, (617) 377–9756

Geographical Area of Responsibility: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, Michigan (excluding the Upper Peninsula), all New

[1] Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

York Counties except Steuben, Schuyler, Cheming, Tompkins, Tioga, Broome, Chenango, Otsego, Delaware, and Sullivan.
Africa and Adjacent Islands.
Europe and Adjacent Islands.
Middle East and Adjacent Islands.
Greenland.
Iceland.

**Pennsylvania**

**DCAA Mid-Atlantic Regional Office**, Attn: RCI–6 (FOIA Coordinator), 600 Arch St., Room 4400, Philadelphia, PA 19106–1604, (215) 597–5403

Geographical Area of Responsibility: Delaware, District of Columbia, Maryland, and New Jersey.

New York Counties of Steuben, Schuyler, Chemung, Tompkins, Tioga, Broome, Chenango, Otsego, Delaware, and Sullivan. The IBM Suboffice located at Tarrytown, New York.

Pennsylvania Counties East of and including Tioga, Lycoming, Union, Mifflin, Juniata, and Franklin.

Virginia Counties East and North of and including Stafford, Culpepper, Rappahannock, Page, Shenandoah, and Frederick.

**Texas**

**DCAA Central Regional Office**, Attn: RCI–3 (FOIA Coordinator), 106 Decker Court, suite 300, Irving, TX 75062–2795, (214) 650–4893

Geographical Area of Responsibility: Arizona, Arkansas, Colorado, Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah, Wisconsin, and Louisiana Parishes North of and including Vernon, Rapides, and Avoyelles.

**Virginia**

**DCAA Headquarters**, Attn: CMR (Information and Privacy Advisor), Cameron Station, Alexandria, VA 22304–6178, (703) 274–4400

(a) MISCELLANEOUS

(1) The following publications, may be obtained from the Defense Contract Audit Agency, ATTN: CMO, Cameron Station, Alexandria, VA 22304–6178. Since these materials are publicly available, requesters need not invoke the Freedom of Information Act to obtain copies of the publications selected.

(i) DCAAI 5025.2, "Index of Numbered Publications lists Agency publications".

(ii) DCAAP 1421.3 [1], "Catalog of Training Courses lists training courses available from the Defense Contract Audit Institute".

(2) Although the following publication is publicly available, the memorandums listed may or may not be subject to withholding under the Freedom of Information Act. As a result, requests for these records should be sought under the auspices of the Freedom of Information Act.

(i) DCAAI 5025.13, "Index of DCAA Memorandums for Regional Directors (MRDs)," lists numbered memorandums pertaining to Agency policy, procedure, and informational topics.

**Appendix C to Part 290—For Official Use Only**

(a) General. Information that has not been given a security classification pursuant to the criteria of an Executive Order, but which may be withheld from the public for one or more of the reasons cited in FOIA Exemptions 2 through 9 shall be considered as being for official use only. No other material shall be considered or marked "For Official Use Only" (FOUO). FOUO is not authorized as an anemic form of classification to protect national security interests.

(b) Prior FOUO Application. The prior application of FOUO markings is not a conclusive basis for withholding a record that is requested under the FOIA. When such a record is requested, the information in it shall be evaluated to determine whether, under current circumstances, FOIA exemptions apply in withholding the record or portions of it. If any exemption or exemptions apply or applies, it may nonetheless be released when it is determined that no governmental interest will be jeopardized by its release. (1) Historical Papers. Records such as notes, working papers, and drafts retained as historical evidence of Agency actions enjoy no special status apart from the exemptions under the FOIA.

(2) Time to Mark Records. The marking of records at the time of their creation provides notice of FOUO content and facilitates review when a record is requested under the FOIA. Records requested under the FOIA that do not bear such markings, shall not be assumed to be releasable without examination for the presence of information that requires continued protection and qualifies as exempt from public release.

(3) Distribution Statement. Information in a technical document that requires a distribution statement pursuant to DoD Directive 5230.24 [1] shall bear that statement and may be marked FOUO, as appropriate.

(c) Markings. (1) Location of Markings. (i) An unclassified document containing FOUO information shall be marked "For Official Use Only" at the bottom on the outside of the front cover (if any), on each page containing FOUO information, and on the outside of the back cover (if any).

(ii) Within a classified document, an individual page that contains both FOUO and classified information shall be marked at the top and bottom with the highest security classification of information appearing on the page.

(iii) Within a classified document, an individual page that contains FOUO information but no classified information shall be marked "For Official Use Only" at the bottom of the page.

(iv) Other records, such as, photographs, films, tapes, or slides, shall be marked "For Official Use only" or "FOUO" in a manner that ensures that a recipient or viewer is aware of the status of the information therein.

(v) FOUO material transmitted outside the Department of Defense requires application of an expanded marking to explain the significance of the FOUO marking. This may be accomplished by typing or stamping the following statement on the record prior to transfer:

This document contains information
EXEMPT FROM MANDATORY
DISCLOSURE
Under the FOIA. Exemptions ..... apply.

(2) Instructions for marking DCAA audit reports are contained in Chapter 10 of the Contract Audit Manual (CAM)[2].

(d) Dissemination and Transmission. (1) Release and Transmission Procedures. Until FOUO status is terminated, the release and transmission instructions that follow apply:

(i) FOUO information may be disseminated within the Agency and between officials of DoD Components and DoD contractors, consultants, and grantees to conduct official business for the Department of Defense. Recipients shall be made aware of the status of such information, and transmission shall be by means that preclude unauthorized public disclosure. Transmittal documents shall call attention to the presence of FOUO attachments.

(ii) Agency and DoD holders of FOUO information are authorized to convey such information to officials in other departments and agencies of the executive and judicial branches to fulfill a government function, except to the extent prohibited by the Privacy Act. Records thus transmitted shall be marked "For Official Use Only", and the recipient shall be advised that the information has been exempted from public disclosure, pursuant to the FOIA, and that special handling instructions do or do not apply.

(iii) Release of FOUO information to Members of Congress is governed by DoD Directive 5400.4 [3] Release to the GAO is governed by DoD Directive 7650.1 [4] Records released to the Congress or GAO should be reviewed to determine whether the information warrants FOUO status. If not, prior FOUO markings shall be removed or effaced. If withholding criteria are met, the records shall be marked FOUO and the recipient provided an explanation for such exemption and marking. Alternatively, the recipient may be requested, without marking the record, to protect against its public disclosure for reasons that are explained.

(iv) Records or documents containing FOUO information will be transported between offices in such a manner as to preclude disclosure of the contents. First-class mail and ordinary parcel post may be used for transmission of FOUO information. The double envelope system required for classified material may be used when it is considered desirable to exclude examination by mail handling personnel. In such cases, the inner envelope should be addressed to the intended recipient by title or name and

[1] Copies may be obtained, if needed, from the Defense Contract Audit Agency, Attn: CMO, Cameron Station, Alexandria, VA 22304–6178.

[1] Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

[2] Copies may be obtained, if needed, from the Defense Contract Audit Agency, Attn: CMO, Cameron Station, Alexandria, VA 22304–6178.

[3] See footnote 1 to paragraph (b)(3).

[4] See footnote 1 to paragraph (b)(3).

contain a statement that the envelope is to be opened by the addressee only.

(v) FOUO material prepared on personal computers or other data processing equipment should be password protected at origination.

(vi) Requests for Field Detachment sensitive information must be coordinated with the Director, Field Detachment, through Headquarters, DCAA.

(2) Transporting FOUO Information. Records containing FOUO information shall be transported in a manner that precludes disclosure of the contents. When not commingled with classified information, FOUO information may be sent via first-class mail or parcel post. Bulky shipments, such as distributions of FOUO Directives or testing materials, that otherwise qualify under postal regulations may be sent by fourth-class mail.

(3) Electrically Transmitted Messages. Each part of electrically transmitted messages containing FOUO information shall be marked appropriately. Unclassified messages containing FOUO information shall contain the abbreviation "FOUO" before the beginning of the text. Such messages shall be transmitted in accordance with communications security procedures in Allied Communication Publication 121 (U.S. Supp 1) for FOUO information.

(e) Safeguarding FOUO Information. (1) During Duty Hours. During normal working hours, records determined to be FOUO shall be placed in an out-of-sight location if the work area is accessible to nongovernmental personnel.

(2) During Nonduty Hours. At the close of business, FOUO records shall be stored so as to preclude unauthorized access. Filing such material with other unclassified records in unlocked files or desks, etc., is adequate when normal U.S. Government or Government-contractor internal building security is provided during nonduty hours. When such internal security control is not exercised, locked buildings or rooms normally provide adequate after hours protection. If such protection is not considered adequate, FOUO material shall be stored in locked receptacles such as file cabinets, desks, or bookcases. FOUO records that are subject to the provisions of Public Law 86–36 shall meet the safeguards outlined for that group of records.

(3) Field audit offices located in contractor owned facilities will ensure that material marked FOUO is stored in a locked receptacle to which the contractor does not have access during nonduty hours.

(f) Termination, Disposal and Unauthorized Disclosures. (1) Termination. The originator or other competent authority, e.g., initial denial and appellate authorities, shall terminate "For Official Use Only" markings or status when circumstances indicate that the information no longer requires protection from public disclosure. When FOUO status is terminated, all known holders shall be notified, to the extent practical. Upon notification, holders shall efface or remove the "For Official Use Only" markings, but records in file or storage need not be retrieved solely for that purpose.

(2) Disposal. (i) Nonrecord copies of FOUO materials may be destroyed by tearing each copy into pieces to preclude reconstructing, and placing them in regular trash containers. When local circumstances or experience indicates that this destruction method is not sufficiently protective of FOUO information, local authorities may direct other methods but must give due consideration to the additional expense balanced against the degree of sensitivity of the type of FOUO information contained in the records.

(ii) Record copies of FOUO documents shall be disposed of in accordance with the disposal standards established under 44 U.S.C. chapter 33, as implemented by DCAAM 5015.1[5], "Files Maintenance and Disposition Manual".

(3) Unauthorized Disclosure. The unauthorized disclosure of FOUO records does not constitute an unauthorized disclosure of DoD information classified for security purposes. Appropriate administrative action shall be taken, however, to fix responsibility for unauthorized disclosure whenever feasible, and appropriate disciplinary action shall be taken against those responsible. Unauthorized disclosure of FOUO information that is protected by the Privacy Act may also result in civil and criminal sanctions against responsible persons. The DCAA organizational element or DoD component that originated the FOUO information shall be informed of its unauthorized disclosure.

(g) Protection of Field Detachment Sensitive Information. (1) Definition. All communication, which qualifies for withholding under Exemptions (2) through (9), between regular DCAA organizational elements and Field Detachment offices is sensitive information and, as a minimum, shall be marked: FOR OFFICIAL USE ONLY (FOUO).

(2) Markings. (i) Communications, which qualify for withholding under Exemptions (2) through (9) initiated by a Field Detachment office, will bear the following marking:

FOR OFFICIAL USE ONLY

Access limited to addressee and his/her designated representative(s) with a need-to-know.

This document may not be reproduced or further disseminated without the approval of the Director, Field Detachment, DCAA.

(ii) All correspondence specifically exempt under Exemptions (2) through (9), including assist audit requests, generated by a regular (non-FD) DCAA office, which is addressed to the Field Detachment, either Headquarters or a field audit office, will be marked FOR OFFICIAL USE ONLY and will be limited within the FAO to one protected office copy.

(3) Storage. (i) All Field Detachment sensitive information in the possession of a regular DCAA office will be stored in a classified container, if available. If a classified container is not available, the sensitive information shall be stored in a locked container controlled by the FAO manager.

(ii) Permanent files currently maintained by regular DCAA offices, which are available to all FAO personnel, should not contain any detailed information on Field Detachment audit interest. That information shall be protected as sensitive information and stored in accordance with paragraph (g)(3)(i) of this Appendix.

(4) Dissemination. (i) Access to Field Detachment sensitive information by other DCAA audit and administrative personnel within the office shall be on a strict need-to-know basis as determined by the FAO manager.

(ii) Requests by non-DCAA personnel for access to Field Detachment sensitive information must be coordinated with the Director, Field Detachment, through Headquarters, DCAA.

Dated: September 24, 1991.

**L.M. Bynum,**

*Alternate OSD Federal Register, Liaison Officer, Department of Defense.*

[FR Doc. 91–23403 Filed 9–30–91; 8:45 am]

BILLING CODE 3810–01–M

[5] See footnote 2 to paragraph (c)(2).

## Office of the Inspector General

## 32 CFR Part 295

## Office of the Inspector General, Freedom of Information Act Program

**AGENCY:** Office of the Inspector General (OIG), Defense.

**ACTION:** Final rule.

**SUMMARY:** The Department of Defense, Office of the Inspector General has been designated a DoD Component for the purposes of responding to requests made pursuant to the Freedom of Information Act (FOIA). This final rule establishes the policy and procedures by which the public may request information from the Office of the Inspector General under the FOIA.

**DATES:** This final rule is effective October 1, 1991.

**SUPPLEMENTARY INFORMATION:** In FR Doc. 91–37873 appearing on August 9, 1991, the Office of the Inspector General, Department of Defense published a proposed rule for establishing the policy and procedures by which the public may request information from the Office of the Inspector General under the Freedom of Information Act (FOIA). Public comments were received from two public interest groups. Upon review and consideration of the comments, it was determined that the comments specifically addressed the policy and procedures established by the Department of Defense at 32 CFR part 285 and 32 CFR part 286, that are merely being implemented by this rule. For that reason, no changes to the proposed rule are required.

**List of Subjects in 32 CFR Part 295**

Freedom of information.

Accordingly, title 32, chapter 1, subchapter P, is amended to add part 295 as follows:

## PART 295—OFFICE OF THE INSPECTOR GENERAL, FREEDOM OF INFORMATION ACT PROGRAM

Sec.



Authority: 5 U.S.C. 552.

### § 295.1 Purpose.

This part establishes the policy and sets forth the procedures by which the public may obtain information and records from the Inspector General (IG) under the Freedom on Information Act (FOIA). It implements title 5, United States Code (U.S.C.) section 552, as amended by the Freedom of Information Reform Act of 1986, 32 CFR part 285 and 32 CFR part 286.

### § 295.2 Applicability.

The provisions of this Part are applicable to all components of the Office of the Inspector General (OIG) and govern the procedures by which FOIA requests for information will be processed and records may be released under the FOIA.

### § 295.3 Definition of OIG records.

(a) The products of data compilation, such as books, papers, maps, and photographs, machine readable materials or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States Government under Federal law in connection with the transaction of public business and in the OIG's possession and control at the time the FOIA request is made.

(b) The following are not included within the definition of the word "record":

(1) Objects or articles, such as structures, furniture, vehicles and equipment, whatever their historical value, or value as evidence.

(2) Administrative tools by which records are created, stored, and retrieved, if not created or used as sources of information about organizations, policies, functions, decisions, or procedures of the OIG. Normally, computer software, including source code, object code, and listings of source and object codes, regardless of medium are not agency records. (This does not include the underlying data which is processed and produced by such software and which may in some instances be stored with the software.) Exceptions to this position are outlined in § 295.4(c).

(3) Anything that is not a tangible or documentary record, such as an individual's memory or oral communication.

(4) Personal records of an individual not subject to agency creation or retention requirements, created and maintained primarily for the convenience of an OIG employee, and not distributed to any other OIG employee for their official use, or otherwise disseminated for official use.

(5) Information stored within a computer for which there is no existing computer program for retrieval of the requested information.

(c) In some instances, computer software may have to be treated as an agency record and processed under the FOIA. These situations are rare, and shall be treated on a case-by-case basis. Examples of when computer software may have to be treated as an agency record are:

(1) When the data is embedded within the software and can not be extracted without the software. In this situation, both the data and the software must be reviewed for release or denial under the FOIA.

(2) Where the software itself reveals information about organizations, policies, functions, decisions, or procedures of the OIG, such as computer models used to forecase budget outlays, calculate retirement system costs, or optimization models on travel costs.

(3) See appendix B to this part for further information on release determinations of computer software.

(d) If unaltered publications and processed documents, such as regulations, manuals, maps, charts, and related geophysical materials are available to the public through an established distribution system with or without charge, the provisions of 5 U.S.C. 552(a)(3) normally do not apply and they need not be processed under the FOIA. Normally, documents disclosed to the public by publication in the **Federal Register** also require no processing under the FOIA. In such cases, the OIG will direct the requester to the appropriate source to obtain the record.

### § 295.4 Other definitions.

(a) *FOIA Request.* A written request for OIG records, made by any person, including a member of the public (U.S. or foreign citizen), an organization, or a business, but not including a Federal agency or a fugitive from the law that either explicitly or implicitly invokes the FOIA, 32 CFR part 285 and 32 CFR part 286, or this part.

(b) *Initial Denial Authority (IDA).* The official who has been granted authority to withhold records requested under the FOIA, for one or more of the nine categories of records exempt from mandatory disclosure, by the head of the OIG Component designated by the IG to administer the IG FOIA Program.

(c) *Appellate Authority.* The IG or his or her designee having jurisdiction for this purpose over the record.

(d) *Administrative Appeal.* A request by a member of the general public, made under the FOIA, asking the appellate authority of the OIG to reverse an IDA decision to withhold all or part of a requested record or an IDA decision to deny a request for waiver or reduction of fees.

(e) *Public Interest.* Public interest is official information that sheds light on an agency's performance of its statutory duties because the information falls within the statutory purpose of the FOIA of informing citizens about what their Government is doing. That statutory purpose, however, is not fostered by disclosure of information about private citizens that is accumulated in various governmental files that reveals little or nothing about an agency's or official's own conduct.

### § 295.5 Policy.

(a) *General.* (1) It is the policy of the OIG to promote public trust by conducting its activities in an open manner, and by providing the public with the maximum amount of accurate and timely information concerning those activities, consistent with the need for security and adherence to other requirements of law and regulation.

(2) Records not specifically exempt from disclosure under the FOIA or prohibited by statutory or other regulatory requirements will, upon request, be made readily accessible to the public.

(3) Records that are specifically exempt from disclosure under the FOIA or prohibited by statutory or other regulatory requirements will be withheld from the public only upon the determination of the initial Denial Authorities identified in § 295.6 of this part, or the designated Appellate Authority.

(b) *News Media Requests.* (1) Requests from news media representatives for records that would not be withheld if requested under the

FOIA or prohibited from release under other statutory or regulatory authority, will be released promptly by the OIG element originating the record.

(2) Requests from news media representatives for records that are exempt from release under the FOIA or prohibited from release under other statutory or regulatory authority will be provided to the Freedom of Information Act and Privacy Act (FOIA/PA) Division, Office of the Assistant Inspector General for Investigations, along with the requested records, for review and a release determination and the news media representatives will be so advised.

(3) Extracts of the nonexempt portions of such records may be prepared in response to a specific request from a news media representative but shall be coordinated for release with the FOIA/PA Division. Extracts shall be prepared in accordance with the sample at appendix to § 295.5.

(c) *Control System.* (1) A request for OIG records that invokes the FOIA shall enter a formal control system designed to ensure compliance with the FOIA. A release determination must be made and the requester informed within the time limits specified in this part.

(2) Any request for OIG records that either explicitly or implicitly cites the FOIA will be processed under the provisions set forth in this part, unless otherwise required by § 295.5(m) of this part. All such requests shall be forwarded to the FOIA/PA Division.

(d) *Promptness of Response.* (1) A request from a member of the public for OIG records will be responded to within 10 working days of the date of its receipt in the FOIA/PA Division, unless a delay is authorized.

(2) Receipt of the request will be acknowledged and the requester will be promptly advised of any additional information needed to assure compliance with procedures established in this part. In the event there are a significant number of requests, e.g., 10 or more, the requests will be processed in order of date of receipt. This does not preclude the OIG from completing action on a request which can be easily answered, regardless of its ranking within the order of receipt. The OIG may expedite action on a request regardless of its ranking within the order of receipt upon a showing of exceptional need or urgency. Exceptional need will be determined at the discretion of the OIG.

(3) These provisions also apply to a request received on referral from another DoD Component or government agency and time limits will begin on the date of receipt in the OIG FOIA/PA Division.

(e) *Use of Exemptions.* It is OIG policy to make records publicly available unless they qualify for exemption under one or more of the nine exemptions. The OIG may elect to make a discretionary release, however, a discretionary release is generally not appropriate for records exempt under exemptions (b)(1), (b)(3), (b)(4), (b)(6) and (b)(7)(C). Exemptions (b)(4), (b)(6) and (b)(7)(C) can not be claimed when the requester is the submitter of the information. The categories of records which are exempt from release are identified in appendix B of this part.

(f) *For Official Use Only (FOUO).* The use of FOUO markings will be accomplished in accordance with the provisions of appendix A of this part, and exemptions (b)(2) through (b)(9) as set forth in appendix B of this part. Additional guidance will be provided to OIG elements, as needed, by the FOIA/PA Division.

(g) *Public Domain.* Nonexempt records released under the authority of this part are considered to be in the public domain. Such records may also be made available in the OIG Reading Room located in the FOIA/PA Division. Exempt records released pursuant to this part or other statutory or regulatory authority, however, may be considered to be in the public domain only when their release constitutes a waiver of the FOIA exemption. When the release does not constitute such a waiver, such as when disclosure is made to a properly constituted advisory committee or to a Congressional Committee, or to an individual to whom the record pertains, the released records do not lose their exempt status. Also, while authority may exist to disclose records to individuals in their official capacity, the provisions of this part apply if the same individual seeks to use the records in a private or personal capacity.

(h) *Creation of Records.* (1) A record must exist and be in the possession or control of the OIG at the time of the request to be considered subject to release under this part and the FOIA. Mere possession of a record does not presume OIG control and such records, or identifiable portions thereof, will be referred to the originating agency for a release determination and/or direct response to the requester. There is no obligation to create nor compile a record to satisfy a FOIA request; however, the OIG may compile a new record when doing so would result in a more useful response to the requester, or be less burdensome to the OIG than providing the existing records, and the requester does not object. The cost of creating or compiling such a record will not be charged to the requester unless the fee is equal to, or less than, the fee that would be charged for providing the existing record. Any fee assessments will be made in accordance with chapter IV of DoD 5400.7–R (32 CFR part 286).

(2) With respect to electronic data, the issue of whether records are actually created or merely extracted from an existing database is not always readily apparent. Consequently, when responding to FOIA requests for electronic data where creation of a record, programming, or particular format are questionable, the OIG will apply a standard of reasonableness. In other words, if the capability exists to respond to the request, and the effort would be a business as usual approach, then the request will be processed. However, the request will not be processed where the capability to respond does not exist without a significant expenditure of resources, thus not be a normal business as usual approach.

(i) *Describing Records Sought.* (1) It is the responsibility of the member of the public requesting records to adequately identify the records. A member of the public must describe the records sought with sufficient information to permit the OIG to locate the records with a reasonable amount of effort, since the FOIA does not authorize "fishing expeditions." Descriptive information about a record may be divided into two broad categories:

(i) Category I is file-related and includes information such as type of record (for example, memorandum), title, index citation, subject area, date the record was created, and originator.

(ii) Category II is event-related and includes the circumstances that resulted in the record being created or the date and circumstances surrounding the event the record covers.

(2) When the OIG receives a request that does not "reasonably describe" the requested record with sufficient Category I information to permit the conduct of an organized nonrandom search, or sufficient Category II information to permit inference of the Category I elements needed to conduct such a search, the requester will be notified in writing of the defect and of the need for more specific identification of the records sought. The specificity letter will provide guidance in identifying the records sought and in reformulating the request to reduce the burden on the OIG in complying with the FOIA. The OIG is not obligated to act on requests until an adequate description is provided by the requester.

(3) When the OIG receives a request in which only personal identifiers, e.g.,

name and Social Security Account Number, are provided in connection with the request for records concerning the requester, only records retrievable by personal identifiers will be searched. The search for such records may be conducted under Privacy Act procedures. No record will be denied that is releasable under the FOIA.

(j) *Referrals.* (1) The OIG has the responsibility of protecting the identity of individuals who make protected disclosures of wrongdoing on the part of others, under the "Whistleblower Protection Acts". When a FOIA requester has identified himself/herself as the "Whistleblower" in the matter for which records are being sought, in accordance with § 295.7(b)(3) of this part, or the FOIA/PA Division can reasonably determine that the FOIA requester is the "Whistleblower", the individual's identity will continue to be protected in all of the following circumstances involving referrals, except to the extent that such protection will impede the release of responsive records to the requester. In such event, the requester will be advised of the impedance and offered the option of allowing himself/herself to be identified solely for the purpose of obtaining maximum release of records responsive to the FOIA request. If the requester chooses to continue anonymity, the request will be processed only to the extent that will allow continued protection of the individual's identity.

(2) The OIG will refer a FOIA request to another DoD Component or to a Government agency outside the DoD when the OIG has no records responsive to the request, but believes the other DoD Component or outside agency may have, and the other DoD Component or outside agency has confirmed that it holds the record. When the other DoD Component or outside agency agrees to the referral, the requester will be advised of the referral and that the OIG has no responsive records, with the following exceptions:

(i) If it is determined by the other DoD Component or outside agency that the existence or nonexistence of the record itself is classified, the OIG will inform the requester only that the OIG has no responsive record and no referral will take place.

(ii) If the record falls under one or more of the "Exclusions" under the FOIA (see appendix B of this part), as determined by the other DoD Component or outside agency, the OIG will advise the requester only that the OIG has no responsive record and no referral will take place.

(3) The OIG will refer a record, or portions of a record that holds but that was originated by another DoD Component or outside agency, or for a record that contains substantial information that originated with another DoD Component or outside agency, to that Component or agency (unless the agency is not subject to the FOIA) for a release determination and/or direct response to the requester. In any such case, direct coordination will be effected and concurrence obtained from the other Component or agency prior to the referral. A copy of the record will be provided to the Component or agency with the referral, and the requester will be notified of the referral, consistent with any security requirements or "Exclusion" provisions of the FOIA. The OIG will not, in any case, release or deny such records without prior consultation with the other DoD Component or outside agency. If the requester is the "Whistleblower", the record or portion of the record will be provided to the DoD Component or agency, with a request for a release determination and return of the record to the OIG for response to the requester.

(4) The OIG will refer a FOIA request for a classified record that it holds, but did not originate, to the originating DoD Component or outside agency (unless the agency is not subject to the FOIA). If the record originated with the OIG but the classification is derivative, i.e., contains classified information that originated elsewhere and was incorporated in the OIG record, the record will be referred to the originating authority with a recommendation for release; or, after consultation with the originating authority, with a request for a declassification review and/or release determination and return of the record. If the requester is the "Whistleblower", the record will be provided to the originating authority with a request for a release determination and return of the record to the OIG for response to the requester.

(5) The OIG may also refer a request for a record that was originated by the OIG for the use of another DoD Component or outside agency, to that Component or agency with a recommendation for release, after any necessary coordination. The requester will be notified of such action consistent with any security requirements or "Exclusion" provisions of the FOIA.

(6) A FOIA request for investigative, intelligence, or any other type of record on loan from another DoD Component or outside agency to the OIG for a specific purpose will be referred to the DoD Component or outside agency that provided the records, if the records are restricted from further release and so marked. However, if for investigative or intelligence purposes, the outside Component or agency desires anonymity as determined through coordination, the OIG will respond directly to the requester.

(7) A FOIA request for a record, or portions of a record, held by the OIG, that originated with a non-U.S. government agency that is not subject to the FOIA, will be responded to by the OIG.

(8) Notwithstanding anything to the contrary in this section, all requesters seeking National Security Council (NSC) or White House documents will be advised that they should write directly to the NSC or White House for such documents. Should the requester insist upon an OIG search for these records, the OIG will conduct an appropriate search pursuant to the FOIA. OIG/DoD documents in which the NSC or White House has a concurrent reviewing interest will be forwarded by the FOIA/PA Division to the Director, Freedom of Information and Security Review (DFOISR), Office of the Assistant Secretary of Defense (Public Affairs) (OASD(PA)), which shall effect coordination with the NSC or White House, and return the documents to the originating agency after NSC review and determination. The FOIA/PA Division will forward any documents found in OIG files that are responsive to the FOIA request to DFOISR, OASD(PA) for their coordination with the NSC or White House, and return to the OIG with a release determination for final processing of the request.

(9) On occasion, the OIG receives FOIA requests for General Accounting Office (GAO) documents containing OIG information. Even though the GAO is outside of the Executive Branch, and not subject to the FOIA, all FOIA requests for GAO documents containing DoD information received directly from the public, or on referral from the GAO, will be processed under the provisions of the FOIA.

(k) *Authentication of Records.* Records provided under this Part will be authenticated, upon written request, to fulfill an official Government or other legal function. This service is in addition to that required under the FOIA and is not included in the FOIA fee schedule; therefore, a fee of $5.20 may be charged for each such authentication.

(l) *Records Management.* FOIA records shall be maintained and disposed of in accordance with Inspector General Defense Manual

(IGDM) 5015.2,[1] "Records Management Program".

(m) *Relationship Between the FOIA and the Privacy Act (PA).* Not all requesters are knowledgeable of the appropriate statutory authority to cite when requesting records. In some instances, they may cite neither Act, but will imply one or both Acts. For these reasons, the following guidelines are provided to ensure that requesters receive the greatest amount of access rights under both Acts:

(1) Where requesters seek records about themselves which are contained in a PA system of records and cite or imply the PA, the OIG will process their requests under the provisions of the PA.

(2) Where requesters seek records about themselves which are not contained in a PA system of records and cite or imply the PA, the requests will be processed under the provisions of the FOIA, since they have no access under the PA.

(3) Where requesters seek records about themselves that are contained in a PA system of records and cite or imply the FOIA or both Acts, the requests will be processed under the time limits of the FOIA and the exemptions and fees of the PA. This is appropriate since greater access will generally be received under the PA.

(4) Where requesters seek agency records (as opposed to personal records) and cite or imply the PA and FOIA, or where requesters cite or imply only the FOIA, the requests will be processed under the FOIA.

(5) Requesters will be advised in the final responses to their requests why a particular Act was used in processing their requests.

(n) *Index and "(a)(2)" Materials.* (1) No order, opinion, statement of policy, interpretation, staff manual or instruction (except as indicated below) issued after July 4, 1967, which is not indexed and either made available or published, may be relied upon, used, or cited as a precedent against any member of the public unless that individual has actual and timely notice of the contents of such materials. Such actual and timely notice may not be after-the-fact; i.e., after the individual has suffered some adverse effect. Materials identified as "(a)(2)" are:

(i) Final opinions, including concurring and dissenting opinions, and orders made in the adjudication of cases, as defined in 5 U.S.C. 551, that may be cited, used, or relied upon as precedents in future adjudications.

(ii) Statements of policy and interpretations that have been adopted by the agency and are not published in the **Federal Register.**

(iii) Administrative staff manuals and instructions, or portions thereof, that establish OIG policy or interpretations of policy that affect a member of the public. This provision does not apply to instructions for employees on tactics and techniques to be used in performing their duties, or to instructions relating only to the internal management of the OIG. Examples of manuals and instructions not normally made available are:

(A) Those issued for audit, investigation, and inspection purposes, or those that prescribe operational tactics, standards of performance, or criteria for defense, prosecution, or settlement of cases.

(B) Operations and maintenance manuals and technical information concerning munitions, equipment, systems, and foreign intelligence operations.

(2) Thus, materials considered to meet the preceding definition of the FOIA "(a)(2)" requirements will be made available for public inspection and copying upon written request to the address indicated in § 295.7(b)(1) of this part, unless such materials have been published and are offered for sale or subscription. Upon receipt of the request, arrangements will be made at a time convenient to both the requester and the OIG, for the review and copying. If the publishing activity is out of stock of the published, for sale material and does not intend to reprint, then the preceding procedure will apply to the published material as well.

(3) When appropriate, the cost of copying any "(a)(2)" materials will be imposed upon the individual requesting the copy in accordance with chapter VI of DoD 5400.7–R (32 CFR part 286).

(4) The OIG will prepare an index of "(a)(2)" materials, or supplement thereto, arranged topically or by descriptive words rather than by case name or numbering system so that members of the public can readily locate material. Separate case name and numbering arrangements may be added for OIG convenience.

(5) The IG has determined that it is not practical nor feasible to prepare an index of the "(a)(2)" materials on a quarterly basis, nor to publish the annual "IG Publications Index" in the **Federal Register** because of the volume. This index is available to the public at no cost upon written request to: Acquisition and Resources Administration Directorate, Publications Management Branch, room 413, 400 Army Navy Drive, Arlington, Virginia 22202–2884. It may be necessary to deny all or portions of some documents listed in the index that fall within one or more exemptions of the FOIA.

(o) *Fees and Fee Waivers.* (1) Fees will be assessed under the FOIA as set forth in chapter VI of DoD 5400.7–R (32 CFR part 286).

(2) Requesters must indicate their willingness to pay fees in their initial FOIA request. If a waiver of fees is requested, a statement regarding their willingness to pay fees in the event a waiver or reduction of fees is denied is still required. Any requests not containing a statement regarding a willingness to pay assessed fees will not be processed and the requester will be so advised.

(3) Fees will not be required to be paid in advance of processing the request for release of the records requested except:

(i) When the requester is known to be in default of payment of fees incurred in connection with a previous request.

(ii) When the total amount of estimated fees assessable to the requester exceeds $250.00 and waiver is not appropriate, a "good faith" deposit of half of the amount of the estimated fees may be required before completing the processing of the request, or providing the requested records, in the case of a requester with no history of payment. Where the requester has a history of prompt payment, the OIG will notify the requester of the likely cost and obtain satisfactory assurance of full payment.

(4) When the OIG has completed all work on a request and the documents are ready for release, advance payment may be requested before forwarding the documents if there is no payment history on the requester. Where there is a history of prompt payment by the requester, the OIG will not hold documents ready for release pending payment.

(5) Fee waivers will be granted on a case-by-case basis when the OIG determines that waiver or reduction of the fees is in the public interest because furnishing the information is likely to contribute significantly to public understanding of the operations or activities of the OIG and the Department of Defense and is not primarily in the commercial interest of the requester. In any request for waiver of fees, the requester must provide sufficient information to enable the IDA to make a proper determination of whether or not the fees should be waived.

[1] Copies may be obtained, if needed, from the Information and Operations Support Directorate, Publications Management Branch, room 420, 400 Army Navy Drive, Arlington, VA 22202–2884

(6) In cases where the requester fails to provide sufficient persuasive information upon which to make a determination for waiver of the fees, the requester shall be so informed and given the opportunity to submit additional justification. Absent such justification, the requester may be required to pay fees appropriate to his/her category, if provision of the information is determined not to be in the public interest or benefit.

(7) Payments of fees must be by check or U.S. Postal money order made payable to the Treasurer of the United States. Cash payments cannot be accepted.

(p) *Appeals and Judicial Action.* (1) If the designated IDA declines to provide a requested record because the official considers it exempt from disclosure under one or more of the nine exemptions of the FOIA, that decision may be appealed by the requester to the designated Appellate Authority. The appeal should be submitted in writing by the requester within 60 calendar days after the date of the initial denial letter. In cases where incremental release actions have been taken on an initial request, the time for the appeal will not begin until the date of the last denial of release letter.

(2) A "no record" finding may be considered to be adverse, and if so interpreted by the requester, may be appealed using the normal OIG appeal procedures. The OIG will conduct an additional search of files, based on the receipt of an appeal to a "no record" response, as a part of the appellate process.

(3) All final decisions rendered on appeals will be made to the requesters in writing by the Appellate Authority, after consultation with the Office of General Counsel (OGC) representative to the OIG, and other appropriate OIG elements.

(4) Final determinations on appeals normally shall be made within 20 working days after receipt. The appeal will be deemed to have been received when it reaches the FOIA/PA Division, for administrative processing on behalf of the Appellate Authority. Misdirected appeals are to be referred expeditiously to the FOIA/PA Division.

(5) A requester will be deemed to have exhausted his/her administrative remedies after he/she has been denied the requested record or waiver/reduction of fees, by the designated Appellate Authority, or when the OIG FOIA/PA Division fails to respond to the request within the time limits prescribed by the FOIA, DoD 5400.7–R (32 CFR part 286) and this part. The requester may then seek judicial action from a U.S. District Court in the district in which the requester resides, has a principal place of business, in the district in which the record is located, or in the District of Columbia.

(6) Records that are denied on appeal shall be retained for a period of six years, in accordance with IGDM 5015.2,[2] "Records Management Manual," to meet the statute of limitations of claims requirements.

**Appendix to § 295.5**

**Extract**

The material contained herein is an Extract of information from (Name of Original Document), which has been determined to be in the public domain. The remaining material not provided herein may be requested under the provisions of the Freedom of Information Act.

**§ 295.6 Responsibilities.**

(a) The Assistant Inspector General (AIG) for Investigations is responsible for the overall implementation and administration of the FOIA program in the OIG, and for the designation of the IDAs.

(b) The Director, Investigative Support is designated as an IDA and is responsible for the overall operation of the FOIA program in the OIG.

(c) The Assistant Director, FOIA/PA Division, Investigative Support Directorate is designated as an IDA and will:

(1) Serve as the point of contact on all FOIA matters for the OIG.

(2) Coordinate and respond to all requests received from the public for records in accordance with the policy established and procedures set forth in this part, and in all applicable DoD directives, regulations and instructions.

(3) Coordinate requests received from the public for records to the extent considered necessary, with the DFOISR, OASD(PA), other DoD Components, other Federal agencies, and other OIG elements.

(4) Arrange for the collection of fees are prescribed by the policy as established in this part.

(5) Maintain the FOIA case files in accordance with IGD Manual (IGDM) 5015.2,[3] "Records Management Program".

(6) Recommend action to be taken on all appeals of fees, appeals of fee waiver denials, and appeals of denials to access of records requested, to the Appellate Authority.

(7) Review OIG publications to assure that those which meet the FOIA "(a)(1)" and "(a)(2)" requirements for publication in the **Federal Register** are prepared in proper form and transmitted promptly for publication in the **Federal Register**.

(8) Maintain copies of material required to be made available under the "(a)(2)" provisions of the FOIA for examination and copying by the public, and provide the required FOIA Reading Room for use by the public in doing so.

(9) Establish a training program for OIG personnel who are involved in preparing responsive records for release to the public under the FOIA.

(10) Prepare the Annual Report on the FOIA for forwarding to DFOISR, OASD(PA) as required by 32 CFR part 286.

(d) The AIGs and the Director, IG Regional Office-Europe will:

(1) Comply with, and assure compliance by all of their subcomponents with, the policy established and the procedures set forth in this part.

(2) Appoint a Point of Contact (POC) to interact with the FOIA/PA Division on all FOIA matters, and notify the FOIA/PA Division of any changes in the appointment.

(3) Provide all records responsive to a request as directed by the FOIA/PA Division.

(4) Recommend release/denial action to be taken, indicate applicable exemptions, and provide appropriate rationales.

(e) The Freedom of Information Act Appellate Authority is designated by the Inspector General and will:

(1) Determine the action to be taken on all appeals made by the public of fees, fee waiver/reduction denials, and access denials in accordance with chapter V, section 3, of DoD 5400.7–R (32 CFR part 286).

(2) Coordinate all appellate decisions with the Office of General Counsel, Assistant General Counsel (Fiscal and Inspector General).

(f) The AIG for Administration and Information Management will:

(1) Prepare annually an index of IG publications, statements and documents pertaining to any matter issued, adopted, or promulgated and required to be made available to the public by publication or sale.

(2) Establish and implement any necessary procedures to effect disciplinary action recommended by the Special Counsel of the Merit Systems Protection Board in cases involving the arbitrary and capricious withholding of information and records requested under the FOIA as required by chapter V, section 4, of DoD 5400.7–R (32 CFR part 286).

[2] See footnote 1 to § 295.5(1).

[3] See footnote 1 to § 295.5(1).

**§ 295.7 Procedures.**

(a) *General.* The provisions of the FOIA are reserved for persons with private interests as opposed to Federal governmental agencies seeking official information. The procedures for making requests, whether as a private party or governmental representative, are set forth below.

(b) *Requests From Private Parties.* (1) Members of the public may make requests in writing for copies of records, or permission to examine or copy records, directly to the FOIA/PA Division addressed to: Assistant Director, FOIA/PA Division, OAIG for Investigations, 400 Army Navy Drive, Arlington, VA 22202–2884.

(2) Requests must identify each record sought with sufficient specificity to enable the custodian to locate the record with a reasonable amount of effort. Requesters should provide such information as where the record originated and by whom, its subject matter, its approximate date or timeframe, which element of the OIG is likely to have custodianship, or any other similar information that would assist in locating the record. Requests must also contain a statement regarding willingness to pay fees.

(3) A request from an individual who made an allegation of wrongdoing to the IG, or any protected disclosure under the "Whistleblower Protection Acts," and who is seeking the results of any investigation or inquiry conducted into the allegation, should identify him/herself as the "Whistleblower" in the request. The request should indicate whether he/she wishes to continue anonymity, should be notarized to avoid the risk of losing the anonymity, and should contain a statement regarding willingness to pay fees.

(4) A request for a personal record or investigative record pertaining to the individual making the request, that is in a system of records whether nonexempt or exempted from mandatory release under the Privacy Act, must be notarized to avoid the risk of invasion of personal privacy. In any such request, the individual may designate another individual to act as his/her representative in making the request and in receiving the records on his/her behalf; however, the authorization must be in writing, specifically name the representative and kinds of records authorized to be provided, and be notarized to avoid the risk of invasion of personal privacy.

(5) A request for a record that was obtained from a non-U.S. Government source, and that is subject to exemption (b)(4) under the FOIA, will be released to the individual or firm making the request without further exception, if:

(i) The individual or firm is clearly the submitter of the information and/or is clearly acting on behalf of the submitter in making the request.

(ii) The request contains a statement from a company official or other representative of the submitter clearly capable of certifying that the requester is acting on behalf of the submitter of the information in making the request; i.e., a Vice-President certifies on his/her company letterhead that XYZ Law Firm is acting on behalf of the company in requesting copies of documents submitted to the government by the company. A mere assertion by the requester that the requester is acting on behalf of the submitter in making the request will not be honored, if it cannot be readily verified through records available to the OIG.

(c) *Requests From Government Officials.* (1) Requests from officials of State, or local Governments for OIG records will be considered the same as any other requester, except where the request is for a personal record in a system of records subject to the Privacy Act, in which case the provisions of DoD 5400.11–R (32 CFR part 286a) apply.

(2) Requests from members of Congress, or their staffs, not seeking records on behalf of a Congressional Committee, Subcommittee, or either House sitting as a whole, will be considered the same as any other requester. Requests from members of Congress, or their staffs, made on behalf of their constituents will also be considered the same as any other requester.

(3) Requests from officials of foreign governments shall be considered the same as any other requester. Requests from officials of foreign governments that do not invoke the FOIA shall be referred to appropriate foreign disclosure channels and the requester so notified.

(d) *Misdirected Requests.* Requests misdirected to other OIG elements will be forwarded promptly to the FOIA/PA Division. The statutory period allowed for response to a request misdirected by the requester shall not begin until the request is received in the FOIA/PA Division. The OIG components and field elements receiving misdirected requests should advise the requester that the request is being forwarded to the office having the authority to act on and respond to the request.

(e) *Privileged Release to Officials.* (1) Subject to DoD 5200.1–R,[4] "Information Security Program Regulation", applicable to classified information, DoD Directive 5400.11 (32 CFR part 286a), applicable to personal privacy or other applicable law, records exempt from release under appendix B of this part may be authenticated and released, without requiring release to other FOIA requesters, in accordance with OIG rules to U.S. Government officials requesting them on behalf of Federal governmental bodies, whether legislative, executive, administrative, or judicial, as follows:

(i) To a Committee or Subcommittee of Congress, or to either House sitting as a whole in accordance with DoD Directive 5400.4,[5] "Provision of Information to Congress," and this Part.

(ii) To the Federal courts whenever ordered by officers of the court as necessary for the proper administration of justice

(iii) To other Federal agencies both executive and administrative as determined by the IG or the IG's designee.

(2) On all such releases, the officials receiving records under the above provisions will be informed in writing that the records are exempt from public release under the FOIA and are privileged. The OIG components will also advise the receiving officials of any special handling instructions.

(f) *Processing Requests.* (1) Upon receipt in the FOIA/PA Division, a request for records will be assigned a control number, logged, and reviewed for adequacy and compliance with the procedures for submitting requests outlined in § 295.7(b).

(2) If the request does not meet the adequacy of description test, contain a statement regarding fees, or contain a notarized signature/authorization or a certification of submitter representation, if applicable; the request will be acknowledged as having been received and the requester will be notified of the defect and advised of the means necessary to correct the defect and comply with the procedures. If the requester does not correct the defect within the time allowed (generally 30 calendar days) in the defect notice, the following actions will be taken:

(i) Where the request does not meet the adequacy of description test, the request will be administratively closed and the requester so advised.

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[4] Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

[5] See footnote 4 to § 295.7(e).

(ii) Where the request meets the adequacy of description test but fails to comply with the remaining procedural requirements, and the time allowed in the defect notice for compliance by the requester has elapsed, the request will be processed to the extent possible consistent with DoD 5400.7–R (32 CFR part 286) and this part.

(3) When it is determined that a request complies with all applicable procedures, the necessary search and collection of responsive records will be initiated through the Component(s) of the OIG likely to have custodianship of the sought records.

(4) Where the appropriate OIG Component has determined that no record responsive to the request exists, the POC for the OIG Component will so advise the FOIA/PA Division within the due date assigned to the POC. The requester will be notified in writing by the IDA, within 10 working days from the date of receipt of the request, that no responsive records exist; and, of the right and means by which to appeal the no record response as an adverse determination.

(5) When it is determined that the records sought are part of an ongoing audit, inspection, or investigation, the requester will be advised of such (subject to the "Exclusions" under the FOIA identified in appendix B, of this part). The requester will be informed of the estimated timeframe for completion of the ongoing audit, inspection, or investigation and asked if he/she wishes to withdraw the request and resubmit it upon completion of the ongoing process. If the requester chooses not to withdraw the request, the processing will be continued and an appropriate release determination will be made, consistent with the statutory provisions of the FOIA.

(6) When responsive records have been located, the POC for the OIG element having the records will forward the records to the FOIA/PA Division with a recommendation for release on SD Form 472, "Request Information Sheet," along with a completed DD Form 2086. "Record of Freedom of Information (FOI) Processing Cost." The records will be reviewed and an initial determination to release or deny will be made.

(g) *Initial Determinations.* (1) The initial determination of whether to make a record available upon request may be made only by the IDAs designated by the IG in this part. Further, the number of IDAs designated by the IG will be limited and based on a balance of the goals of centralization of authority to promote uniform decisions and decentralization to facilitate responding to each request within the time limitations of the FOIA.

(2) Other than statutory denials, there are six other reasons for not complying with a request for a record:

(i) The request is transferred to another DoD Component or Federal agency.

(ii) The request is withdrawn by the requester.

(iii) The information requested is not a record within the meaning of the FOIA and § 295.3(a) of this part.

(iv) A record has not been described with sufficient particularity to enable those that OIG to locate it by conducting a reasonable search.

(v) The requester has failed unreasonably to comply with the procedural requirements, including the payment of fees, imposed by 32 CFR part 286 and this part.

(vi) The OIG has determined through knowledge of its files and reasonable search efforts that it neither controls nor possesses the requested record.

(3) Initial determinations to release or deny a record normally will be made and the decision reported to the requester within 10 working days, provided that the requester has complied with the preliminary procedural requirements.

(4) When requests are denied in whole in part, the requester will be informed in writing of the reasons for the denial, the identity of the official making the denial, the right of appeal of the decision, and the identity and address of the official to whom an appeal may be made.

(5) The explanation of the substantive basis for a denial will include specific citation of the statutory exemption applied under provisions of the FOIA. Mere reference to a classification or to a "For Official Use Only" marking will not constitute a basis for invoking an exemption. When the initial denial is based in whole or in part on a security classification, the explanation will include a summary of the applicable criteria for the classification.

(h) *Denial Tests.* (1) To deny a requested record that is in the possession and control of the OIG, it must be determined that the record is included in one or more of the nine categories of records exempt from mandatory disclosure as provided by the FOIA and outlined in chapter III of DoD 5400.7–R (32 CFR part 286), and this part. No OIG record may be otherwise withheld from the public, whether in whole or in part, except as determined by the designated IDAs in accordance with FOIA exemptions.

(2) Although portions of some records may be denied, the remaining reasonably segregable portions will be released to the requester when it can be assumed that a skillful and knowledgeable person could not reconstruct the excised information. When a record is denied in whole, the IDA will advise the requester of that determination.

(i) *Extension of Time.* (1) In unusual circumstances, responsive records may be located by the office having custodianship over the record, but the records can not be made immediately available to the FOIA/PA Division, or the FOIA/PA Division can not make them immediately available to the requester. The unusual circumstances justifying the delay will be the result of the following:

(i) The requested record is located in whole or in part at another geographic location than that of the FOIA/PA Division.

(ii) The request requires the collection and/or evaluation of a substantial number of records.

(iii) Consultation is required with other DoD Components or agencies having substantial interest in the subject matter to determine whether the records requested are exempt from disclosure in whole or in part under provisions of the FOIA and this Part or should be released as a matter of discretion.

(2) In any such event, efforts will be made to negotiate an informal extension in time with the requester by the FOIA/PA Division. If the requester chooses not to agree informally to an extension in time, a written explanation of the reasons for delay will be provided to the requester and the requester will be asked to await a substantive response by an anticipated date.

(j) *Fee Assessments.* (1) When it is determined that the fees assessable to a request undergoing final processing may exceed the limit established by the requester, or may be in excess of $250, the processing will be discontinued and the requester notified so that he/she may advise of his/her desire to continue.

(2) If a "good faith" deposit is required, the requester will be allowed a reasonable time (generally 30 calendar days) in which to provide payment. If the requester fails to provide the "good faith" deposit within the time allowed, the request will be closed and the requester so notified.

(3) In all other cases, the requester will be notified of any fees due at the time the requested records are provided to the requester, and allowed a reasonable time (generally 30 calendar days) in which to pay the fees.

(4) If the requester fails to pay the fees in the time allowed, a notice of

nonpayment will be placed in the formal control system and no further FOIA requests from the requester will be honored until the fees have been paid.

(k) *Records on Non-U.S. Government Sources.* (1) When it is determined that the records or data contained within the records responsive to a request were obtained from a non-U.S. Government source by the OIG, and the requester is not the submitter of the non-U.S. Government record nor acting as the submitter's representative; and it is further determined the source or submitter may have a valid objection to release of the material, the submitter will be promptly notified of the request and afforded a reasonable time (generally 30 calendar days) to present any objections to the release.

(2) This procedure is required for those FOIA requests for data not deemed clearly exempt from disclosure under exemption (b)(4). If, for example, the record or data was submitted by the non-U.S. Government source with the actual or presumptive knowledge of the source, and established that it would be made available to the public upon request, there is no requirement to notify the source.

(3) All objections will be evaluated. When a substantial issue has been raised, the OIG may seek additional information and afford the source and requester reasonable opportunities to present their arguments on the legal and substantive issues involved prior to making a determination.

(4) The OIG will not ordinarily exercise its discretionary authority to release information clearly meeting the exemption (b)(4) criteria. Further, the final decision to disclose information not deemed to clearly meet exemption (b)(4) criteria will be made by an official equivalent in rank or greater to the official who would make the decision to withhold that data under a FOIA appeal.

(5) When the source or submitter advises of the intent to seek a restraining order or to take court action to prevent release of the data, the requester will be notified and action will not be taken on the request until after the outcome of the court action is known. When the requester brings court action to compel disclosure, the source shall be promptly notified of this action.

(6) These procedures also apply to any non-U.S. Government record in the possession and control of the OIG from multi-national organizations, such as the North Atlantic Treaty Organization (NATO) and the North American Aerospace Defense Command (NORAD), or foreign governments. Coordination of such FOIA requests with foreign governments will be made through the Department of State by the FOIA/PA Division.

(l) *Coordination With Department of Justice.* (1) Where the custodian of an OIG element determines that records responsive to a FOIA request are pertinent to pending or potential litigation involving the United States, the FOIA/PA POC for the element shall promptly notify the FOIA/PA Division so that the necessary coordination can be effected with the Office of General Counsel (OGC) representative to the IG.

(2) The OGC representative shall effect all necessary coordination with the United States Attorney and/or Department of Justice prior to any release of such records.

(m) *Procedures for Appeals.* (1) A requester may appeal the initial decision to deny access to requested records, in writing, to the designated OIG Appellate Authority. The requester may also appeal a no record determination, any fees assessed and the denial of a request for waiver/reduction of fees. All such appeals should be made no later than 60 calendar days after the date of the initial denial letter or letter of advisement regarding fees.

(2) All appeals should provide sufficient information and justification upon which a determination may be made by the Appellate Authority as to whether to grant or deny the appeal; or, in the event of a "no record determination" sufficient information and/or justification upon which additional record searches may be based. A copy of the initial request and initial denial, and "no record" or fee advisement letter should be included.

(3) The FOIA/PA Division administers the appeals for the Appellate Authority. All appeals should be addressed to the Assistant Director, FOIA/PA Division, OAIG for investigations, 400 Army Navy Drive, Arlington, VA 22202–2884.

(4) Upon receipt in the FOIA/PA Division, the appeal will be assigned a control number, logged, and prepared for provision to the Appellate Authority for a final determination. Receipt will be acknowledged in writing within 10 working days and the requester advised of any additional time needed due to the unusual circumstances described in § 295.7(i) of this part.

(5) If additional time is required, the final decision may be delayed for the number of working days (not to exceed 10) that were not used as additional time for responding to the initial request. If no additional time is required, the requester will be advised in writing of the final decision within 20 working days.

(6) If the appeal is approved in part or in whole, or responsive records located upon additional search, the requester will be informed and promptly provided any records determined to be releasable.

(7) If "no records" can be located in response to the appeal, the requester will be informed that no records were located, of the identity of the official making the final determination, and of the right to judicial review.

(8) If the appeal of the initial denial of responsive records is denied in part or in whole, the requester will be advised of the applicable statutory exemption or exemptions invoked under the provisions of the FOIA for the denial, the identity of the official making the final determination, that meaningful portions of any denied records were not reasonably segregable, and of the right to judicial review.

(9) When the final refusal is based in whole or in part on a security classification, the explanation shall include a determination that the record meets the cited criteria and rationale of the governing Executive Order, and that this determination is based on a declassification review, with an explanation of how that review confirmed the continuing validity of the security classification.

(10) Final refusal involving issues not previously resolved or that the OIG knows to be inconsistent with rulings of other DoD components ordinarily will not be made before consultation with the Assistant General Counsel (Fiscal and Inspector General), OGC, DoD.

(11) Tentative decisions to deny records that raise new or significant legal issues of potential significance to other agencies of the Government shall be provided to the Department of Justice, Attn: Office of Legal Policy, Office of Information and Policy, Washington, DC 20530 after coordination with the Assistant General Counsel (Fiscal and Inspector General), OGC, DoD.

### § 295.8 Annual report.

The FOIA Annual Report, assigned Report Control System DD–PA (A) 1365. will be prepared by the FOIA/PA Division for the preceding calendar year and submitted to the Assistant Secretary of Defense (PA) on or before February 1 of each year. The report will be compiled and formatted in accordance with chapter VII, DoD 5400.7–R (32 CFR part 286).

### § 295.9 Organization and mission.

(a) The organization of the OIG includes the Headquarters located in Arlington, Virginia, consisting of the Inspector General, Deputy Inspector General, the Offices of the Assistant

Inspector General (AIG) for Analysis and Followup, the AIG for Audit Policy and Oversight, the AIG for Auditing with its subordinate field elements located throughout the Continental United States (CONUS), the AIG for investigations with its field elements located throughout the CONUS and Europe, the AIG for Administration and Information Management, the AIG for Departmental Inquiries, the AIG for Inspections, and the Director, IG Regional Office-Europe (IGROE) located in Wiesbaden, Germany. The IGROE has representatives assigned from the Offices of the AIG for Investigations, the AIG for Inspections, the AIG for Auditing and the AIG for Departmental Inquiries, who fulfill the missions of their respective components.

(b) The "Organization and Staff Listing" (Inspector General, Defense List (IGDL) 1400.7),[6] provides organization charts for the OIG elements and mailing addresses of all OIG operating locations and will be made available to the public upon written request.

(c) As an independent and objective office in the Department of Defense (DoD) the mission of the OIG is to:

(1) Conduct, supervise, monitor, and initiate audits, inspections and investigations relating to programs and operations of the DoD.

(2) Provide leadership and coordination and recommend policies for activities designed to promote economy, efficiency, and effectiveness in the administration of, and to prevent and detect fraud and abuse in, such programs and operations.

(3) Provide a means for keeping the Secretary of Defense and the Congress fully and currently informed about problems and deficiencies relating to the administration of such programs and operations and the necessity for and progress of corrective action.

(4) Further information regarding the responsibilities and functions of the IG is encompassed in Public Law 95–452, the "Inspector General Act of 1978," as amended and 32 CFR part 373.

## Appendix A to Part 295—For Official Use Only (FOUO)

*I. General Provisions*

A. General

Information that has not been given a security classification pursuant to the criteria of an Executive Order, but which may be withheld from the public for one or more of the reasons cited in FOIA exemptions (b)(2) through (b)(9) shall be considered as being for official use only. No other material shall be considered or marked "For Official Use Only" (FOUO), and FOUO is not authorized as an anemic form of classification to protect national security interests.

B. Prior FOUO Application

The prior application of FOUO markings is not a conclusive basis for withholding a record that is requested under the FOIA. When such a record is requested, the information in it shall be evaluated to determine whether, under current circumstances, FOIA exemptions apply in withholding the record or portions of it. If any exemption or exemptions apply or applies, it may nonetheless be released when it is determined that no governmental interest will be jeopardized by its release.

C. Historical Papers

Records such as notes, working papers, and drafts retained as historical evidence of actions enjoy no special status apart from the exemptions under the FOIA.

D. Time to Mark Records

The marking of records at the time of their creation provides notice of FOUO content and facilitates review when a record is requested under the FOIA. Records requested under the FOIA that do not bear such markings, shall not be assumed to be releasable without examination for the presence of information that requires continued protection and qualifies as exempt from public release.

E. Distribution Statement

Information in a technical document that requires a distribution statement pursuant to DoD Directive 5230.24,[1] "Distribution Statements on Technical Documents", shall bear that statement and may be marked FOUO, as appropriate.

*II. Markings*

A. Location of Markings

(1) An unclassified document containing FOUO information shall be marked "For Official Use Only" at the bottom on the outside of the front cover (if any), on each page containing FOUO information, and on the outside of the back cover (if any).

(2) Within a classified document, an individual page that contains both FOUO and classified information shall be marked at the top and bottom with the highest security classification of information appearing on the page.

(3) Within a classified document, an individual page that contains FOUO information but no classified information shall be marked "For Official Use Only" at the bottom of the page.

(4) Other records, such as, photographs, films, tapes, or slides, shall be marked "For Official Use Only" or "FOUO" in a manner that ensures that a recipient or viewer is aware of the status of the information therein.

(5) The FOUO material transmitted outside the Department of Defense requires application of an expanded marking to explain the significance of the FOUO marking. This may be accomplished by typing or stamping the following statement on the record prior to transfer:

This document contains information
EXEMPT FROM MANDATORY
DISCLOSURE
under the FOIA. Exemptions . . . . . apply

*III. Dissemination and Transmission*

A. Release and Transmission Procedures

Until FOUO status is terminated, the release and transmission instructions that follow apply:

(1) The FOUO information may be disseminated within DoD Components and between officials of DoD Components and DoD contractors, consultants, and grantees to conduct official business for the Department of Defense. Recipients shall be made aware of the status of such information, and transmission shall be by means that preclude unauthorized public disclosure. Transmittal documents shall call attention to the presence of FOUO attachments.

(2) The DoD holders of FOUO information are authorized to convey such information to officials in other departments and agencies of the executive and judicial branches to fulfill a Government function, except to the extent prohibited by the Privacy Act. Records thus transmitted shall be marked "For Official Use Only", and the recipient shall be advised that the information has been exempted from public disclosure, pursuant to the FOIA, and that special handling instructions do or do not apply.

(3) Release of FOUO information to Members of Congress is governed by DoD Directive 5400.4,[2] "Provision of Information to Congress". Release to the GAO is governed by DoD Directive 7650.1,[3] "General Accounting Office Access to Records". Records released to the Congress or GAO should be reviewed to determine whether the information warrants FOUO status. If not, prior FOUO markings shall be removed or effaced. If withholding criteria are met, the records shall be marked FOUO and the recipient provided an explanation for such exemption and marking. Alternatively, the recipient may be requested, without marking the record, to protect against its public disclosure for reasons that are explained.

B. Transporting FOUO Information

Records containing FOUO information shall be transported in a manner that precludes disclosure of the contents. When not commingled with classified information, FOUO information may be sent via first-class mail or parcel post. Bulky shipments, such as distributions of FOUO Directives or testing materials, that otherwise qualify under postal regulations may be sent by fourth-class mail.

C. Electrically Transmitted Messages

Each part of electrically transmitted messages containing FOUO information shall be marked appropriately. Unclassified messages containing FOUO information shall contain the abbreviated "FOUO" before the beginning of the text. Such messages shall be transmitted in accordance with

[6] See footnote 1 to § 295.5(i).

[1] Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

[2] See footnote 1 to section I.E. of this appendix.

[3] See footnote 1 to section I.E. of this appendix.

communications security procedures in ACP-121 (United States Supplement 1) for FOUO information.

*IV. Safeguarding FOUO Information*

A. During Duty Hours

During normal working hours, records determined to be FOUO shall be placed in an out-of-sight location if the work area is accessible to non-governmental personnel.

B. During Non-Duty Hours

At the close of business, FOUO records shall be stored so as to preclude unauthorized access. Filing such material with other unclassified records in unlocked files or desks, etc., is adequate when normal U.S. Government or government-contractor internal building security is provided during nonduty hours. When such internal security control is not exercised, locked buildings or rooms normally provide adequate after-hours protection. If such protection is not considered adequate, FOUO material shall be stored in locked receptacles such as file cabinets, desks, or bookcases. FOUO records that are subject to the provisions of Public Law 86-36, National Security Agency Act shall meet the safeguards outlined for that group of records.

*V. Termination, Disposal and Unauthorized Disclosures*

A. Termination

The originator or other component authority, e.g., initial denial and appellate authorities, shall terminate "For Official Use Only" markings or status when circumstances indicate that the information no longer requires protection from public disclosure. When FOUO status is terminated, all known holders shall be notified, to the extent practical. Upon notification, holders shall efface or remove the "For Official Use Only" markings, but records in file or storage need not be retrieved solely for that purpose.

B. Disposal

(1) Nonrecord copies of FOUO materials may be destroyed by tearing each copy into pieces to preclude reconstructing, and placing them in regular trash containers. When local circumstances or experience indicates that this destruction method is not sufficiently protective of FOUO information, local authorities may direct other methods but give due consideration to the additional expense balanced against the degree of sensitivity of the type of FOUO information contained in the records.

(2) Record copies of FOUO documents shall be disposed of in accordance with the disposal standards established under 44 U.S.C. Chapter 33, as implemented by Inspector General Defense Manual (IGDM) 5015.2,[4] "Records Management Program".

C. Unauthorized Disclosure

The unauthorized disclosure of FOUO records does not constitute an unauthorized disclosure of DoD information classified for security purposes. Appropriate administrative action shall be taken, however, to fix responsibility for unauthorized disclosure whenever feasible, and appropriate disciplinary action shall be taken against those responsible. Unauthorized disclosure of FOUO information that is protected by the Privacy Act may also result in civil and criminal sanctions against responsible persons. The DoD Component that originated the FOUO information shall be informed of its unauthorized disclosure.

## Appendix B to Part 295—Exemptions

*I. General*

The exemptions listed apply to categories of records that may be withheld in whole or in part from public disclosure, unless otherwise prescribed by law. A discretionary release (see also § 295.5(e) of this part) to one requester may preclude the withholding of the same record under a FOIA exemption if the record is subsequently requested by someone else. In applying the exemptions, the identity of the requester and the purpose for which the record is sought are irrelevant with the exception that an exemption may not be invoked where the particular interest to be protected is the requester's interest. The examples provided of the types of records that may be exempted from release are not at all inclusive.

*II. FOIA Exemptions*

A. Exemption (b)(1).

Those properly and currently classified in the interest of national defense or foreign policy, as specifically authorized under the criteria established by executive order and implemented by regulations, such as DoD 5200.1-R [1] (32 CFR part 159a), "Information Security Program Regulation". Although material is not classified at the time of the FOIA request, a classification review may be undertaken to determine whether the information should be classified. The procedures in DoD 5200.1-R, section 2-204f, apply. In addition, this exemption shall be invoked when the following situations are apparent:

(1) The fact of the existence or nonexistence of a record would itself reveal classified information. In this situation, the OIG shall neither confirm nor deny the existence or nonexistence of the record being requested. A "refusal to confirm or deny" response will be used consistently, not only when a record exists, but also when a record does not exist. Otherwise, the pattern of using a "no record" response when a record does not exist will itself disclose national security information.

(2) Information that concerns one or more of the classification categories established by executive order and DoD 5200.1-R (32 CFR part 159a) shall be classified if its unauthorized disclosure, either by itself or in the context of other information, reasonably could be expected to cause damage to the national security.

B. Exemption (b)(2)

Those related solely to the internal personnel rules and practices of DoD or the OIG. This exemption has two profiles, *high (b)(2)* and *low (b)(2)*.

(1) Records qualifying under high (b)(2) are those containing or constituting statutes, rules, regulations, orders, manuals, directives, and instructions the release of which would allow circumvention of these records, thereby substantially hindering the effective performance of a significant function of the DoD or OIG. Examples include:

(a) Those operating rules, guidelines, and manuals, for DoD and OIG investigators, inspectors, auditors, or examiners that must remain privileged in order for the OIG to fulfill a legal requirement.

(b) Personnel and other administrative matters, such as examination questions and answers used in training courses or in the determination of the qualification of candidates for employment, entrance on duty, advancement, or promotion.

(c) Computer software meeting the standards of § 295.3(c) of this part, the release of which would allow circumvention of a statute or DoD rules, regulations, orders, manuals, directives, or instructions. In this situation, the use of the software must be closely examined to ensure a circumvention possibility exists.

(2) Records qualifying under the low (b)(2) profile are those that are trivial and housekeeping in nature for which there is no legitimate public interest or benefit to be gained by release, and it would constitute an administrative burden to process the request in order to disclose the records. Examples include: rules of personnel's use of parking facilities or regulation of lunch hours, statements of policy as to sick leave, and trivial administrative data such as file numbers, mail routing stamps, initials, data processing notations, brief references to previous communications, and other like administrative markings.

C. Exemption (b)(3)

Those concerning matters that a statute specifically exempts from disclosure by terms that permit no discretion on the issue, or in accordance with criteria established by that statute for withholding or referring to particular types of matters to be withheld. Examples of statutes are:

(1) National Security Agency Act information exemption, Public Law 86-36, section 6.

(2) Patent Secrecy, 35 U.S.C. 181-188. Any records containing information relating to inventions that are the subject of patent applications on which Patent Secrecy Orders have been issued.

(3) Restricted Data and Formerly Restricted Data, 42 U.S.C. 2162.

(4) Communication intelligence, 18 U.S.C. 798.

(5) Authority to Withhold from Public Disclosure Certain Technical Data, 10 U.S.C. 130, and 32 CFR part 250.

[4] Copies may be obtained, if needed, from the Information and Operations Support Directorate, Publications Management Branch, room 420, 400 Army Navy Drive, Arlington, VA 22202-2884.

[1] Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

(6) Confidentiality of Medical Quality Records: Qualified Immunity Participants, 10 U.S.C. 1102.

(7) Physical Protection of Special Nuclear Material: Limitation on Dissemination of Unclassified Information, 10 U.S.C. 128.

(8) Protection of Intelligence Sources and Methods, 50 U.S.C. 403(d)(3).

D. Exemption (b)(4)

Those containing trade secrets or commercial or financial information that the OIG receives from a person or organization outside the Government with the understanding that the information or record will be retained on a privileged or confidential basis in accordance with the customary handling of such records. Records within the exemption must contain trade secrets, or commercial or financial records, the disclosure of which is likely to cause substantial harm to the competitive position of the source providing the information; impair the Government's ability to obtain necessary information in the future; or impair some other legitimate Government interest. Examples include:

(1) Commercial or financial information received in confidence in connection with loans, bids, contracts, or proposals, as well as other information received in confidence or privileged, such as trade secrets, inventions, discoveries, or other proprietary data. See also 32 CFR part 286h, "Release of Acquisition-Related Information".

(2) Statistical data and commercial or financial information concerning contract performance, income, profits, losses, and expenditures, if offered and received in confidence from a contractor or potential contractor.

(3) Personal statements given in the course of inspections, investigations, or audits, when such statements are received in confidence from the individual and retained in confidence because they reveal trade secrets or commercial or financial information normally considered confidential or privileged.

(4) Financial data provided in confidence by private employers in connection with locality wage surveys that are used to fix and adjust pay schedules applicable to the prevailing wage rate of employees within the Department of Defense.

(5) Scientific and manufacturing processes or developments concerning technical or scientific data or other information submitted with an application for a research grant, or with a report while research is in progress.

(6) Technical or scientific data developed by a contractor or subcontractor exclusively at private expense, and technical or scientific data developed in part with Federal funds and in part at private expense, wherein the contractor or subcontractor has retained legitimate proprietary interest in such data in accordance with title 10, U.S.C. 2320–2321 and DoD Federal Acquisition Regulation Supplement (DFARS), subpart 27.4 (see section C.(5) of this appendix).

(7) Computer software meeting the conditions of § 295.3(c), which is copyrighted under the Copyright Act of 1976 (17 U.S.C. 106), the disclosure of which would have an adverse impact on the potential market value of a copyrighted work.

E. Exemption (b)(5)

Except as provided in subsections (2) through (5), below, internal advice, recommendations, and subjective evaluations, as contrasted with factual matters, that are reflected in records pertaining to the decision-making process of an agency, whether within or among agencies (as defined in 5 U.S.C. 552(e)), DoD Components or OIG components. Also exempted are records pertaining to attorney-client privilege and the attorney work-product privilege.

(1) Examples include:

(a) The nonfactual portions of staff papers, to include after-action reports and situation reports containing staff evaluations, advice, opinions, or suggestions.

(b) Advice, suggestions, or evaluations prepared on behalf of the Department of Defense by individual consultants or by boards, committees, councils, groups, panels, conferences, commissions, task forces, or other similar groups that are formed for the purpose of obtaining advice and recommendations.

(c) Those non-factual portions or evaluations by DoD or OIG Components personnel of contractors and their products.

(d) Information of a speculative, tentative, or evaluative nature of such matters as proposed plans to procure, lease or otherwise acquire and dispose of materials, real estate, facilities or functions, when such information would provide undue or unfair competitive advantage to private personal interests or would impede legitimate Government functions.

(e) Trade secret or other confidential research development, or commercial information owned by the Government, where premature release is likely to affect the Government's negotiating position or other commercial interests.

(f) Records that are exchanged among agency personnel and within and among DoD Components or agencies as part of the preparation for anticipated administrative proceeding by an agency or litigation before any Federal, state, or military court, as well as records that qualify for the attorney-client privilege.

(g) Those portions of official reports of inspection, reports of the Inspector General, audits, investigations, or surveys pertaining to safety, security, or the internal management, administration, or operation of one or more DoD Components, when these records have traditionally been treated by the courts as privileged against disclosure in litigation.

(h) Computer software meeting the standards of § 295.3(c), which is deliberative in nature, the disclosure of which would inhibit or chill the decision-making process. In this situation, the use of software must be closely examined to ensure its deliberative nature.

(i) Planning, programming, and budgetary information which is involved in the defense planning and resource allocation process.

(2) If any such intra or interagency record or reasonably segregable portion of such record hypothetically would be made available routinely through the "discovery process" in the course of litigation with the agency, i.e., the process by which litigants obtain information from each other that is relevant to the issues in a trial or hearing, then it should not be withheld from the general public even though discovery has not been sought in actual litigation. If, however, the information hypothetically would only be made available through the discovery process by special order of the court based on the particular needs of a litigant, balanced against the interests of the agency in maintaining its confidentiality, then the record or document need not be made available under this part. Consult with legal counsel to determine whether exemption 5 material would be routinely made available through the discovery process.

(3) Intra or interagency memoranda or letters that are factual, or those reasonably segregable portions that are factual, are routinely made available through "discovery," and shall be made available to a requester, unless the factual material is otherwise exempt from release, inextricably intertwined with the exempt information, so fragmented as to be uninformative, or so redundant of information already available to the requester as to provide no new substantive information.

(4) A direction or order from a superior to a subordinate, though contained in an internal communication, generally cannot be withheld from a requester if it constitutes policy guidance or a decision, as distinguished from a discussion of preliminary matters or a request for information or advice that would compromise the decision-making process.

(5) An internal communication concerning a decision that subsequently has been made a matter of public record must be made available to a requester when the rationale for the decision is expressly adopted or incorporated by reference in the record containing the decision.

F. Exemption (b)(6)

Information in personnel and medical files, as well as similar personal information in other files, that, if disclosed to the requester would result in a clearly unwarranted invasion of personal privacy. Release of information about an individual contained in a Privacy Act System of records would constitute a clearly unwarranted invasion of privacy is prohibited, and could subject the releaser to civil and criminal penalties.

(1) Examples of other files containing personal information similar to that contained in personnel and medical files include:

(a) Those compiled to evaluate or adjudicate the suitability of candidates for civilian employment or membership in the Armed Forces, and the eligibility of individuals (civilian, military, or contractor employees) for security clearances, or for access to particularly sensitive classified information.

(b) Files containing reports, records, and other material pertaining to personnel matters in which administrative action, including disciplinary action, may be taken.

(2) Home addresses are normally not releasable without the consent of the individuals concerned. In addition, the release of lists of DoD military and civilian

personnel's names and duty addresses who are assigned to units that are sensitive, routinely deployable, or stationed in foreign territories can constitute a clearly unwarranted invasion of personal privacy.

(a) Privacy interest. A privacy interest may exist in personal information even though the information has been disclosed at some place and time. If personal information is not freely available from sources other than the Federal Government, a privacy interest exists in its nondisclosure. The fact that the Federal Government expended funds to prepare, index and maintain records on personal information, and the fact that a requester invokes FOIA to obtain these records indicates the information is not freely available.

(b) Published telephone directories, organizational charts, rosters and similar materials for personnel assigned to units that are sensitive, routinely deployable, or stationed in foreign territories are withholdable under this exemption.

(3) This exemption shall not be used in an attempt to protect the privacy of a deceased person, but it may be used to protect the privacy of the deceased person's family.

(4) Individuals' personnel, medical, or similar file may be withheld from them or their designated legal representative only to the extent consistent with DoD Directive 5400.11 (32 CFR part 286a).

(5) A clearly unwarranted invasion of the privacy of the persons identified in a personnel, medical or similar record may constitute a basis for deleting those reasonably segregable portions of that record, even when providing it to the subject of the record. When withholding personal information from the subject of the record, legal counsel should first be consulted.

G. Exemption (b)(7)

Records or information compiled for law enforcement purposes; i.e., civil, criminal, or military law, including the implementation of executive orders or regulations issued pursuant to law. This exemption may be invoked to prevent disclosure of documents not originally created for, but later gathered for law enforcement purposes.

(1) This exemption applies, however, only to the extent that production of such law enforcement records or information could result in the following:

(a) Could reasonably be expected to interfere with enforcement proceedings.

(b) Would deprive a person of the right to a fair trial or to an impartial adjudication.

(c) Could reasonably be expected to constitute an unwarranted invasion of personal privacy of a living person, including surviving family members of an individual identified in such a record.

(i) This exemption also applies when the fact of the existence or nonexistence of a responsive record would itself reveal personally private information and the public interest in disclosure is not sufficient to outweigh the privacy interest. In this situation, the OIG shall neither confirm nor deny the existence or nonexistence of the record being requested.

(ii) A "refusal to confirm or deny" response must be used consistently, not only when a record exists, but also when a record does not exist. Otherwise, the pattern of using a "no records" response when a record does not exist and a "refusal to confirm or deny" when a record does exist will itself disclose personally private information.

(iii) Refusal to confirm or deny should not be used when (1) the person whose personal privacy is in jeopardy has provided the requester with a waiver of his or her privacy rights; or (2) the person whose personal privacy is in jeopardy is deceased, and the OIG is aware of that fact.

(d) Could reasonably be expected to disclose the identity of a confidential source, including a source within the Department of Defense, a State, local, or foreign agency or authority, or any private institution which furnishes the information on a confidential basis.

(e) Could disclose information furnished from a confidential source and obtained by a criminal law enforcement authority in a criminal investigation or by an agency conducting a lawful national security intelligence investigation.

(f) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law.

(g) Could reasonably be expected to endanger the life or physical safety of any individual.

(2) Examples include:

(a) Statements of witnesses and other material developed during the course of the investigation and all materials prepared in connection with related government litigation or adjudicative proceedings.

(b) The identity of firms or individuals being investigated for alleged irregularities involving contracting with Department of Defense when no indictment has been obtained nor any civil action filed against them by the United States.

(c) Information obtained in confidence, expressed or implied, in the course of a criminal investigation by a criminal law enforcement agency or office within a DoD Component, or a lawful national security intelligence investigation conducted by an authorized agency or office within a DoD Component. National security intelligence investigations include background security investigations and those investigations conducted for the purpose of obtaining affirmative or counterintelligence information.

(3) The right of individual litigants to investigative records currently available by law (such as, the Jencks Act, 18 U.S.C. 3500) is not diminished.

(4) When the subject of an investigative record is the requester of the record, it may be withheld only as authorized by DoD Directive 5400.11 (32 CFR part 286a).

(5) Exclusions. Excluded from the above exemptions are the following two situations as applicable to the Department of Defense and the OIG:

(a) Whenever a request is made which involves access to records or information compiled for law enforcement purposes, and the investigation or proceeding involves possible violation of criminal law where there is reason to believe that the subject of the investigation or proceeding is unaware of its pendency, and the disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings, the OIG may, during only such times as that circumstance continues, treat the records or information as not subject to the FOIA. In such situation, the response to the requesters will state that no records were found.

(b) Whenever informant records maintained by a criminal law enforcement organization within the OIG under the informant's name or personal identifier are requested by a third party using the informant's name or personal identifier, the OIG may treat the records as not subject to the FOIA, unless the informant's status as an informant has been officially confirmed. If it is determined that the records are subject to exemption (b)(7), the response to the requester will state that no records were found.

H. Exemption (b)(8)

Those contained in or related to examination, operation or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions.

I. Exemption (b)(9)

Those containing geological and geophysical information and data (including maps) concerning wells.

Dated: September 24, 1991.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 91-23404 Filed 9-30-91; 8:45 am]

BILLING CODE 3810-01-M

## DEPARTMENT OF TRANSPORTATION

## Coast Guard

## 33 CFR Part 117

**[CGD13 91-03]**

## Drawbridge Operation Regulations; Youngs Bay and Lewis and Clark River, OR

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** At the request of the Oregon Department of Transportation (ODOT), the Coast Guard is changing the regulations for the New Youngs Bay Bridge across Youngs Bay, mile 0.7, the Old Youngs Bay Bridge, mile 2.4, and the Lewis and Clark River Bridge across the Lewis and Clark River, mile 1.0, at Astoria, Oregon. This change requires at least one half hour's advance notice be given for opening these bridges at all times. Notice shall be given to the bridge operator at the Lewis and Clark Bridge

for opening any of the three structures. The operator will be in attendance continuously at the Lewis and Clark River Bridge except when called upon to open either of the other two drawspans. This change is being made because of a steady decrease in requests for openings of the affected drawbridges. This action will relieve the bridge owner of the burden of having persons constantly available to open the draws and still provide for the reasonable needs of navigation.

**EFFECTIVE DATE:** This regulation becomes effective on October 31, 1991.

**FOR FURTHER INFORMATION CONTACT:** John E. Mikesell, Chief, Bridge Section, Aids to Navigation and Waterways Management Branch, (Telephone: (206) 553–5864).

**SUPPLEMENTARY INFORMATION:** On July 15, 1991, the Coast Guard published a proposed rule (53 FR 32151) concerning this amendment. The Commander, Thirteenth Coast Guard District, also published the proposal as a public notice dated July 25, 1991. In each notice interested persons were given until August 29, 1991, to submit comments.

**Drafting Information**

The drafters of these regulations are Austin Pratt, project officer, and Lieutenant Deborah K. Schram, project attorney.

**Discussion of Comments**

No objections to the proposed rule change were received.

**Economic Assessment and Certification**

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 CFR 11034; February 26, 1979). The economic impact of this final rule has been found to be so minimal that a full regulatory evaluation is unnecessary. Navigation and marine-related businesses will be minimally affected by the one half hour advance notice for openings because openings can be planned for and scheduled accordingly. Since the economic impact of these regulations is expected to be minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

**List of Subjects in 33 CFR Part 117**

Bridges.

Regulations: In consideration of the foregoing, part 117 of title 33, Code of Federal Regulations is amended as follows:

## PART 117—DRAWBRIDGE OPERATIONS REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

2. Section 117.899 is revised to read as follows:

**§ 117.899 Youngs Bay and Lewis and Clark River.**

(a) The draw of the US101 (New Youngs Bay) highway bridge, mile 0.7, across Youngs Bay at Smith Point, shall open on signal for the passage of vessels if at least one half hour's notice is given to the drawtender at the Lewis and Clark River Bridge by marine radio, telephone, or other suitable means. The opening signal is two prolonged blasts followed by two short blasts.

(b) The draw of the Oregon State (Old Youngs Bay) highway bridge, mile 2.4, across Youngs Bay at the foot of Fifth Street, shall open on signal for the passage of vessels if at least one half hour's notice is given to the drawtender of the Lewis and Clark River Bridge by marine radio, telephone, or other suitable means. The opening signal is two prolonged blasts followed by one short blast.

(c) The draw of the Oregon State highway bridge, mile 1.0, across the Lewis and Clark River, shall open on signal for the passage of vessels if at least one half hour's notice is given by marine radio, telephone, or other suitable means. The opening signal is one prolonged blast followed by four short blasts.

Dated: September 19, 1991.

**J.E. Vorbach,**

*Rear Admiral, U.S. Coast Guard Commander, 13th Coast Guard District.*

[FR Doc. 91–23586 Filed 9–30–91; 8:45 am]

BILLING CODE 4910–14–M

## DEPARTMENT OF DEFENSE

### Corps of Engineers, Department of the Army

### 36 CFR Part 327

### Shoreline Management Fees at Civil Works Projects

**AGENCY:** U.S. Army Corps of Engineers, DoD.

**ACTION:** Deferral of final rule effective date.

**SUMMARY:** On June 28, 1991, the Corps of Engineers published the Shoreline Management Fee Schedule in the Federal Register (56 FR 29583). This schedule can not be implemented during Fiscal Year 1992 due to the passage of Public Law 102–104, signed by the President on August 17, 1991. This document defers indefinitely the effective date of that final rule. The administrative charges contained in 36 CFR 327.30, Shoreline Management at Civil Works Projects, published in the Code of Federal Regulations, July 1, 1991 edition, will remain in effect. Any future decisions affecting this will be published in the Federal Register.

**DATES:** Effective on October 1, 1991.

**ADDRESSES:** HQUSACE, CECW–ON, Washington, DC 20314–1000.

**FOR FURTHER INFORMATION CONTACT:** Mr. Darrell E. Lewis (202) 272–0247.

**List of Subjects in 36 CFR Part 327**

Penalties, Recreation and recreation areas, Water resources.

The effective date for the final rule published on June 28, 1991 (56 FR 29587) adding § 327.31 and amending § 327.30(k) is deferred indefinitely. The administrative charges contained in 36 CFR 327.30, Shoreline management at civil works projects, published in the Code of Federal Regulations, July 1, 1991 edition, remain in effect until further notice.

Dated: September 20, 1991.

**Andrew M. Perkins, Jr.,**

*Acting Executive Director of Civil Works.*

[FR Doc. 91–23559 Filed 9–30–91; 8:45 am]

BILLING CODE 3710–92–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### 45 CFR Part 402

**RIN 0970–8A79**

### State Legalization Impact Assistance Grants (SLIAG)

**AGENCY:** Administration for Children and Families, HHS.

**ACTION:** Final rule; correction.

**SUMMARY:** This document corrects a final rule regarding the State Legalization Impact Assistance Grants (SLIAG) program which was published on May 7, 1991. That rule made certain changes to § 402.41(c), but due to an oversight, conforming changes to paragraph (d) of that section were omitted. This document corrects that error.

**EFFECTIVE DATE:** May 7, 1991.

**FOR FURTHER INFORMATION CONTACT:** David B. Smith, Director, Division of State Assistance and Repatriation, Office of Refugee Resettlement, U.S. Department of Health and Human Services, at 202–401–9255 (FTS 401–9255).

Dated: September 26, 1991.

**Michael W. Carleton,**

*Acting Deputy Assistant Secretary for Information Resources Management.*

## PART 402—[CORRECTED]

Therefore the following corrections are made to the rule amending 45 CFR part 402 published on May 7, 1991 at page 21238.

1. On page 21248, second column, in amendatory instruction paragraph 11, in the fifth line of the paragraph, preceding the words "redesignating paragraph (d)(1) as paragraph (d)(1)(i) and revising it," the following instruction is added:

" * * * revising the introductory text in paragraph (d), * * * "

2. On page 21248, second column, in the revised text of § 402.41, the asterisks immediately preceding paragraph (d)(1)(i) indicating unchanged introductory text are deleted, and paragraph (d) as set forth in the **Federal Register** on May 7, 1991, is corrected by revising the introductory text to read as follows:

**§ 402.41 Application content.**

* * * * *

(d) Contain the following information pertaining to the estimates required by paragraph (c) of this section (the application must include sufficient detail to permit assessment by the Department of the reasonableness of such estimates and the allowability of such costs under the Act and this part):

* * * * *

[FR Doc. 91–23650 Filed 9–30–91; 8:45 am]

BILLING CODE 4150–04–M

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 73 and 76

**[DA 91–1203]**

### Broadcast Services; Editorial Amendments to the Rules

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This Order revises 47 CFR parts 73 and 76 to correct certain errors existing in the Commission's Rules.

**FOR FURTHER INFORMATION CONTACT:** Rita McDonald, Policy and Rules Division, Mass Media Bureau (202) 632–5414.

**SUPPLEMENTARY INFORMATION:**

**Order**

Adopted: September 26, 1991.

Released: September 27, 1991.

By the Chief, Mass Media Bureau:

1. This Order amends the Commission's Rules to correct minor editorial errors in title 47 of the Code of Federal Regulations. Specifically, the Commission makes changes to 47 CFR parts 73 and 76. This Order makes no substantive changes that impose additional burdens or remove provisions relied upon by licensees or the public. For this reason, we believe that this revision will serve the public interest. This information is corrected as part of the Agency's oversight function.

2. This amendment is implemented by authority delegated by the Commission to the Chief, Mass Media Bureau. Because this amendment only interprets and clarifies the existing language of parts 73 and 76, prior notice of rule making is not required. 47 CFR 1.412(c). For this same reason, this amendment may become effective upon publication in the **Federal Register**. 47 CFR 1.427(b). Because a general notice of proposed rule making is not required, the Regulatory Flexibility Act does not apply.

3. Therefore, *it is ordered,* That pursuant to sections 4, 5, and 303, of the Communications Act of 1934, as amended, and §§ 0.61 and 0.283 of the Commission's Rules, parts 73 and 76 of the FCC Rules and Regulations are amended as set forth below, effective upon publication in the **Federal Register.**

4. For further information on this Order, call Rita S. McDonald, Policy and Rules Division at (202) 632–5414.

**List of Subjects**

*47 CFR Part 73*

Radio broadcasting, Television broadcasting.

*47 CFR Part 76*

Cable televison.

Federal Communications Commission.

**Roy J. Stewart,**

*Chief, Mass Media Bureau.*

**Appendix**

47 CFR parts 73 and 76 are amended as follows:

5. The authority citation for parts 73 and 76 continues to read as follows:

**Authority:** 47 U.S.C. 154 and 303.

## PART 73—[AMENDED]

6. The Table of allotments in § 73.606(b) is revised by correcting the spelling of "Grosnell" to read "Gosnell" under the Arkansas heading, by removing the listing for Sikeston from Montana and adding it under Missouri, and by adding Channels 2–, 48–, and 61 at Greensboro under the North Carolina heading.

7. Section 73.614 is amended by revising the first formula in paragraph (b)(1) to read as follows:

**§ 73.614 Power and antenna height requirements.**

* * * * *

(b) * * *

(1) Channels 2–6 in Zone I:

$ERP_{Max} = 102.57 - 33.24 * Log_{10}(HAAT)$

* * *

* * * * *

8. Section 73.667 is amended by revising the last sentence in paragraph (a) to read as follows:

**§ 73.667 TV subsidiary communications services.**

(a) * * * Subsidiary communications include, but are not limited to, services such as functional music, specialized foreign language programs, radio reading services, utility load management, market and financial data and news, paging and calling, traffic control signal switching, and point-to-point or multipoint messages.

* * * * *

**§ 73.681 [Amended]**

9. In the second sentence of the definition of "Effective radiated power" in § 73.681, "KW" is revised to read "kW".

## PART 76—[AMENDED]

**§ 76.53 [Amended]**

10. Section 76.53 is amended by correcting the following latitudes and longitudes: the latitude for Mount Cheaha State Park, Alabama is corrected from 32°29'06" to 33°29'26"; the longitude for Richmond, Indiana is corrected from 86°53'26" t0 84°53'26"; the latitude for Elizabethtown, Kentucky is corrected from 38°41'38" to 37°41'38"; and the latitude for Windsor, Vermont is corrected from 44°28'38" to 43°28'38".

[FR Doc. 91–23723 Filed 9–30–91; 8:45 am]

BILLING CODE 6712–01–M

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 23**

**RIN 1018-AA-29**

## Corrections and Similar Changes to the Appendices of the Convention on International Trade in Endangered Species of Wild Fauna and Flora; Availability of a Reprint of the CITES List

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

**ACTION:** Final rule; corrections and comparable amendments.

**SUMMARY:** The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES or Convention) regulates international trade in species of animals and plants listed in its appendices I, II, and III. These species for which CITES controls such trade are regularly incorporated into the Code of Federal Regulations (CFR) in title 50, part 23, subpart C. Various technical errors in the October 1, 1990, 50 CFR 23.23 are corrected by this rule. To avoid error, the entire § 23.23(f) with revisions is presented below. A special reprint of the updated CITES list will be available from the U.S. Fish and Wildlife Service (Service).

**EFFECTIVE DATE:** This rule is effective October 1, 1991.

**ADDRESSES:** Please send any correspondence concerning this rule to Chief, Office of Scientific Authority; Arlington Square Building, Room 725; U.S. Fish and Wildlife Service; Washington, DC 20240.

**FOR FURTHER INFORMATION CONTACT:** Dr. Charles W. Dane, Chief, Office of Scientific Authority, at the above address, telephone 703-358-1708 (or FTS 921-1708); FAX 703-358-2202.

**SUPPLEMENTARY INFORMATION:**

### Background

This rule makes technical amendments to 50 CFR 23.23 as discussed below (e.g., showing taxa in the correct appendices) besides clear changes not needing discussion (e.g., correction of typographical errors and misspellings, and properly arranging scientific names).

*1. Reprint of Integrated Appendices*

Copies of a reprint of the CITES appendices with corrections and amendments (prepared by staff of the Offices of Management Authority and Scientific Authority) will be available upon request to the Publications Unit, Arlington Square Building, Room 725, U.S. Fish and Wildlife Service, Washington, DC 20240.

*2. Changes Based on Scientific Names*

After each biennial Meeting of the Conference of the Parties (COP), the CITES Secretariat notifies the Party members about all changes to the appendices. Scientific names of listed animal and plant taxa may need to be changed in part 23, subpart C to reflect just the nomenclature given in the new CITES list. Using the same names prevents confusion to other CITES Parties when they receive permits issued by the United States. Such change in a scientific name does not reflect a revision to the scope of the species' listing, only a change to the name accepted by the CITES Nomenclature Committee and the CITES Secretariat by its use in official notifications. In the revised table below, scientific names previously used are given as synonyms.

The wild water buffalo formerly listed in appendix III (by Nepal) as *Bubalus bubalis* is changed to *Bubalus arnee*. The previously used "*B. bubalis*" is now considered to apply only to the unlisted domesticated water buffalo.

The turtles *Erymnochelys madagascariensis* and *Peltocephalus dumeriliana* were formerly included in the genus *Podocnemis*, which has been in appendix II. At the Fifth Meeting of the Conference of the Parties (COP5), that broad older concept of *Podocnemis* was replaced by newer scientific understanding that these appendix II turtles should be recognized in three genera: *Erymnochelys*, *Peltocephalus*, and the revised *Podocnemis* (as more narrowly understood).

In a February 20, 1990, **Federal Register** notice (55 FR 5847), additional species of corals were added to the appendices under the Phylum Cnidaria, which is currently considered to be a synonym of Phylum Coelenterata. The new table integrates all the taxa that were listed under both or either phylum.

Some three-toed sloths were previously included as *Bradypus boliviensis* in appendix II, and *Bradypus griseus* in appendix III (listed by Costa Rica). However, the CITES Secretariat's list as nomenclaturally revised has the species *B. variegatus* in appendix II, with *B. boliviensis* and *B. griseus* just as synonyms. The Service has requested further clarification from the Nomenclature Committee and the Secretariat.

The revised table lists six species of *Turbinicarpus* cacti. To include the whole genus, a clear reproposal of *Turbinicarpus* (sometimes now considered a portion of *Neolloydia*) seems necessary, from evaluation of COP4 documents. The United States plans to submit such an appendix I proposal (56 FR 33894; 7/24/91).

The new table below clarifies that the nine dwarf Malagasy species of *Euphorbia* subgenus *Lacanthis* are listed in appendix I, rather than the subgenus itself (based on a similar evaluation of COP7 documents). The proposed rule (54 FR 51432; 12/15/89) had a colon after the subgenus before listing the nine species, but the final rule omitted the colon (55 FR 5847; 2/20/90).

*3. Corrections in Listing Dates*

The correct date of listing for the African elephant (*Loxodonta africana*) is February 4, 1977, as originally published in a **Federal Register** notice of February 22, 1977 (42 FR 10469). The listing date for the northern crested guan (*Penelope purpurascens*) was recorded both as January 1, 1987, and April 13, 1987, (53 FR 19919; 6/1/88); the correct date is April 13, 1987. Rheinard's crested argus (*Rheinartia ocellata*) was originally listed in appendix III on November 13, 1986; at COP6, it was uplisted to appendix I (52 FR 48821; 12/28/87). The date of first listing is used by the United States, and a subsequent date is not recorded in the CFR for a species that has remained but changed status in the appendices [see 50 CFR 23.23(c)]. Therefore, the corrected listing date for this bird is November 13, 1986.

*4. Corrections in Status*

The leopard cat (*Felis bengalensis bengalensis*) was originally included in appendix I (42 FR 10469; 2/22/77); at COP5, the Chinese population was transferred to appendix II. In the Service's proposed rule (50 FR 24918; 6/14/85), this downlisting was properly reflected; however, in the final rule (50 FR 48212; 11/22/85), all populations were listed as in appendix II. The corrected table below returns all populations of *F. b. bengalensis* to appendix I except the Chinese population, which remains in appendix II.

The four Central and North American subspecies of the jaguarundi (*Felis yagouaroundi*) were originally listed in appendix I, and the rest of the species was in appendix II (42 FR 10469; 2/22/77). At COP6, the appendix I listing was revised by replacing the subspecies with populations for Central and North America. After COP6, the Service properly proposed this change (52 FR 35743; 9/23/87), but the final rule (52 FR 48821; 12/28/87) showed the species in appendix I without indicating

populations or range. The table below indicates that the Central and North American populations are in appendix I, and returns the remaining populations to appendix II.

In the October 1, 1990, 50 CFR 23.23, the term "do" (i.e., ditto) was used to mean 'copy or duplicate as before.' Because of the addition of intervening species, several appendix III listings of birds and mammals of Colombia and India (53 FR 35825; 9/15/88) appeared in the October 1, 1990, 50 CFR 23.23(f) with incorrect country designations or as appendix I listings; the appendix III listings are restored below.

At COP4, the Zimbabwe population of the Nile crocodile (*Crocodylus niloticus*) was downlisted from appendix I to II, pursuant to Resolution Conf. 3.15 on ranching (48 FR 45260; 10/4/83). At COP7, additional populations of Nile crocodiles were downlisted to appendix II, pursuant to that ranching resolution (55 FR 7715; 3/5/90). When 50 CFR 23.23 was revised, the Zimbabwe population was not in the list along with the newly added populations; it is restored below.

Originally, the Dromedary pearly mussel (*Dromus dromas*) was included in appendix I, and the Ozark lamp pearly mussel [*Lampsilis brevicula*) was in appendix II (42 FR 10469; 2/22/77). However, these mussels have been listed in § 23.23(f) inaccurately; the status for the two species as corrected in the table below reflects their original listings.

This document corrects typographical and other errors, and makes other nonsubstantive technical changes to the October 1, 1990, 50 CFR 23.23. The Department has determined that these changes do not constitute an agency action or rule as defined by 5 U.S.C. 553, and that they therefore do not require preparation of an Environmental Assessment under authority of the National Environmental Policy Act (42 U.S.C. 4321–4347). The Department also has determined for those reasons that Executive Order 12291 and the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. These actions do not require information collection which would need approval from the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

## Authors

This document was prepared by Drs. Richard M. Mitchell, Bruce MacBryde, and Charles W. Dane, Office of Scientific Authority, and Ms. Maggie Tieger, Office of Management Authority, under the authority of the U.S. Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

## List of Subjects in 50 CFR Part 23

Endangered and threatened species, Exports, Imports, Transportation, Treaties.

## Regulation Promulgation

For the reasons set forth above, the Service amends part 23, subchapter B of chapter I, title 50 of the Code of Federal Regulations as follows:

## PART 23—ENDANGERED SPECIES CONVENTION

1. The authority citation for part 23 continues to read as follows:

**Authority:** Convention on International Trade in Endangered Species of Wild Fauna and Flora, 27 U.S.T. 108; and Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

### § 23.23 [Amended]

2. Section 23.23(a) is amended by removing the entry "Insects * * * None" and adding in its place the entry "Arthropods * * * Classes" in the list of species.

3. Revise § 23.23(f) to read as follows:

### § 23.23 Species listed in Appendices I, II, and III.

* * * * *

(f) The list of species in the Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora is provided below:

| Species | Common name | Appendix | Date listed (month/day/year) |
|---|---|---|---|
| CLASS MAMMALIA: | MAMMALS: | | |
| Order Monotremata: | Monotremes: | | |
| *Zaglossus* spp. | Spiny anteaters | II | 2/4/77 |
| Order Marsupialia: | Marsupials: | | |
| *Bettongia* spp. (except species listed below) | Rat-kangaroo | I | 6/28/79 |
| *B. lesueuri* | Lesueur's rat-kangaroo, Boodie | I | 7/1/75 |
| *B. penicillata* | Brush-tailed rat-kangaroo, Woylie | I | 7/1/75 |
| *B. tropica* | Queensland rat-kangaroo, Northern rat-kangaroo | I | 7/1/75 |
| *Burramys parvus* | Mountain pigmy possum | II | 7/1/75 |
| *Caloprymnus campestris* | Desert rat-kangaroo | I pe | 7/1/75 |
| *Chaeropus ecaudatus* | Pig-footed bandicoot | I pe | 7/1/75 |
| *Dendrolagus bennettianus* | Bennett's tree kangaroo, Dusky tree kangaroo | II | 6/28/79 |
| *D. inustus* | Grizzled tree kangaroo | II | 7/1/75 |
| *D. lumholtzi* | Lumholtz's tree kangaroo | II | 6/28/79 |
| *D. ursinus* | Vogelkop tree kangaroo | II | 7/1/75 |
| *Lagorchestes hirsutus* | Western hare wallaby, Wurrup | I | 7/1/75 |
| *Lagostrophus fasciatus* | Banded hare wallaby, Munning | I | 7/1/75 |
| *Lasiorhinus krefftii* | Queensland hairy-nosed wombat | I | 7/1/75 |
| *Macrotis lagotis* | Rabbit bandicoot, Bilby | I | 7/1/75 |
| *M. leucura* | Lesser rabbit bandicoot, Yallara | I | 7/1/75 |
| *Onychogalea fraenata* | Bridled nail-tailed wallaby | I | 7/1/75 |
| *O. lunata* | Crescent nail-tailed wallaby | I | 7/1/75 |
| *Perameles bougainville* | Barred bandicoot, Long-nosed bandicoot, Mari | I | 7/1/75 |
| *Phalanger maculatus* | Spotted cuscus | II | 6/28/79 |
| *P. orientalis* | Gray cuscus | II | 6/28/79 |
| *Sminthopsis longicaudata* | Long-tailed marsupial-mouse, Long-tailed dunnart | I | 7/1/75 |
| *S. psammophila* | Large desert marsupial-mouse, Sandhill dunnart | I | 7/1/75 |
| *Thylacinus cynocephalus* | Tasmanian wolf, Thylacine | I pe | 7/1/75 |
| Order Chiroptera: | Bats: | | |
| *Acerodon* spp. | Flying foxes | II | 1/18/90 |
| *Pteropus* spp. (all species except those in App. I or with earlier date in App. II). | Flying foxes | II | 1/18/90 |
| *P. insularis* | Truk flying fox | I | 10/22/87 |

| Species | Common name | Appendix | Date listed (month/day/year) |
|---|---|---|---|
| *P. macrotis* | Big-eared flying fox | II | 10/22/87 |
| *P. mariannus* | Mariana flying fox, Mariana fruit bat | I | 10/22/87 |
| *P. molossinus* | Ponape flying fox | I | 10/22/87 |
| *P. phaeocephalus* | Mortlock flying fox | I | 10/22/87 |
| *P. pilosus* | Palau flying fox | I | 10/22/87 |
| *P. samoensis* | Samoa flying fox | I | 10/22/87 |
| *P. tokudae* | Little Mariana fruit bat, Tokuda's flying fox | II | 10/22/87 |
| *P. tonganus* | Insular flying fox, Tonga fruit bat | I | 10/22/87 |
| *Vampyrops lineatus* | White-lined bat | III (Uruguay) | 7/14/76 |
| Order Primates: | Primates: Monkeys, Apes, etc: | | |
| All species except those in App. I or with earlier date in App. II. | | II | 2/4/77 |
| *Allocebus* spp. | Hairy-eared dwarf lemur | I | 7/1/75 |
| *Alouatta palliata* (=*villosa*) | Mantled howler monkey | I | 7/1/75 |
| *Ateles geoffroyi frontatus* | Black-handed spider monkey | I | 7/1/75 |
| *A. geoffroyi panamensis* | Black-handed spider monkey | I | 7/1/75 |
| *Avahi* spp. | Avahis, Woolly lemurs | I | 7/1/75 |
| *Brachyteles arachnoides* | Woolly spider monkey | I | 7/1/75 |
| *Cacajao* spp. | Uakaris | I | 7/1/75 |
| *Callimico goeldii* | Goeldi's monkey, Callimico | I | 7/1/75 |
| *Callithrix jacchus aurita* (=*C. aurita*) | White-eared marmoset | I | 2/4/77 |
| *C. jacchus flaviceps* (=*C. flaviceps*) | Buff-headed marmoset | I | 2/4/77 |
| *Cebus capucinus* | White-throated capuchin | II | 7/1/75 |
| *Cercocebus galeritus galeritus* | Tana River mangabey, Agile mangabey | I | 7/1/75 |
| *Cercopithecus diana* | Diana monkey | I | 2/4/77 |
| *Cheirogaleus* spp. | Dwarf lemurs | I | 7/1/75 |
| *Chiropotes albinasus* | White-nosed saki | I | 7/1/75 |
| *Colobus badius gordonorum* | Uhehe red colobus | II | 7/1/75 |
| *C. pennantii kirki* (=*C. badius kirki*) | Zanzibar red colobus | I | 7/1/75 |
| *C. rufomitratus* (=*C. badius rufomitratus*) | Tana River red colobus | I | 7/1/75 |
| *C. verus* | Olive colobus | II | 7/1/75 |
| *Daubentonia madagascariensis* | Aye-aye | I | 7/1/75 |
| *Gorilla gorilla* | Gorilla | I | 7/1/75 |
| *Hapalemur* spp. | Gentle lemurs | I | 7/1/75 |
| *Hylobates* spp. | Gibbons | I | 7/1/75 |
| *H.* (=*Symphalangus*) *syndactylus* | Siamang | I | 7/1/75 |
| *Indri* spp. | Indri | I | 7/1/75 |
| *Lagothrix flavicauda* | Yellow-tailed woolly monkey | I | 2/4/77 |
| *Lemur* spp. | Lemurs | I | 7/1/75 |
| *Leontopithecus* (=*Leontideus*) spp. | Golden lion tamarin | I | 7/1/75 |
| *Lepilemur* spp. | Sportive lemur, Weasel lemur | I | 7/1/75 |
| *Loris tardigradus* | Slender loris | II | 7/1/75 |
| *Macaca silenus* | Lion-tailed macaque | I | 7/1/75 |
| *M. sylvanus* | Barbary ape | II | 7/1/75 |
| *Microcebus* spp. | Mouse lemurs | I | 7/1/75 |
| *Nasalis* (=*Simias*) *concolor* | Pagai Island langur | I | 7/1/75 |
| *N. larvatus* | Proboscis monkey | I | 7/1/75 |
| *Nycticebus coucang* | Slow loris | II | 7/1/75 |
| *Pan paniscus* | Pygmy chimpanzee, Bonobo | I | 7/1/75 |
| *P. troglodytes* | Chimpanzee | I | 7/1/75 |
| *Papio* (=*Mandrillus*) *leucophaeus* | Drill | I | 2/4/77 |
| *P.* (=*Mandrillus*) *sphinx* | Mandrill | I | 2/4/77 |
| *Phaner* sp. | Fork mouse lemur, Fork-marked mouse lemur | I | 7/1/75 |
| Pongidae spp. (all species in family except those with earlier date). | Chimpanzees, Gorillas, Orangutans | I | 2/4/77 |
| *Pongo pygmaeus abelli* | Orangutan | I | 7/1/75 |
| *P. pygmaeus pygmaeus* | Orangutan | I | 7/1/75 |
| *Presbytis entellus* | Gray langur, Common Indian langur | I | 7/1/75 |
| *P. geei* | Golden langur | I | 7/1/75 |
| *P. johnii* | Nilgiri langur | II | 7/1/75 |
| *P. pileata* | Capped langur | I | 7/1/75 |
| *P. potenziani* | Long-tailed langur, Mentawai leaf monkey | I | 2/4/77 |
| *Propithecus* spp. | Sifakas | I | 7/1/75 |
| *Pygathrix* (=*Rhinopithecus*) spp. (except those species with earlier date). | Snub-nosed langurs | I | 2/4/77 |
| *P. nemaeus* | Douc langur | I | 7/1/75 |
| *P.* (=*Rhinopithecus*) *roxellanae* | Sichuan snub-nosed langur | I | 7/1/75 |
| *Saguinus bicolor* | Pied tamarin | I | 2/4/77 |
| *S. leucopus* | White-footed tamarin, Silvery-brown bare-face tamarin. | I | 2/4/77 |
| *S. oedipus* (including *S.o. geoffroyi*) | Cotton-top tamarin | I | 2/4/77 |
| *Saimiri oerstedii* | Red-backed squirrel monkey | I | 7/1/75 |
| Order Edentata: | Anteaters, Sloths, Armadillos: | | |
| *Bradypus variegatus* (=*boliviensis* or *griseus*) | Three-toed sloth | II | 7/1/75 |
| *Cabassous centralis* | Five-toed armadillo | III (Costa Rica) | 10/28/76 |
| *C. tatouay* (=*gymnurus*) | Naked-tailed armadillo | III (Uruguay) | 7/14/76 |
| *Choloepus hoffmanni* | Two-toed sloth | III (Costa Rica) | 10/28/76 |
| *Myrmecophaga tridactyla* | Giant anteater | II | 7/1/75 |
| *Priodontes maximus* (=*giganteus*) | Giant armadillo | I | 7/1/75 |
| *Tamandua tetradactyla* | Tamandua, Collared anteater | III (Guatemala) | 4/23/81 |

| Species | Common name | Appendix | Date listed (month/day/year) |
|---|---|---|---|
| *T. tetradactyla chapadensis* | Tamandua, Collared anteater | II | 7/1/75 |
| Order Pholidota: | Pangolins, Scaly Anteaters: | | |
| *Manis crassicaudata* | Thick-tailed pangolin, Indian pangolin | II | 7/1/75 |
| *M. gigantea* | Giant pangolin | III (Ghana) | 2/26/76 |
| *M. javanica* | Malayan pangolin | II | 7/1/75 |
| *M. pentadactyla* | Chinese pangolin | II | 7/1/75 |
| *M. temminckii* | Common African ground pangolin | I | 7/1/75 |
| *M. tetradactyla* (=*longicaudata*) | Long-tailed pangolin | III (Ghana) | 2/26/76 |
| *M. tricuspis* | African tree pangolin | III (Ghana) | 2/26/76 |
| Order Lagomorpha: | Rabbits, Hares: | | |
| *Caprolagus hispidus* | Hispid hare, Assam rabbit | I | 7/1/75 |
| *Romerolagus diazi* | Mexican volcano rabbit | I | 7/1/75 |
| Order Rodentia: | Rodents: | | |
| *Agouti* (=*Cuniculus*) *paca* | Greater paca, Spotted cavy | III (Honduras) | 4/13/87 |
| *Anomalurus beecrofti* | Beecroft's scaly-tailed flying squirrel | III (Ghana) | 2/26/76 |
| *A. derbianus* | Lord Derby's scaly-tailed flying squirrel | III (Ghana) | 2/26/76 |
| *A. peli* | Pel's scaly-tailed flying squirrel | III (Ghana) | 2/26/76 |
| *Chinchilla* spp. (except those chinchillas bred in countries outside of South America). | Chinchilla | I | 2/4/77 |
| *C. brevicaudata boliviana* (except those chinchillas bred in countries outside of South America). | Chinchilla | I | 7/1/75 |
| *Cynomys mexicanus* | Mexican prairie dog | I | 7/1/75 |
| *Dasyprocta punctata* | Common agouti | III (Honduras) | 4/13/87 |
| *Epixerus ebii* | African palm squirrel | III (Ghana) | 2/26/76 |
| *Hystrix cristata* | Crested porcupine | III (Ghana) | 2/26/76 |
| *Idiurus macrotis* | Long-eared pygmy flying squirrel | III (Ghana) | 2/26/76 |
| *Leporillus conditor* | Australian stick-nest rat | I | 7/1/75 |
| *Marmota caudata* | Long-tailed marmot | III (India) | 3/16/89 |
| *M. himalayana* | Himalayan marmot | III (India) | 3/16/89 |
| *Pseudomys praeconis* | Shark Bay mouse | I | 7/1/75 |
| *Ratufa* spp. | Giant squirrels | II | 7/1/75 |
| *Sciurus deppei* | Deppe's squirrel | III (Costa Rica) | 10/28/76 |
| *Sphiggurus* (=*Coendou*) *mexicanus* | Middle American prehensile-tailed porcupine, Coendou. | III (Honduras) | 4/13/87 |
| *S.* (=*Coendou*) *spinosus* | Prehensile-tailed porcupine | III (Uruguay) | 7/14/76 |
| *Xeromys myoides* | False water rat | I | 7/1/75 |
| *Zyzomys pedunculatus* | Australian native mouse, McDonnell Range rock rat | I | 7/1/75 |
| Order Cetacea: | Whales, Porpoises, Dolphins: | | |
| All species except those in App. I or with earlier date in App. II. | | II | 6/28/79 |
| *Balaena* (=*Eubalaena*) spp. | Right whale | I | 7/1/75 |
| *B. mysticetus* | Bowhead whale | I | 7/1/75 |
| *Balaenoptera acutorostrata* (all populations except that of West Greenland: entry into force as App. I on 1/1/86). | Minke Whale | I | 6/28/79 |
| *B. borealis* | Sei whale | I | 2/4/77 |
| *B. edeni* | Bryde's whale | I | 6/28/79 |
| *B. musculus* | Blue whale | I | 7/1/75 |
| *B. physalus* | Fin whale | I | 2/4/77 |
| *Berardius* spp. | Beaked whales | I | 6/28/79 |
| *Caperea marginata* (entry into force as App. I on 1/1/86). | Pygmy right whale | I | 6/28/79 |
| *Eschrichtius robustus* (=*glaucus*) | Gray whale | I | 7/1/75 |
| *Hyperoodon* spp. | Bottle-nosed whales | I | 6/28/79 |
| *Lipotes vexillifer* | White flag dolphin, Chinese river dolphin | I | 6/28/79 |
| *Megaptera novaeangliae* | Humpback whale | I | 7/1/75 |
| *Monodon monoceros* | Narwhal | II | 11/16/75 |
| *Neophocaena phocaenoides* | Finless porpoise | I | 6/28/79 |
| *Phocoena sinus* | Gulf of California harbor porpoise, Cochita | I | 6/28/79 |
| *Physeter macrocephalus* (=*catodon*) | Sperm whale | I | 2/4/77 |
| *Platanista* spp. | Ganges and Indus River dolphins | I | 7/1/75 |
| *Pontoporia* (=*Stenodelphis*) *blainvillei* | La Plata River dolphin | II | 7/14/76 |
| *Sotalia* spp. | Humpbacked dolphins | I | 6/28/79 |
| *Sousa* spp. | Humpbacked dolphins | I | 6/28/79 |
| Order Carnivora: | Carnivores: Cats, Bears, etc.: | | |
| *Acinonyx jubatus* | Cheetah | I | 7/1/75 |
| *Ailuropoda melanoleuca* | Giant panda | I | 3/14/84 |
| *Ailurus fulgens* | Lesser panda | II | 7/1/75 |
| *Aonyx congica* (=*microdon*) | West African "clawless" otter | I | 7/1/75 |
| *Arctictis binturong* | Binturong | III (India) | 3/16/89 |
| *Bassaricyon gabbii* | Bushy-tailed olingo | III (Costa Rica) | 10/28/76 |
| *Bassariscus sumichrasti* | Cacomistle | III (Costa Rica) | 10/28/76 |
| *Canis aureus* | Golden jackal | III (India) | 3/16/89 |
| *C. lupus* (all subspecies and populations except those listed below). | Gray wolf | II | 2/4/77 |
| *C. lupus* (India, Pakistan, Bhutan and Nepal populations). | Gray wolf | I | 2/4/77 |
| *C. lupus crassodon* | Gray wolf, Vancouver Island gray wolf | II | 7/1/75 |
| *C. lupus irremotus* | Gray wolf, Rocky Mountain gray wolf | II | 7/1/75 |
| *C. lupus monstrabilis* | Gray wolf | II | 7/1/75 |

| Species | Common name | Appendix | Date listed (month/day/year) |
|---|---|---|---|
| *C. lupus pallipes* | Gray wolf, Middle East gray wolf | II | 7/1/75 |
| *Chrysocyon brachyurus* | Maned wolf | II | 7/1/75 |
| *Civettictis (=Viverra) civetta* | African civet | III (Botswana) | 4/24/78 |
| *Conepatus humboldtii* | Humboldt's hognose skunk | II | 6/28/79 |
| *Cryptoprocta ferox* | Fossa | II | 2/4/77 |
| *Cuon alpinus* | Dhole | II | 7/1/75 |
| *Cynogale bennettii* | Otter civet | II | 7/1/75 |
| *Dusicyon culpaeus* | Culpeo fox | II | 6/28/79 |
| *D. griseus (=fulvipes)* | Argentine gray fox | II | 6/28/79 |
| *D. gymnocercus* | Pampas fox | II | 10/22/87 |
| *Eira barbara* | Tayra | III (Honduras) | 4/13/87 |
| *Enhydra lutris nereis* | Southern sea otter | I | 7/1/75 |
| *Eupleres goudotii (=major)* | Malagasy mongoose | II | 2/4/77 |
| Felidae spp. (all species in family except those in App. I or *Felis catus*). | Cats (not including house cats) | II | 2/4/77 |
| *Felis bengalensis bengalensis* (execpt for Chinese population). | Leopard cat | I | 7/1/75 |
| *F. bengalensis bengalensis* (Chinese population) | Leopard cat | II | 7/1/75 |
| *F. caracal* (Asian population) | Caracal | I | 7/1/75 |
| *F. concolor coryi* | Florida panther, Florida puma | I | 7/1/75 |
| *F. concolor costaricensis* | Costa Rican puma | I | 7/1/75 |
| *F. concolor couguar* | Eastern puma, Adirondack cougar | I | 7/1/75 |
| *F. jacobita* | Andean cat | I | 7/1/75 |
| *F. marmorata* | Marbled cat | I | 7/1/75 |
| *F. nigripes* | Black-footed cat | I | 7/1/75 |
| *F. pardalis* (except subspecies with earlier date) | Ocelot | I | 2/4/77 |
| *F. pardalis mearnsi* | Ocelot | I | 7/1/75 |
| *F. pardalis mitis* | Brazilian ocelot | I | 7/1/75 |
| *F. (=Lynx) pardina* | Spanish lynx, Iberian lynx | I | 2/4/77 |
| *F. planiceps* | Flat-headed cat | I | 7/1/75 |
| *F. rubiginosa* (Indian population) | Rusty-spotted cat | I | 2/4/77 |
| *F. (=Lynx) rufa escuinapae* | Mexican bobcat | I | 7/1/75 |
| *F. temmincki* | Asian golden cat | I | 7/1/75 |
| *F. tigrina* (except subspecies with earlier date) | Tiger cat, Little spotted cat | I | 2/4/77 |
| *F. tigrina oncilla* | Tiger cat | I | 7/1/75 |
| *F. wiedii* (except subspecies with earlier date) | Margay | I | 2/4/77 |
| *F. wiedii nicaraguae* | Central American margay | I | 7/1/75 |
| *F. wiedii salvinia* | Guatemalan margay | I | 7/1/75 |
| *F. yagouaroundi* (North and Central American populations). | Jaguarundi | I | 7/1/75 |
| *F. yagouaroundi* (South American populations) | Jaguarundi | II | 7/1/75 |
| *Fossa fossa* | Fanaloka | II | 2/4/77 |
| *Galictis vittata (=allamandi)* | Grison | III (Costa Rica) | 10/28/76 |
| *Helarctos malayanus* | Sun bear | I | 7/1/75 |
| *Hemigalus derbyanus* | Banded palm civet | II | 2/4/77 |
| *Herpestes auropunctatus* | Small Indian mongoose | III (India) | 3/16/89 |
| *H. edwardsi* | Indian gray mongoose | III (India) | 3/16/89 |
| *H. fuscus* | Indian brown mongoose | III (India) | 3/16/89 |
| *H. smithii* | Ruddy mongoose | III (India) | 3/16/89 |
| *H. urva* | Crab-eating mongoose | III (India) | 3/16/89 |
| *H. vitticollis* | Stripe-necked mongoose | III (India) | 3/16/89 |
| *Hyaena brunnea* | Brown hyaena | I | 7/1/75 |
| Lutrinae spp. (all species in subfamily except those in App. I). | Otters | II | 2/4/77 |
| *Lutra felina* | Marine otter | I | 7/1/75 |
| *L. longicaudis* | Long-tailed otter, Neotropical otter | I | 7/1/75 |
| *L. lutra* | European otter | I | 2/4/77 |
| *L. provocax* | Southern river otter, South American river otter | I | 7/1/75 |
| *Martes flavigula* (including *M. gwatkinsi*) | Yellow-throated marten | III (India) | 3/16/89 |
| *M. foina intermedia* | Beech marten | III (India) | 3/16/89 |
| *Mellivora capensis* | Honey badger, Ratel | III (Ghana and Botswana) | 2/26/76 |
| *Melursus (=Ursus) ursinus* | Sloth bear | I | 9/21/88 |
| *Mustela altaica* | Mountain weasel | III (India) | 3/16/89 |
| *M. erminea* | Ermine | III (India) | 3/16/89 |
| *M. kathiah* | Yellow-bellied weasel | III (India) | 3/16/89 |
| *M. nigripes* | Black-footed ferret | I | 7/1/75 |
| *M. sibirica* | Siberian weasel | III (India) | 3/16/89 |
| *Nasua nasua (=narica)* | Common coati, Coatimundi | III (Honduras) | 4/13/87 |
| *N. nasua solitaria* | Coatimundi | III (Uruguay) | 7/14/76 |
| *Neofelis nebulosa* | Clouded leopard | I | 7/1/75 |
| *Paguma larvata* | Masked palm civet | III (India) | 3/16/89 |
| *Panthera leo persica* | Asiatic lion, Indian lion | I | 7/1/75 |
| *P. onca* | Jaguar | I | 7/1/75 |
| *P. pardus* | Leopard | I | 7/1/75 |
| *P. tigris* | Tiger | I | 7/1/75 |
| *P. uncia* | Snow leopard | I | 7/1/75 |
| *Paradoxurus hermaphroditus* | Common palm civet | III (India) | 3/16/89 |
| *P. jerdoni* | Jerdon's palm civet | III (India) | 3/16/89 |
| *Potos flavus* | Kinkajou | III (Honduras) | 4/13/87 |
| *Prionodon linsang* | Banded linsang | II | 7/1/75 |

| Species | Common name | Appendix | Date listed (month/day/year) |
|---|---|---|---|
| *P. pardicolor* | Spotted linsang | I | 7/1/75 |
| *Proteles cristatus* | Aardwolf | III (Botswana) | 4/24/78 |
| *Pteronura brasiliensis* | Giant otter | I | 7/1/75 |
| *Selenarctos* (=*Ursus*) *thibetanus* (except subspecies listed below). | Asiatic black bear | I | 6/28/79 |
| *S.* (=*Ursus*) *thibetanus gedrosianus* | Baluchistan black bear | I | 2/4/77 |
| *Speothos venaticus* | Bush dog | I | 2/4/77 |
| *Tremarctos ornatus* | Spectacled bear | I | 2/4/77 |
| *Ursus americanus* (except skull and/or skin with claws attached). | American black bear | III (Canada) | 9/18/91 |
| *U. arctos* (all North American populations except that listed below). | Brown bear, Grizzly | II | 7/1/75 |
| *U. arctos* (Asian populations, including populations in Iran, Iraq, Syria, and Turkey, but not populations in USSR except for subspecies listed in App. I). | Brown bear | II | 1/18/90 |
| *U. arctos* (European population, except USSR population). | Brown Bear | II | 7/29/83 |
| *U. arctos* (Italian population) (=*U.a. nelsoni*) | European brown bear | II | 7/1/75 |
| *U. arctos* (Mexican population) | Mexican grizzly bear | I | 7/1/75 |
| *U. arctos isabellinus* | Red bear | I | 6/28/79 |
| *U. arctos pruinosus* | Tibetan blue bear | I | 7/1/75 |
| *U.* (=*Thalarctos*) *maritimus* | Polar bear | II | 7/1/75 |
| *Viverra megaspila* | Large-spotted civet | III (India) | 3/16/89 |
| *V. zibetha* | Large Indian civet | III (India) | 3/16/89 |
| *Viverricula indica* | Lesser oriental civet, Small Indian civet | III (India) | 3/16/89 |
| *Vulpes bengalensis* | Bengal fox | III (India) | 3/16/89 |
| *V. cana* | Blanford's fox | II | 2/4/77 |
| *V. vulpes griffithi* | Griffith's red fox | III (India) | 3/16/89 |
| *V. vulpes montana* | Montane red fox | III (India) | 3/16/89 |
| *V. vulpes pusilla* (= *leucopus*) | Little red fox | III (India) | 3/16/89 |
| *V.* (=*Fennecus*) *zerda* | Fennec fox | II | 4/22/76 |
| Order Pinnipedia: | Seals, Sea lions: | | |
| *Arctocephalus* spp. (except species listed below) | Southern fur seals | II | 2/4/77 |
| *A. australis* | Southern fur seal | II | 7/1/75 |
| *A. galapagoensis* | Galapagos fur seal | II | 7/1/75 |
| *A. philippii* | Juan Fernandez fur seal | II | 7/1/75 |
| *A. townsendi* | Guadalupe fur seal | I | 7/1/75 |
| *Mirounga angustirostris* | Northern elephant seal | II | 7/1/75 |
| *M. leonina* | Southern elephant seal | II | 7/1/75 |
| *Monachus* spp. | Monk seals | I | 7/1/75 |
| *Odobenus rosmarus* | Walrus | III (Canada) | 11/16/75 |
| Order Tubulidentata: | Aardvarks: | | |
| *Orycteropus afer* | Aardvark | II | 7/1/75 |
| Order Proboscidea: | Elephants: | | |
| *Elephas maximus* | Asian elephant | I | 7/1/75 |
| *Loxodonta africana* | African elephant | I | 2/4/77 |
| Order Sirenia: | Dugongs, Manatees: | | |
| *Dugong dugon* (except for Australian population) | Dugong | I | 7/1/75 |
| *D. dugon* (Australian population) | Dugong | II | 7/1/75 |
| *Trichechus inunguis* | South American manatee, Amazonian manatee | I | 7/1/75 |
| *T. manatus* | West Indian manatee | I | 7/1/75 |
| *T. senegalensis* | West African manatee | II | 7/1/75 |
| Order Perissodactyla: | Odd-toed ungulates: | | |
| *Equus africanus* | African wild ass | I | 7/29/83 |
| *E. grevyi* | Grevy's zebra | I | 6/28/79 |
| *E. hemionus* (except subspecies listed below) | Asian wild ass | II | 7/1/75 |
| *E. hemionus hemionus* | Asian wild ass | I | 7/1/75 |
| *E. hemionus* (=*kiang* or *onager*) *khur* | Asian wild ass | I | 7/1/75 |
| *E. przewalskii* | Przewalski's horse | I | 7/1/75 |
| *E. zebra hartmannae* | Hartmann's mountain zebra | II | 6/28/79 |
| *E. zebra zebra* | Cape mountain zebra | I | 7/1/75 |
| *Tapirus bairdii* | Central American tapir | I | 7/1/75 |
| *T. indicus* | Asian tapir | I | 7/1/75 |
| *T. pinchaque* | Mountain tapir | I | 7/1/75 |
| *T. terrestris* | South American tapir | II | 7/1/75 |
| Rhinocerotidae spp. (all species in the family except those with earlier date in App. I). | Rhinoceroses | I | 2/4/77 |
| *Ceratotherium simum cottoni* | Northern white rhinoceros | I | 7/1/75 |
| *Dicerorhinus* (=*Didermocerus*) *sumatrensis* | Sumatran rhinoceros | I | 7/1/75 |
| *Diceros bicornis* | Black rhinoceros | I | 7/1/75 |
| *Rhinoceros sondaicus* | Javan rhinoceros | I | 7/1/75 |
| *R. unicornis* | Great Indian one-horned rhinoceros | I | 7/1/75 |
| Order Artiodactyla: | Even-toed ungulates: | | |
| *Addax nasomaculatus* | Addax | I | 7/1/75 |
| *Ammotragus lervia* | Barbary sheep, Aoudad | II | 4/22/76 |
| *Antilocapra americana mexicana* | Mexican pronghorn | II | 7/1/75 |
| *A. americana peninsularis* | Baja pronghorn | I | 7/1/75 |
| *A. americana sonoriensis* | Sonoran pronghorn | I | 7/1/75 |
| *Antilope cervicapra* | Blackbuck antelope | III (Nepal) | 11/16/75 |
| *Babyrousa babyrussa* | Babirusa | I | 7/1/75 |

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|---|---|---|---|
| *Blastocerus dichotomus* | Marsh deer | I | 7/1/75 |
| *Bison bison athabascae* | Woods bison | I | 7/1/75 |
| *Boocercus (=Taurotragus) eurycerus* | Bongo antelope | III (Ghana) | 2/26/76 |
| *Bos gaurus* | Seladang, Gaur | I | 7/1/75 |
| *B. (=grunniens) mutus* | Wild yak | I | 7/1/75 |
| *B. (=Novibos) sauveli* | Kouprey | I | 7/1/75 |
| *Bubalus arnee* (formerly listed as *B. bubalis*, a non-protected, domesticated form). | Water buffalo | III (Nepal) | 11/16/75 |
| *B. (=Anoa) depressicornis* | Lowland anoa | I | 7/1/75 |
| *B. (=Anoa) mindorensis* | Tamaraw | I | 7/1/75 |
| *B. (=Anoa) quarlesi* | Mountain anoa | I | 7/1/75 |
| *Budorcas taxicolor* | Takin | II | 8/1/85 |
| *Capra falconeri* (except subspecies listed below) | Markhor | II | 7/1/75 |
| *C. falconeri chialtanensis* | Chialtan markhor | I | 7/1/75 |
| *C. falconeri jerdoni* | Straight-horned markhor | I | 7/1/75 |
| *C. falconeri megaceros* | Kabul markhor, Straight-horned markhor | I | 7/1/75 |
| *Capricornis sumatraensis* | Serow | I | 7/1/75 |
| *Catagonus wagneri* | Chacoan peccary, Giant peccary | I | 10/22/87 |
| *Cephalophus dorsalis* | Bay duiker | II | 7/29/83 |
| *C. jentinki* | Jentink's duiker | I | 7/29/83 |
| *C. monticola* | Blue duiker | II | 7/1/75 |
| *C. ogilbyi* | Ogilby's duiker | II | 7/29/83 |
| *C. sylvicultor* | Yellow-backed duiker | II | 7/29/83 |
| *C. zebra* | Zebra-banded duiker | II | 7/29/83 |
| *Cervus duvauceli* | Swamp deer | I | 7/1/75 |
| *C. elaphus bactrianus* | Bactrian deer | II | 7/1/75 |
| *C. elaphus barbarus* | Barbary deer | III (Tunisia) | 4/22/76 |
| *C. elaphus hanglu* | Kashmir stag | I | 7/1/75 |
| *C. eldi* | Eld's brow-antlered deer | I | 7/1/75 |
| *C. dama mesopotamicus (=Dama mesopotamica)* | Persian fallow deer | I | 2/4/77 |
| *C. (=Axis) porcinus annamiticus* | Indochina hog deer | I | 7/1/75 |
| *C. (=Axis) porcinus calamianensis* | Calamianes deer | I | 7/1/75 |
| *C. (=Axis) porcinus kuhli* | Kuhl's deer, Bawean hog deer | I | 7/1/75 |
| *Choeropsis liberiensis* | Pygmy hippopotamus | II | 7/1/75 |
| *Damaliscus dorcas dorcas* | Bontebok | II | 7/1/75 |
| *D. lunatus* | Sassaby antelope, Korrigum | III (Ghana) | 2/26/76 |
| *Gazella cuvieri (=G. gazella cuvieri)* | Mountain gazelle | III (Tunisia) | 4/22/76 |
| *G. dama* | Dama gazelle | I | 7/29/83 |
| *G. dorcas* | Dorcas gazelle | III (Tunisia) | 4/22/76 |
| *G. leptoceros* | Slender-horned gazelle | III (Tunisia) | 4/22/76 |
| *Hippocamelus antisensis* | North Andean huemal | I | 7/1/75 |
| *H. bisulcus* | South Andean huemal | I | 7/1/75 |
| *Hippopotamus amphibius* | Hippopotamus | III (Ghana) | 2/26/76 |
| *Hippotragus equinus* | Roan antelope | II | 2/26/76 |
| *H. niger variani* | Giant sable antelope | I | 7/1/75 |
| *Hyemoschus aquaticus* | Water chevrotain | III (Ghana) | 2/26/76 |
| *Kobus leche* | Lechwe | II | 7/1/75 |
| *Lama guanicoe* | Guanaco | II | 8/12/78 |
| *Mazama americana cerasina* | Red brocket deer | III (Guatemala) | 4/23/81 |
| *Moschus* spp. (all except populations in App. I) | Musk deer | II | 2/16/79 |
| *Moschus* spp. (populations of Afghanistan, Bhutan, Burma, India, Nepal and Pakistan). | Musk deer | I | 7/1/75 |
| *Muntiacus crinifrons* | Black muntjac | I | 8/1/85 |
| *Nemorhaedus goral* | Goral | I | 7/1/75 |
| *Odocoileus virginianus mayensis* | Whitetail deer | III (Guatemala) | 4/23/81 |
| *Oryx dammah* | Scimitar-horned oryx | I | 7/1/75 |
| *O. leucoryx* | Arabian oryx | I | 7/1/75 |
| *Ovis ammon* (except subspecies listed below) | Argali | II | 7/1/75 |
| *O. ammon hodgsoni* | Tibetan argali | I | 7/1/75 |
| *O. canadensis* (Mexican population) | Mexican bighorn sheep | II | 7/1/75 |
| *O. orientalis ophion (=O. musimon ophion)* | Urial, Cyprian red sheep | I | 7/1/75 |
| *O. vignei* | Shapo | I | 7/1/75 |
| *Ozotoceros bezoarticus* | Pampas deer | I | 7/1/75 |
| *Pantholops hodgsoni* | Tibetan antelope | I | 7/1/75 |
| *Pudu mephistophiles* | Northern pudu | II | 7/1/75 |
| *P. pudu* | Pudu | I | 7/1/75 |
| *Rupicapra rupicapra ornata* | Apennian chamois | I | 7/1/75 |
| *Sus salvanius* | Pygmy hog | I | 7/1/75 |
| *Tayassu* spp. (except populations in the United States) | Collared peccaries, White-lipped peccaries | II | 10/22/87 |
| *Tetracerus quadricornis* | Four-horned antelope | III (Nepal) | 11/16/75 |
| *Tragelaphus spekei* | Sitatunga antelope | III (Ghana) | 2/26/76 |
| *Vicugna vicugna* (except populations listed below) | Vicuna | I | 7/1/75 |

| Species | Common name | Appendix | Date listed (month/day/year) |
|---|---|---|---|
| *V. vicugna* (populations in Paranicota Province, Ia. Region of Tarapaca in Chile, and populations of Pampa Galeras Natl. Reserve and Nuclear Zone, Pedregal, Oscconta and Sawacocha (Province of Lucanas), Sais Pictoani (Province of Azangaro), Sais Tupac Amaru (Province of Junin), and of Salinas Aguada Blance Natl. Reserve (Provinces of Arequipa and Cailloma) in Peru (under specific conditions including export of cloth only). | Vicuna | II | 10/22/87 |
| CLASS AVES: | BIRDS: | | |
| Order Struthioniformes: | Ostriches: | | |
| *Struthio camelus* (populations of Algeria, Central African Republic, Chad, Mali, Mauritania, Morocco, Niger, Nigeria, Senegal, Sudan, Cameroon and Upper Volta). | Ostrich | I | 7/29/83 |
| Order Rheiformes | Rheas: | | |
| *Pterocnemia pennata* (except subspecies listed below) | Lesser rhea | I | 6/28/79 |
| *P. pennata garleppi* | Lesser rhea | I | 7/1/75 |
| *P. pennata pennata* | Darwin's rhea | I | 7/1/75 |
| *Rhea americana* (except subspecies listed below) | Greater rhea, Common rhea | III (Uruguay) | 7/14/76 |
| *R. americana albescens* | Greater rhea | II | 7/1/75 |
| Order Sphenisciformes: | Penguins: | | |
| *Spheniscus demersus* | Jackass penguin, Blackfooted Cape penguin | II | 7/1/75 |
| *S. humboldti* | Humboldt penguin | I | 6/6/81 |
| Order Tinaminiformes: | Tinamous: | | |
| *Rhynchotus rufescens maculicollis* | Red-winged tinamou | II | 7/1/75 |
| *R. rufescens pallescens* | Southern red-winged tinamou | II | 7/1/75 |
| *R. rufescens rufescens* | Western red-winged tinamou | II | 7/1/75 |
| *Tinamus solitarius* | Solitary tinamou | I | 7/1/75 |
| Order Podicipediformes: | Grebes: | | |
| *Podilymbus gigas* | Atitlan grebe | I | 7/1/75 |
| Order Procellariformes: | Albatrosses, Shearwaters, Petrels: | | |
| *Diomedea albatrus* | Short-tailed albatross | I | 7/1/75 |
| Order Pelecaniformes: | Tropicbirds, Pelicans, Frigatebirds: | | |
| *Fregata andrewsi* | Andrew's frigatebird | I | 7/1/75 |
| *Pelecanus crispus* | Dalmatian pelican | I | 7/1/75 |
| *Sula abbotti* | Abbott's booby | I | 7/1/75 |
| Order Ciconiiformes: | Herons, Storks, Ibises, Flamingos: | | |
| *Ardea goliath* | Goliath heron | III (Ghana) | 2/26/76 |
| *Balaeniceps rex* | Whale-headed stork | II | 10/22/87 |
| *Bubulcus (=Ardeola) ibis* | Cattle egret | III (Ghana) | 2/26/76 |
| *Casmerodius (=Egretta) albus* | Great white egret | III (Ghana) | 2/26/76 |
| *Ciconia ciconia boyciana* | Oriental white stork | I | 7/1/75 |
| *C. nigra* | Black stork | II | 7/1/75 |
| *Egretta garzetta* | Little egret | III (Ghana) | 2/26/76 |
| *Ephippiorhynchus senegalensis* | Saddlebill stork | III (Ghana) | 2/26/76 |
| *Eudocimus ruber* | Scarlet ibis | II | 10/22/87 |
| *Geronticus calvus* | Southern bald ibis | II | 7/1/75 |
| *G. eremita* | Northern bald ibis, Hermit ibis | I | 6/28/79 |
| *Hagedashia hagedash* | Hadada ibis | III (Ghana) | 2/26/76 |
| *Jabiru mycteria* | Jabiru | I | 8/1/85 |
| *Lampribis rara* | Spotted-breasted ibis | III (Ghana) | 2/26/76 |
| *Leptoptilos crumeniferus* | Marabou stork | III (Ghana) | 2/26/76 |
| *Mycteria cinerea* | Milky wood stork | I | 10/22/87 |
| *Nipponia nippon* | Japanese crested ibis | I | 7/1/75 |
| *Phoenicoparrus andinus* | Andean flamingo | II | 7/1/75 |
| *P. jamesi* | James flamingo | II | 7/1/75 |
| Phoenicopteridae spp. (all species except those with earlier date in App. II). | Flamingos | II | 7/29/83 |
| *Phoenicopterus chilensis* | Chilean flamingo | II | 7/1/75 |
| *P. ruber ruber* | American flamingo | II | 6/28/79 |
| *Platalea leucorodia* | White spoonbill | II | 7/1/75 |
| *Threskiornis aethiopicus* | Sacred ibis | III (Ghana) | 2/26/76 |
| Order Anseriformes: | Ducks, Geese, Swans, Screamers: | | |
| *Alopochen aegyptiacus* | Egyptian goose | III (Ghana) | 2/26/76 |
| *Anas acuta* | Northern pintail | III (Ghana) | 2/26/76 |
| *A. aucklandica aucklandica* | Auckland Island flightless teal | II | 7/1/75 |
| *A. aucklandica chlorotis* | New Zealand brown teal | II | 7/1/75 |
| *A. aucklandica nesiotis* | Campbell Island flightless teal | I | 7/1/75 |
| *A. bernieri* | Madagascar teal | II | 7/1/75 |
| *A. capensis* | Cape wigeon | III (Ghana) | 2/26/76 |
| *A. clypeata* | Northern shoveler | III (Ghana) | 2/26/76 |
| *A. crecca* | Green-winged teal | III (Ghana) | 2/26/76 |
| *A. (=Platyrhynchos) laysanensis* | Laysan duck | I | 7/1/75 |
| *A. (=Platyrhynchos) oustaleti* | Marianas mallard | I | 7/1/75 |
| *A. penelope* | Europeon wigeon | III (Ghana) | 2/26/76 |
| *A. querquedula* | Garganey | III (Ghana) | 2/26/76 |
| *Aythya nyroca* | White-eyed pochard | III (Ghana) | 2/26/76 |
| *Branta canadensis leucopareia* | Aleutian goose | I | 7/1/75 |
| *B. ruficollis* | Red-breasted goose | II | 7/1/75 |
| *B. (=Nesochen) sandvicensis* | Hawaiian goose, Nene | I | 7/1/75 |

| Species | Common name | Appendix | Date listed (montn/ day/year) |
|---|---|---|---|
| *Cairina moschata* | Muscovy duck | III (Honduras) | 4/13/87 |
| *C. scutulata* | White-winged duck | I | 7/1/75 |
| *Coscoroba coscoroba* | Coscoroba | II | 7/1/75 |
| *Cygnus columbianus* (=*bewickii*) *jankowskii* | Jankowski's swan | II | 7/1/75 |
| *C. melanocoryphus* | Black-necked swan | II | 7/1/75 |
| *Dendrocygna arborea* | Cuban tree duck, West Indian whistling duck | II | 7/1/75 |
| *D. autumnalis* | Black-bellied whistling duck | III (Honduras) | 4/13/87 |
| *D. bicolor* (=*fulva*) | Fulvous whistling duck | III (Ghana and Honduras) | 2/26/76 |
| *D. viduata* | White-faced whistling duck | III (Ghana) | 2/26/76 |
| *Nettapus auritus* | African pygmy goose | III (Ghana) | 2/26/76 |
| *Oxyura leucocephala* | White-headed duck | II | 7/29/83 |
| *Plectropterus gambensis* | Spur-winged goose | III (Ghana) | 2/26/76 |
| *Pteronetta hartlaubii* | Hartlaub's duck | III (Ghana) | 2/26/76 |
| *Rhodonessa caryophyllacea* | Pink-headed duck | I pe | 7/1/75 |
| *Sarkidiornis melanotos* | Comb duck | II | 7/1/75 |
| Order Falconiformes: | Hawks, Falcons, Vultures, Eagles: | | |
| All species except Cathartidae and those species in App. I or with earlier date in App. II. | All species except New World vultures | II | 6/28/79 |
| Accipitridae spp. (all South American populations) | Hawks, Harriers | II | 10/26/76 |
| *Accipiter gentilis* | Northern goshawk | II | 2/4/77 |
| *A. gundlachii* | Gundlach's hawk | II | 2/4/77 |
| *A. nisus* | European sparrow hawk | II | 2/4/77 |
| *Aegypius monachus* | European black vulture, Cinerous vulture | II | 2/4/77 |
| *Aquila* spp. (all species except those in App. I or with earlier date in App. II). | Eagles | II | 2/4/77 |
| *A. chrysaetos* | Golden eagle | II | 7/1/75 |
| *A. heliaca* | Imperial eagle | I | 2/4/77 |
| *Chondrohierax uncinatus wilsonii* | Cuban hook-billed kite | I | 2/4/77 |
| *Circaetus* spp. | Snake eagles | II | 2/4/77 |
| *Circus* spp. | Harriers | II | 2/4/77 |
| Falconidae spp. (all species in family except those in App. I). | Falcons, Caracaras | II | 7/1/75 |
| *Falco araea* | Seychelles kestrel | I | 7/1/75 |
| *F. jugger* | Lagger falcon | I | 7/1/75 |
| *F. newtoni aldabranus* | Aldabra kestrel | I | 7/1/75 |
| *F. peregrinus* | Peregrine falcon | I | 7/1/75 |
| *F. punctatus* | Mauritius kestrel | I | 7/1/75 |
| *F. rusticolus* | Gyrfalcon | I | 7/1/75 |
| *Gymnogyps californianus* | California condor | I | 7/1/75 |
| *Gypaetus barbatus* | Lammergeier | II | 2/4/77 |
| *Gyps fulvus* | Griffon vulture | II | 2/4/77 |
| *Haliaeetus* spp. (except species in App.I) | Sea eagles, Fish eagles | II | 2/4/77 |
| *H. albicilla* (except subspecies listed below) | White-tailed eagle | I | 2/4/77 |
| *H. albicilla groenlandicus* | Greenland white-tailed sea eagle | I | 7/1/75 |
| *H. leucocephalus* (except subspecies listed below) | Bald eagle | I | 2/4/77 |
| *H. leucocephalus leucocephalus* | Southern bald eagle | I | 7/1/75 |
| *Harpia harpyja* | Harpy eagle | I | 7/1/75 |
| *Harpyopsis novaeguineae* | New Guinea harpy eagle | II | 2/4/77 |
| *Milvus milvus* | Red kite | II | 2/4/77 |
| *Pandion haliaetus* | Osprey | II | 2/4/77 |
| *Pithecophaga jefferyi* | Monkey-eating eagle | I | 7/1/75 |
| *Sagittarius serpentarius* | Secretary bird | II | 2/26/76 |
| *Sarcoramphus papa* | King vulture | III (Honduras) | 4/13/87 |
| *Vultur gryphus* | Andean condor | I | 7/1/75 |
| Order Galliformes: | Pheasants, Curassows, Megapodes, Hoatzins: | | |
| *Aburria* (=*Pipile*) *jacutinga* | Black-fronted piping-guan | I | 7/1/75 |
| *A.* (=*Pipile*) *pipile pipile* | Trinidad white-headed curassow | I | 7/1/75 |
| *Agelastes meleagrides* | White-breasted guineafowl | III (Ghana) | 2/26/76 |
| *Agriocharis ocellata* | Ocellated turkey | III (Guatemala | 4/23/81 |
| *Arborophila brunneopectus* | Bar-backed partridge, Bare-throated tree partridge | III (Malaysia) | 11/13/86 |
| *A.* (=*Tropicoperdix*) *charltonii* | Scaly-breasted partridge, Chestnut-breasted tree partridge. | III (Malaysia) | 11/13/86 |
| *Argusianus argus* | Great argus pheasant | II | 7/1/75 |
| *Caloperdix oculea* | Ferruginous wood partridge | III (Malaysia) | 11/13/86 |
| *Catreus wallichii* | Cheer pheasant | I | 7/1/75 |
| *Colinus virginianus ridgwayi* | Masked bobwhite | I | 7/1/75 |
| *Crax alberti* | Blue-bellied curassow | III (Colombia) | 9/21/88 |
| *C. blumenbachi* | Red-billed curassow | I | 7/1/75 |
| *C. daubentoni* | Yellow-knobbed curassow | III (Colombia) | 9/21/88 |
| *C. globulosa* | Wattled curassow | III (Colombia) | 9/21/88 |
| *C.* (=*Mitu*) *mitu mitu* | Mitu, Razor-billed curassow | I | 7/1/75 |
| *C. pauxi* (=*Pauxi pauxi*) | Northern helmeted curassow | III (Colombia) | 9/21/88 |
| *C. rubra* | Great curassow | III (Colombia, Costa Rica, Guatemala, and Honduras). | 10/28/76 |
| *Crossoptilon crossoptilon* | White-eared pheasant | I | 7/1/75 |
| *C. mantchuricum* | Brown-eared pheasant | I | 7/1/75 |
| *Cyrtonyx montezumae mearnsi* (Mexican population) | Mearn's harlequin quail | II | 7/1/75 |
| *C. montezumae montezumae* | Harlequin quail | II | 7/1/75 |
| *Gallus sonneratii* | Gray jungle fowl | II | 7/1/75 |
| *Ithaginis cruentus* | Blood pheasant | II | 7/1/75 |

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|---|---|---|---|
| *Lophophorus impeyanus* | Himalayan monal | I | 7/1/75 |
| *L. lhuysii* | Chinese monal | I | 7/1/75 |
| *L. sclateri* | Sclater's monal | I | 7/1/75 |
| *Lophura edwardsi* | Edward's pheasant | I | 7/1/75 |
| *L. erythrophthalma* | Crestless fireback | III (Malaysia) | 11/13/86 |
| *L. ignita* | Crested fireback | III (Malaysia) | 11/13/86 |
| *L. imperialis* | Imperial pheasant | I | 7/1/75 |
| *L. swinhoii* | Swinhoe's pheasant | I | 7/1/75 |
| *Macrocephalon maleo* | Maleo | I | 7/1/75 |
| *Melanoperdix nigra* | Black wood partridge | III (Malaysia) | 11/13/86 |
| *Oreophasis derbianus* | Horned guan | I | 7/1/75 |
| *Ortalis vetula* | Plain chachalaca | III (Guatemala, and Honduras) | 4/23/81 |
| *Pavo muticus* | Green peafowl | II | 2/4/77 |
| *Penelope albipennis* | White-winged guan | I | 6/6/81 |
| *P. purpurascens* | Northern crested guan | III (Honduras) | 4/13/87 |
| *Penelopina nigra* | Black chachalaca | III (Guatemala) | 4/23/81 |
| *Polyplectron bicalcaratum* | Gray peacock pheasant | II | 7/1/75 |
| *P. emphanum* | Palawan peacock pheasant | I | 7/1/75 |
| *P. germaini* | Germain's peacock pheasant | II | 7/1/75 |
| *P. inopinatum* | Rothschild's peacock pheasant, Mountain peacock pheasant. | III (Malaysia) | 11/13/86 |
| *P. malacense* | Malaysian peacock pheasant | II | 7/1/75 |
| *Rheinartia ocellata* | Rheinard's crested argus, Crested argus pheasant | I | 11/13/86 |
| *Rhizothera longirostris* | Long-billed wood partridge | III (Malaysia) | 11/13/86 |
| *Rollulus rouloul* | Crested wood partridge, Rouloul, Green-winged wood partridge. | III (Malaysia) | 11/13/86 |
| *Syrmaticus ellioti* | Elliot's pheasant | I | 7/1/75 |
| *S. humiae* | Bar-tailed pheasant | I | 7/1/75 |
| *S. mikado* | Mikado pheasant | I | 7/1/75 |
| *Tetraogallus caspius* | Caspian snowcock | I | 7/1/75 |
| *T. tibetanus* | Tibetan snowcock | I | 7/1/75 |
| *Tragopan blythii* | Blyth's tragopan | I | 7/1/75 |
| *T. caboti* | Cabot's tragopan | I | 7/1/75 |
| *T. melanocephalus* | Western tragopan | I | 7/1/75 |
| *T. satyra* | Satyr tragopan | III (Nepal) | 11/16/75 |
| *Tympanuchus cupido attwateri* | Attwater's greater prairie chicken | I | 7/1/75 |
| Order Gruiformes: | Cranes, Rails, Bustards: | | |
| *Anthropoides virgo* | Demoiselle crane | II | 7/29/83 |
| *Balearica regulorum* | Crowned crane | II | 7/1/75 |
| *Chlamydotis undulata* | Houbara bustard | I | 7/1/75 |
| *Choriotis nigriceps* | Great Indian bustard | I | 7/1/75 |
| *Gallirallus australis hectori* | Eastern weka rail | II | 7/1/75 |
| Gruidae spp. (all species and subspecies except those in App. I and those with earlier date in App. II). | Cranes | II | 8/1/85 |
| *Grus americana* | Whooping Crane | I | 7/1/75 |
| *G. canadensis nesiotes* | Cuba sandhill crane | I | 7/1/75 |
| *G. canadensis pratensis* | Florida sandhill crane | II | 7/1/75 |
| *G. canadensis pulla* | Mississippi sandhill crane | I | 7/1/75 |
| *G. japonensis* | Manchurian crane | I | 7/1/75 |
| *G. leucogeranus* | Siberian white crane | I | 7/1/75 |
| *G. monacha* | Hooded crane | I | 7/1/75 |
| *G. nigricollis* | Black necked crane | I | 7/1/75 |
| *G. vipio* | White-naped crane | I | 7/1/75 |
| *Houbaropsis (=Eupodotis) bengalensis* | Bengal florican | I | 7/1/75 |
| Otididae spp. (all species except those in App. I or with earlier date in App. II). | Bustards | II | 10/22/87 |
| *Otis tarda* | Great bustard | II | 7/1/75 |
| *Pedionomus torquatus* | Collared hemipode | II | 6/28/79 |
| *Rhynochetos jubatus* | Kagu | I | 7/1/75 |
| *Tricholimnas sylvestris* | Lord Howe wood rail | I | 7/1/75 |
| *Turnix melanogaster* | Black-breasted button quail | II | 6/28/79 |
| Order Charadriiformes: | Shorebirds, Gulls, Auks: | | |
| *Burhinus bistriatus* | Double-striped thick-knee, Mexican stone curlew | III (Guatemala) | 4/23/81 |
| *Larus relictus* | Relict gull | I | 7/1/75 |
| *Numenius borealis* | Eskimo curlew | I | 7/1/75 |
| *N. tenuirostris* | Slender-billed curlew | I | 7/1/75 |
| *Tringa guttifer* | Nordmann's greenshank | I | 7/1/75 |
| Order Columbiformes: | Pigeons, Doves, Sand-grouse: | | |
| *Caloenas nicobarica* | Nicobar pigeon | I | 6/28/79 |
| *C. nicobarica pelewensis* | Nicobar pigeon | I | 7/1/75 |
| *Columba guinea* | Speckled pigeon | III (Ghana) | 2/26/76 |
| *C. iriditorques* | Bronze-necked pigeon, Bronze-naped pigeon | III (Ghana) | 2/26/76 |
| *C. livia* | Rock dove | III (Ghana) | 2/26/76 |
| *C. unicincta* | African wood pigeon | III (Ghana) | 2/26/76 |
| *Ducula mindorensis* | Mindoro imperial pigeon | I | 7/1/75 |
| *Gallicolumba luzonica* | Bleeding heart pigeon | II | 7/1/75 |
| *Goura cristata* | Common crowned pigeon | II | 7/1/75 |
| *G. scheepmaken* | Maroon-breasted crowned pigeon | II | 7/1/75 |
| *G. victoria* | Victoria crowned pigeon | II | 7/1/75 |
| *Nesoenas (=Columba) mayeri* | Pink pigeon | III (Mauritius) | 12/4/75 |

| Species | Common name | Appendix | Date listed (month/day/year) |
|---|---|---|---|
| *Oena capensis* | Namaqua dove, Masked dove | III (Ghana) | 2/26/76 |
| *Streptopelia decipiens* | African mourning dove, Mourning collared dove | III (Ghana) | 2/26/76 |
| *S. roseogrisea* | African turtle dove, African collared dove | III (Ghana) | 2/26/76 |
| *S. semitorquata* | Red-eyed dove | III (Ghana) | 2/26/76 |
| *S. senegalensis* | Laughing dove | III (Ghana) | 2/26/76 |
| *S. turtur* | Turtle dove | III (Ghana) | 2/26/76 |
| *S. vinacea* | Vinaceous dove | III (Ghana) | 2/26/76 |
| *Treron calva* | African·green pigeon | III (Ghana) | 2/26/76 |
| *T. waalia* | Yellow-bellied green pigeon | III (Ghana) | 2/26/76 |
| *Turtur abyssinicus* | Black-billed wood dove | III (Ghana) | 2/26/76 |
| *T. afer* | Blue-spotted wood dove | III (Ghana) | 2/26/76 |
| *T. brehmeri* | Blue-headed wood dove | III (Ghana) | 2/26/76 |
| *T. tympanistria* | Tambourine dove | III (Ghana) | 2/26/76 |
| Order Psittaciformes: | Parrots, Parakeets, Macaws, Lories: | | |
| All species in order except those in App. I or with earlier date in App. II and except *Melopsittacus undulatus, Nymphicus hollandicus* and *Psittacula krameri.* | All Parrots, Parakeets, Macaws and Lories (not including the Budgerigar, Cockatiel and Rose-ringed parakeet). | II | 6/6/81 |
| *Amazona arausiaca* | Red-necked parrot | I | 6/6/81 |
| *A. barbadensis* | Yellow-shouldered parrot | I | 6/6/81 |
| *A. brasiliensis* | Red-tailed parrot | I | 6/6/81 |
| *A. dufresniana rhodocorytha* | Red-browed parrot | I | 7/1/75 |
| *A. guildingii* | St. Vincent parrot | I | 7/1/75 |
| *A. imperialis* | Imperial parrot | I | 7/1/75 |
| *A. leucocephala* | Cuban parrot | I | 7/1/75 |
| *A. pretrei* | Red-spectacted parrot | I | 7/1/75 |
| *A. tucumana* | Tucuman amazon | I | 6/6/81 |
| *A. versicolor* | St. Lucia parrot | I | 7/1/75 |
| *A. vinacea* | Vinaceous parrot | I | 7/1/75 |
| *A. vittata* | Puerto Rican parrot | I | 7/1/75 |
| *Anodorhynchus glaucus* | Glaucous macaw | I | 7/1/75 |
| *A. hyacinthinus* | Hyacinth macaw | I | 6/6/81 |
| *A. leari* | Lear's macaw, Indigo macaw | I | 7/1/75 |
| *Ara ambigua* | Buffon's macaw, Great green macaw | I | 10/28/76 |
| *A. glaucogularis* | Caninde macaw | I | 6/6/81 |
| *A. macao* | Scarlet macaw | I | 10/28/76 |
| *A. maracana* | Illiger's macaw | I | 6/6/81 |
| *A. militaris* | Military macaw | I | 6/6/81 |
| *A. rubrogenys* | Red-fronted macaw | I | 6/6/81 |
| *Aratinga guarouba* | Golden conure | I | 7/1/75 |
| *Cacatua moluccensis* | Moluccan cockatoo | I | 6/6/81 |
| *C.* (=*Kakatoe*) *tenuirostris* | Long-billed corella, Slender-billed cockatoo | II | 2/4/77 |
| *Calyptorhynchus lathami* | Glossy cockatoo | II | 2/4/77 |
| *Coracopsis nigra barklyi* | Seychelles vasa parrot | II | 7/1/75 |
| *Cyanoliseus patagonus byroni* | Patagonian conure | II | 6/28/79 |
| *Cyanopsitta spixii* | Spix's macaw | I | 7/1/75 |
| *Cyanoramphus auriceps forbesi* | Forbe's parakeet, Yellow-fronted parakeet | I | 7/1/75 |
| *C. malherbi* | Orange-fronted parakeet | II | 7/1/75 |
| *C. novaezelandiae* | New Zealand parakeet, Red-fronted parakeet | I | 7/1/75 |
| *C. unicolor* | Antipodes green parakeet | II | 7/1/75 |
| *Eunymphicus cornutus* | Horned parakeet | II | 7/1/75 |
| *Geopsittacus occidentalis* | Blue-collared parrot, Australian night parrot | I pe | 7/1/75 |
| *Neophema chrysogaster* | Orange-bellied parakeet | I | 7/1/75 |
| *N. splendida* | Scarlet-chested parakeet | II | 7/1/75 |
| *Ognorhynchus icterotis* | Yellow-cheeked conure | I | 6/6/81 |
| *Opopsitta* (=*Cyclopsitta*) *diophthalma coxeni* | Coxen's fig parrot | I | 2/4/77 |
| *Pezoporus wallicus* | Ground parrot | I | 2/4/77 |
| *Pionopsitta pileata* | Red-capped parrot, Pileated parrot | I | 7/1/75 |
| *Poicephalus robustus* | Cape parrot | II | 7/1/75 |
| *Polytelis alexandrae* | Princess parrot | II | 2/4/77 |
| *Probosciger aterrimus* | Great black cockatoo, Palm cockatoo | I | 7/1/75 |
| *Prosopoeia personata* | Masked shining parrot, Yellow-breasted musk parrot. | II | 7/1/75 |
| *Psephotus chrysopterygius* | Golden-shouldered parakeet | I | 7/1/75 |
| *P. pulcherrimus* | Paradise parakeet | I pe | 7/1/75 |
| *P.* (=*Northiella*) *haematogaster narethae* | Blue-bonnet parakeet | II | 2/4/77 |
| *Psittacula echo* (=*P. krameri echo*) | Mauritius ring-neck parakeet | I | 7/1/75 |
| *P. krameri* | Ring-neck parakeet | III (Ghana) | 2/26/76 |
| *Psittacus erithacus princeps* | Principe parrot | I | 7/1/75 |
| *Pyrrhura cruentata* | Blue-throated parakeet, Ochre-marked parakeet | I | 7/1/75 |
| *Rhynchopsitta pachyrhyncha* | Thick-billed parrot | I | 7/1/75 |
| *R. pachyrhyncha terrisi* (=*R. terrisi*) | Maroon-fronted parrot | I | 6/6/81 |
| *Strigops habroptilus* | Kakapo, Owl parrot | I | 7/1/75 |
| *Tanygnathus lucionensis* | Blue-naped parrot | II | 2/4/77 |
| Order Cuculiformes: | Cuckoos, Plantain-eaters: | | |
| *Corythaeola cristata* | Great blue turaco | III (Ghana) | 2/4/77 |
| *Crinifer piscator* | Gray plantain eater | III (Ghana) | 2/4/77 |
| *Musophaga violacea* | Violet turaco | III (Ghana) | 2/4/77 |
| *Tauraco corythaix* | Knysna loury | II | 2/4/77 |
| *T. macrorhynchus* | Black-tip crested turaco | III (Ghana) | 2/4/77 |

| Species | Common name | Appendix | Date listed (month/day/year) |
|---|---|---|---|
| *T. (=Gallirex) porphyreolophus* | Violet-crested turaco | II | 7/1/75 |
| Order Strigiformes: | Owls: | | |
| All species except those in App. I or with earlier date in App. II. | | II | 6/28/79 |
| *Athene blewitti* | Forest little owl, Forest spotted owlet | I | 6/28/79 |
| *Bubo bubo* | Eurasian eagle owl | II | 2/4/77 |
| *Ninox novaeseelandiae royana* | Great hawk owl | I | 2/4/77 |
| *N. squamipila natalis* | Great hawk owl, Moluccan hawk owl | I | 2/4/77 |
| *Nyctea scandiaca* | Snowy owl | II | 2/4/77 |
| *Otus (=mimizyku) gurneyi* | Giant scops owl | I | 7/1/75 |
| *O. nudipes newtoni* | Virgin Island screech owl | II | 7/1/75 |
| Strigidae spp. (all species in family native to Ghana) | Owls | II | 2/26/76 |
| *Strix butleri* | Hume's wood owl | II | 2/4/77 |
| *S. nebulosa* | Great gray owl | II | 11/16/75 |
| Tytonidae spp. (all species in family native to Ghana) | Owls | II | 2/26/76 |
| *Tyto soumagnei* | Madagascar owl | I | 2/4/77 |
| Order Apodiformes: | Swifts, Hummingbirds: | | |
| *Glaucis (=Ramphodon) dohrnii* | Hook-billed hermit | I | 7/1/75 |
| Trochilidae spp. | Hummingbirds | II | 10/22/87 |
| Order Trogoniformes: | Trogons: | | |
| *Pharomachrus mocinno costaricensis* | Central resplendent quetzal | I | 7/1/75 |
| *P. mocinno mocinno* | Northern resplendent quetzal | I | 7/1/75 |
| Order Coraciiformes: | Hornbills, Kingfishers, Rollers, Bee-eaters, Motmots: | | |
| *Aceros narcondami* | Narcondam hornbill | II | 7/1/75 |
| *Buceros bicornis* | Great hornbill | II | 7/1/75 |
| *B. bicornis homrai* | Great Indian hornbill, Great pied hornbill | I | 7/1/75 |
| *B. hydrocorax hydrocorax* | Luzon-Marinduque rufous hornbill | II | 7/1/75 |
| *B. rhinoceros* (except subspecies with earlier date) | Rhinoceros hornbill | II | 1/16/90 |
| *B. rhinoceros rhinoceros* | Malay rhinoceros hornbill | II | 7/1/75 |
| *Rhinoplax vigil* | Helmeted hornbill | I | 7/1/75 |
| Order Piciformes: | Woodpeckers, Toucans, Jacamars, Barbets: | | |
| *Campephilus imperialis* | Imperial woodpecker | I | 7/1/75 |
| *Dryocopus javensis richardsi* | Tristam's white-bellied woodpecker | I | 7/1/75 |
| *Ramphastos sulphuratus* | Keel-billed toucan | III (Guatemala) | 4/23/81 |
| *Semnornis ramphastinus* | Toucan barbet | III (Colombia) | 5/28/89 |
| Order Passeriformes: | Perching birds: | | |
| *Amadina fasciata* | Cut-throat | III (Ghana) | 2/26/76 |
| *Amandava subflava* | Zebra waxbill | III (Ghana) | 2/26/76 |
| *Amblyospiza albifrons* | Grosbeak weaver | III (Ghana) | 2/26/76 |
| *Anomalospiza imberbis* | Parasitic weaver | III (Ghana) | 2/26/76 |
| *Atrichornis clamosus* | Noisy scrub-bird | I | 7/1/75 |
| *Bebrornis rodericanus* | Rodriguez Island warbler | III (Mauritius) | 12/4/75 |
| *Bubalornis albirostris* | Buffalo weaver | III (Ghana) | 2/26/76 |
| *Carduelis (=Spinus) cucullata* | Red siskin | I | 7/1/75 |
| *C. (=Spinus) yarrellii* | Yellow-faced siskin | II | 7/1/75 |
| *Cephalopterus ornatus* | Amazonian umbrellabird | III (Colombia) | 9/21/88 |
| *C. penduliger* | Long-wattled umbrellabird | III (Colombia) | 9/21/88 |
| *Cotinga maculata* | Banded cotinga | I | 7/1/75 |
| *Dasyornis broadbenti litoralis* | Western rufous bristlebird | I pe | 7/1/75 |
| *D. longirostris (=D. brachypterus longirostris)* | Western bristlebird | I | 7/1/75 |
| *Estrilda astrild* | Common waxbill | III (Ghana) | 2/26/76 |
| *E. caerulescens* | Lavender fire-finch | III (Ghana) | 2/26/76 |
| *E. melpoda* | Orange-cheeked waxbill | III (Ghana) | 2/26/76 |
| *E. troglodytes* | Black-rumped waxbill | III (Ghana) | 2/26/76 |
| *Euplectes afer* | Yellow-crowned bishop | III (Ghana) | 2/26/76 |
| *E. ardens* | Red-collared whydah | III (Ghana) | 2/26/76 |
| *E. hordeaceus* | Black-winged red bishop | III (Ghana) | 2/26/76 |
| *E. macrourus* | Yellow-mantled whydah | III (Ghana) | 2/26/76 |
| *E. orix* | Red bishop | III (Ghana) | 2/26/76 |
| *Gubernatrix cristata* | Yellow cardinal | II | 7/14/76 |
| *Lagonosticta larvata* | Vinaceous waxbill | III (Ghana) | 2/26/76 |
| *L. rara* | Black-bellied waxbill | III (Ghana) | 2/26/76 |
| *L. rubricata* | African waxbill | III (Ghana) | 2/26/76 |
| *L. rufopicta* | Bar-breasted waxbill | III (Ghana) | 2/26/76 |
| *L. senegala* | Red-billed fire finch, Red-billed waxbill | III (Ghana) | 2/26/76 |
| *Leucopsar rothschildi* | Rothschild's starling, Myna | I | 7/1/75 |
| *Lonchura bicolor* | Black-and white mannikin | III (Ghana) | 2/26/76 |
| *L. cucullata* | Bronze mannikin | III (Ghana) | 2/26/76 |
| *L. fringilloides* | Magpie mannikin, Pied mannikin | III (Ghana) | 2/26/76 |
| *L. malabarica* | White-throated munia | III (Ghana) | 2/26/76 |
| *Malimbus cassini* | Cassin's malimbe | III (Ghana) | 2/26/76 |
| *M. malimbicus* | Crested malimbe | III (Ghana) | 2/26/76 |
| *M. nitens* | Gray's malimbe | III (Ghana) | 2/26/76 |
| *M. rubriceps* | Red-headed malimbe | III (Ghana) | 2/26/76 |
| *M. rubricollis* | Red-headed weaver | III (Ghana) | 2/26/76 |
| *M. scutatus* | Red-vented malimbe | III (Ghana) | 2/26/76 |
| *Mandingoa nitidula* | Green-backed twin-spot | III (Ghana) | 2/26/76 |
| *Meliphaga cassidix* | Helmeted honey eater | I | 7/1/75 |
| *Nesocharis capistrata* | Gray-headed olive-back | III (Ghana) | 2/26/76 |
| *Nigrita bicolor* | Chestnut-breasted negro-finch | III (Ghana) | 2/26/76 |

| Species | Common name | Appendix | Date listed (month/day/year) |
|---|---|---|---|
| *N. canicapilla* | Gray-headed negro-finch | III (Ghana) | 2/26/76 |
| *N. fusconota* | White-breasted negro-finch | III (Ghana) | 2/26/76 |
| *N. luteifrons* | Pale-fronted negro-finch | III (Ghana) | 2/26/76 |
| *Niltava (=Muscicapa) ruecki* | Rueck's blue flycatcher, Niltava | II | 7/1/75 |
| *Ortygospiza atricollis* | Common quail-finch | III (Ghana) | 2/26/76 |
| Paradiseidae spp. (all species in family) | Birds of paradise | II | 7/1/75 |
| *Parmoptila woodhousei* | Flowerpecker weaver-finch | III (Ghana) | 2/26/76 |
| *Paroaria capitata* | Yellow-billed cardinal | II | 10/22/87 |
| *P. coronata* | Red-crested cardinal | II | 10/22/87 |
| *Passer griseus* | Gray-headed sparrow | III (Ghana) | 2/26/76 |
| *Petronia dentata* | Bush petronia | III (Ghana) | 2/26/76 |
| *Pholidornis rushiae* | Tit-hylia | III (Ghana) | 2/26/76 |
| *Picathartes gymnocephalus* | Bare-headed rock fowl, Yellow-headed rock fowl | I | 7/1/75 |
| *P. oreas* | Gray-necked rock fowl, Red-headed rock fowl | I | 7/1/75 |
| *Pitta brachyura nympha* | Fairy pitta, Blue-winged pitta | II | 7/1/75 |
| *P. guajana* | Blue-tailed pitta, Banded pitta | II | 12/7/87 |
| *P. gurneyi* | Gurney's pitta | I | 12/7/87 |
| *P. kochi* | Koch's pitta | I | 7/1/75 |
| *Plocepasser superciliosus* | Chestnut-crowned sparrow-weaver | III (Ghana) | 2/26/76 |
| *Ploceus albinucha* | White-naped black weaver | III (Ghana) | 2/26/76 |
| *P. aurantius* | Orange weaver | III (Ghana) | 2/26/76 |
| *P. cucullatus* | Black-headed weaver | III (Ghana) | 2/26/76 |
| *P. heuglini* | Heuglin's masked weaver | III (Ghana) | 2/26/76 |
| *P. luteolus* | Little weaver | III (Ghana) | 2/26/76 |
| *P. melanocephalus* | Yellow-backed weaver | III (Ghana) | 2/26/76 |
| *P. nigerrimus* | Viellot's weaver | III (Ghana) | 2/26/76 |
| *P. nigricollis* | Black-necked weaver | III (Ghana) | 2/26/76 |
| *P. pelzelni* | Slender-billed weaver | III (Ghana) | 2/26/76 |
| *P. preussi* | Golden-backed weaver | III (Ghana) | 2/26/76 |
| *P. superciliosus* | Compact weaver | III (Ghana) | 2/26/76 |
| *P. tricolor* | Yellow-mantled weaver | III (Ghana) | 2/26/76 |
| *P. velatus* | Vitelline masked weaver | III (Ghana) | 2/26/76 |
| *Poephila cincta cincta* | Black-throated finch, Parson finch | II | 10/17/80 |
| *Pseudochelidon sirintarae* | White-eyed river martin | I | 7/1/75 |
| *Pyrenestes ostrinus* | Black-bellied seedcracker | III (Ghana) | 2/26/76 |
| *Pytilia hypogrammica* | Yellow-winged pytilia | III (Ghana) | 2/26/76 |
| *P. phoenicoptera* | Red-winged pytilia | III (Ghana) | 2/26/76 |
| *Quelea erythrops* | Red-headed quelea | III (Ghana) | 2/26/76 |
| *Rupicola peruviana* | Andean cock-of-the-rock | II | 7/1/75 |
| *R. rupicola* | Guianan cock-of-the-rock | II | 7/1/75 |
| *Serinus gularis* | Streaky-headed seedeater | III (Ghana) | 2/26/76 |
| *S. leucopygius* | White-rumped seedeater | III (Ghana) | 2/26/76 |
| *S. mozambicus* | Yellow-fronted canary | III (Ghana) | 2/26/76 |
| *Spermophaga haematina* | Blue-bill | III (Ghana) | 2/26/76 |
| *Sporopipes frontalis* | Speckled fronted weaver | III (Ghana) | 2/26/76 |
| *Tchitrea (=Terpsiphone) bourbonnensis* | Coq de Boise, Mascarene paradise flycatcher | III (Mauritius) | 12/4/75 |
| *Uraeginthus bengalus* | Red-cheeked cordon-bleu | III (Ghana) | 2/26/76 |
| *Vidua (=Hypochera) chalybeata* | Village indigobird | III (Ghana) | 2/26/76 |
| *V. interjecta* | Uelle paradise whydah | III (Ghana) | 2/26/76 |
| *V. larvaticola* | Bako indigobird | III (Ghana) | 2/26/76 |
| *V. macroura* | Pin-tailed whydah | III (Ghana) | 2/26/76 |
| *V. paradisaea* | Paradise whydah | III (Ghana) | 2/26/76 |
| *V. raricola* | Jambandu indigobird | III (Ghana) | 2/26/76 |
| *V. togoensis* | Togo paradise whydah | III (Ghana) | 2/26/76 |
| *V. wilsoni* | Wilson's indigobird | III (Ghana) | 2/26/76 |
| *Xanthopsar flavus* | Saffron-cowled blackbird | III (Uruguay) | 7/14/76 |
| *Xipholena atropurpurea* | White-winged cotinga | I | 7/1/75 |
| *Zosterops albogularis* | White-breasted silver-eye, Norfolk Island silver-eye | I | 7/1/75 |
| CLASS REPTILIA: | REPTILES: | | |
| Order Crocodylia: | Crocodiles, Alligators, Caimans, Gavials: | | |
| Alligatoridae spp. (all species in family except those in App. I or with earlier date in App. II). | Alligators, Caimans | II | 2/4/77 |
| *Alligator mississippiensis* | American alligator | II | 7/1/75 |
| *A. sinensis* | Chinese alligator | I | 7/1/75 |
| *Caiman crocodilus apaporiensis* | Apaporis River caiman | I | 7/1/75 |
| *C. crocodilus crocodilus* | Common caiman | II | 7/1/75 |
| *C. crocodilus fuscus* (including *C. crocodilus chiapasius*) | Brown caiman | II | 7/1/75 |
| *C. crocodilus yacare* (=*C. yacare*) | Yacare | II | 7/1/75 |
| *C. latirostris* | Broad-snouted caiman | I | 7/1/75 |
| Crocodylidae spp. (all species in family except those in App. I or with earlier date in App. II). | Crocodiles | II | 2/4/77 |
| *Crocodylus acutus* | American crocodile | I | 7/1/75 |
| *C. cataphractus* (except Congo population) | African slender-snouted crocodile | I | 7/1/75 |
| *C. cataphractus* (Congo population) | African slender-snouted crocodile | II | 7/1/75 |
| *C. intermedius* | Orinoco crocodile | I | 7/1/75 |
| *C. johnsoni* | Johnson's crocodile | II | 7/1/75 |
| *C. moreletii* | Morelet's crocodile | I | 7/1/75 |
| *C. niloticus* (except those populations on App. II) | Nile crocodile | I | 7/1/75 |

| Species | Common name | Appendix | Date listed (month/day/year) |
|---|---|---|---|
| *C. niloticus* (populations in Cameroon, Congo, Ethiopia, Kenya, Madagascar, Somalia, Sudan and Tanzania subject to export quotas described by the Secretariat). | Nile crocodile | II | 7/1/75 |
| *C. niloticus* (populations in Botswana, Malawi, Mozambique, Zambia and Zimbabwe pursuant to ranching). | Nile Crocodile | II | 7/1/75 |
| *C. novaeguineae* (except subspecies listed below) | New Guinea crocodile, Freshwater crocodile | II | 7/1/75 |
| *C. novaeguineae mindorensis* | Philippine crocodile | I | 7/1/75 |
| *C. palustris kimbula* | Ceylon mugger crocodile | I | 7/1/75 |
| *C. palustris palustris* | Mugger crocodile | I | 7/1/75 |
| *C. porosus* (except the population of Papua New Guinea, the Australia population subject to ranching, and Indonesian population subject to export quotas). | Saltwater Crocodile | I | 7/1/75 |
| *C. porosus* (Papua New Guinea population, the Australian population subject to ranching, and the Indonesian population subject to export quotas described by the Secretariat). | Saltwater Crocodile | II | 7/1/75 |
| *C. rhombifer* | Cuban crocodile | I | 7/1/75 |
| *C. siamensis* | Siamese crocodile | I | 7/1/75 |
| *Gavialis gangeticus* | Gavial, Gharial | I | 7/1/75 |
| *Melanosuchus niger* | Black caiman | I | 7/1/75 |
| *Osteolaemus tetraspis* (except subspecies and populations listed below). | Dwarf crocodile | I | 2/4/77 |
| *O. tetraspis* (Congo population) | Dwarf crocodile | II | 2/4/77 |
| *O. tetraspis osborni* | Dwarf crocodile | I | 7/1/75 |
| *O. tetraspis tetraspis* | Dwarf crocodile | I | 7/1/75 |
| *Paleosuchus trigonatus* | Smooth-fronted caiman | II | 7/1/75 |
| *Tomistoma schlegelii* | Tomistoma, False gavial | I | 7/1/75 |
| Order Testudinata: | Turtles, Tortoises: | | |
| *Batagur baska* | River terrapin, Tuntong | I | 7/1/75 |
| Cheloniidae spp. (all species in family) | Sea turtles | I | 7/1/75 |
| *Chersina* (=*Testudo*) spp. | Bow-sprit tortoises | II | 7/1/75 |
| *Clemmys muhlenbergi* | Bog turtle | II | 7/1/75 |
| *Dermatemys mawii* | Central American river turtle | II | 6/6/81 |
| *Dermochelys coriacea* | Leatherback sea turtle | I | 7/1/75 |
| *Erymnochelys madagascariensis* | Madagascar turtle | II | 7/1/75 |
| *Geochelone* spp. (except species listed below) | Land tortoises | II | 7/1/75 |
| *G.* (=*Testudo*) *elephantopus* | Galapagos tortoises | I | 7/1/75 |
| *G.* (=*Testudo*) *radiata* | Madagascar radiated tortoises | I | 7/1/75 |
| *G.* (=*Testudo*) *yniphora* | Angulated tortoises | I | 7/1/75 |
| *Geoclemys* (=*Damonia*) *hamiltonii* | Spotted pond turtle | I | 7/1/75 |
| *Gopherus* spp. (except species listed below) | Gopher tortoises | II | 7/1/75 |
| *G. flavomarginatus* | Bolson tortoise | I | 7/1/75 |
| *Homopus* spp. | African parrot-beaked tortoises | II | 7/1/75 |
| *Kachuga tecta tecta* | Indian sawback turtle | I | 7/1/75 |
| *Kinixys* spp. | Hinged-back tortoise | II | 7/1/75 |
| *Lissemys punctata punctata* | Indian flap-shell tortoise | I | 7/1/75 |
| *Malacochersus* spp. | Pancake tortoises | II | 7/1/75 |
| *Melanochelys* (=*Geoemyda*) *tricarinata* | Three-keeled Asian turtle | I | 7/1/75 |
| *Morenia ocellata* | Burmese peacock turtle | I | 7/1/75 |
| *Pelomedusa subrufa* | Helmeted terrapin | III (Ghana) | 2/26/76 |
| *Peltocephalus dumeriliana* | Big-headed Amazon River turtle | II | 7/1/75 |
| *Pelusios adansonii* | Adanson's hinged terrapin | III (Ghana) | 2/26/76 |
| *P. castaneus* | Brown hinged terrapin, Swamp hinged terrapin | III (Ghana) | 2/26/76 |
| *P. gabonensis* | Gabon hinged terrapin | III (Ghana) | 2/26/76 |
| *P. niger* | Black hinged terrapin | III (Ghana) | 2/26/76 |
| *Podocnemis* spp. | South American turtles | II | 7/1/75 |
| *Psammobates* (=*Testudo*) *geometricus* | Geometric turtle | I | 2/4/77 |
| *Pseudemydura umbrina* | Short-necked swamp turtle | I | 7/1/75 |
| *Pyxis* spp. | Madagascar spider tortoises | II | 7/1/75 |
| *Terrapene coahuila* | Aquatic box turtle | I | 7/1/75 |
| Testudinidae spp. (all species except those in App. I or with earlier date in App. II). | Land tortoises | II | 2/4/77 |
| *Testudo* spp. | Land tortoises | II | 7/1/75 |
| *Trionyx ater* | Cuatro Cienegas softshell turtle | I | 7/1/75 |
| *T. gangeticus* | Indian softshell turtle | I | 7/1/75 |
| *T. hurum* | Peacock softshell turtle | I | 7/1/75 |
| *T. nigricans* | Black softshell turtle | I | 7/1/75 |
| *T. triunguis* | Three-clawed turtle | III (Ghana) | 2/26/76 |
| Order Rhynchocephalia: | Tuatara: | | |
| *Sphenodon punctatus* | Tuatara | I | 7/1/75 |
| Order Squamata: | Lizards, Snakes: | | |
| *Acrantophis* spp. | Madagascar boas | I | 2/4/77 |
| *Agkistrodon bilineatus* | Cantil | III (Honduras) | 4/13/87 |
| *Amblyrhynchus cristatus* | Galapagos marine iguana | II | 7/1/75 |
| *Atretium schistosum* | Olive keelback water snake | III (India) | 2/12/84 |
| *Boa* (=*Constrictor*) *constrictor* | Boa constrictor | II | 7/1/75 |
| *Boa constrictor occidentalis* | Argentine boa constrictor | I | 2/4/77 |
| Boidae spp. (all species except those in App. I or with earlier date in App. II). | Boa constrictors, Pythons | II | 2/4/77 |

| Species | Common name | Appendix | Date listed (month/day/year) |
|---|---|---|---|
| *Bolyeria multocarinata* | Round Island boa | I | 2/4/77 |
| *Bothrops asper* | Terciopelo | III (Honduras) | 4/13/87 |
| *B. nasutus* | Rainforest hognosed pit-viper | III(Honduras) | 4/13/87 |
| *B. nummifer* | Jumping pit-viper | III (Honduras) | 4/13/87 |
| *B. ophryomegas* | Slender hognosed pit-viper | III (Honduras) | 4/13/87 |
| *B. schlegelii* | Eyelash palm pit-viper | III (Honduras) | 4/13/87 |
| *Brachylophus* spp. | Fiji iguanas | I | 6/6/81 |
| *Bradypodion* spp. | Chameleons | II | 2/4/77 |
| *Casarea dussumieri* | Round Island boa | I | 2/4/77 |
| *Cerberus rhynchops* | Dog-faced water snake | III (India) | 2/12/84 |
| *Chamaeleo* spp. | Chamaeleons | II | 2/4/77 |
| *Clelia* (=*Pseudoboa*) *clelia* | Mussurana snake | II | 7/1/75 |
| *Cnemidophorus hyperythrus* | Orange-throated whiptail lizard | II | 7/1/75 |
| *Conolophus* spp. (except species listed below) | Land lizards | II | 2/4/77 |
| *C. pallidus* | Barrington Island land lizard | II | 7/1/75 |
| *C. subcristatus* | Galapagos land iguana | II | 7/1/75 |
| *Cordylus* spp. | Girdled lizards | II | 6/6/81 |
| *Crocodilurus lacertinus* | Dragon lizardet | II | 2/4/77 |
| *Crotalus durissus* | Tropical rattlesnake, Cascabel | III (Honduras) | 4/13/87 |
| *Cyclagras* (=*Hydrodynastes*) *gigas* | South American false water cobra | II | 7/1/75 |
| *Cyclura* spp. | Ground iguanas | I | 2/4/77 |
| *Cyrtodactylus serpensinsula* | Serpent Island gecko | II | 2/4/77 |
| *Dracaena guianensis* | Caiman lizard | II | 2/4/77 |
| *D. paraquayensis* | Caiman lizard | II | 1/18/90 |
| *Elachistodon westermanni* | Indian egg-eating snake | II | 7/1/75 |
| *Epicrates cenchris cenchris* | Rainbow boa | II | 7/1/75 |
| *E. inornatus* | Puerto Rican boa | I | 2/4/77 |
| *E. monensis* | Mona boa | I | 2/4/77 |
| *E. subflavus* | Jamaican boa | I | 7/1/75 |
| *Eunectes notaeus* | Yellow anaconda | II | 7/1/75 |
| *Gallotia simonyi* | Hierro giant lizard | I | 10/22/87 |
| *Heloderma* spp. | Beaded lizards, Gila monster | II | 7/1/75 |
| *Hoplocephalus bungaroides* | Broad-headed snake | II | 8/1/85 |
| *Iguana* spp. | Iguanas | II | 2/4/77 |
| *Micrurus diastema* | Atlanta coral snake | III (Honduras) | 4/13/87 |
| *M. nigrocinctus* | Black-banded coral snake | III (Honduras) | 4/13/87 |
| *Naja naja* | Indian cobra | II | 2/12/84 |
| *Ophiophagus hannah* | King cobra | II | 2/12/84 |
| *Phelsuma* spp. | Day geckos | II | 2/4/77 |
| *Phrynosoma coronatum blainvillei* | San Diego horned lizard | II | 7/1/75 |
| *Podarcis lilfordi* | Lilford's wall lizard | II | 10/22/87 |
| *P. pityusensis* | Ibiza wall lizard | II | 10/22/87 |
| *Pseudocordylus* spp. | Crag lizards | II | 6/6/81 |
| *Pytas mucosus* | Oriental rat snake, Whipsnake | II | 2/12/84 |
| *Python* spp. (except subspecies listed below) | Pythons | II | 7/1/75 |
| *P. molurus molurus* | Indian python | I | 7/1/75 |
| *Sanzinia madagascariensis* | Tree boa | I | 2/4/77 |
| *Sauromalus varius* | San Esteban Island chuckwalla | I | 6/6/81 |
| *Shinisaurus crocodilurus* | Chinese crocodile lizard | II | 1/18/90 |
| *Tupinambis* spp. | Tegu lizards | II | 2/4/77 |
| *Uromastyx* spp. | Spiny-tailed lizards | II | 2/4/77 |
| *Varanus* spp. (all species except those in App. I) | Monitor lizards | II | 7/1/75 |
| *V. bengalensis* | Indian monitor, Bengal monitor | I | 7/1/75 |
| *V. flavescens* | Yellow monitor | I | 7/1/75 |
| *V. griseus* | Desert monitor | I | 7/1/75 |
| *V. komodoensis* | Komodo Island monitor, Komodo dragon | I | 7/1/75 |
| *Vipera russellii* | Russell's viper | III (India) | 2/12/84 |
| *V. ursinii* (except USSR populations) | Orsini's viper | I | 10/22/87 |
| *Xenochrophis* (=*Natrix*) *piscator* | Checkered keelback water snake | III (India) | 2/12/84 |
| CLASS AMPHIBIA: | AMPHIBIANS: | | |
| Order Caudata: | Salamanders: | | |
| *Ambystoma dumerilii* | Lake Patzcuaro salamander | II | 7/1/75 |
| *A. mexicanum* | Axolotl | II | 7/1/75 |
| *Andrias* (=*Megalobatrachus*) *davidianus* | Chinese giant salamander | I | 7/1/75 |
| *A.* (=*Megalobatrachus*) *japonicus* | Japanese giant salamander | I | 7/1/75 |
| Order Anura: | Frogs, Toads: | | |
| *Atelopus varius zeteki* | Panamanian golden frog | I | 7/1/75 |
| *Bufo periglenes* | Monte Verde toad | III (Costa Rica) | 7/1/75 |
| *B. retiformis* | Sonoran green toad | II | 7/1/75 |
| *B. superciliaris* | Cameroon toad | I | 7/1/75 |
| *Dendrobates* spp. | Poison dart frogs, Poison arrow frogs | II | 10/22/87 |
| *Dyscophus antongilii* | Tomato frog | I | 10/22/87 |
| *Nectophrynoides* spp. | African viviparous toads | I | 7/1/75 |
| *Phyllobates* spp. | Poison arrow frogs | II | 10/22/87 |
| *Rana hexadactyla* | Asian bullfrog | II | 8/1/85 |
| *Rana tigerina* | Indian bullfrog | II | 8/1/85 |
| *Rheobatrachus* spp. | Platypus frog | II | 8/1/85 |
| CLASS OSTEICHTHYES: | BONY FISHES: | | |
| Order Acipenseriformes: | Sturgeons: | | |
| *Acipenser brevirostrum* | Short-nosed sturgeon | I | 7/1/75 |

| Species | Common name | Appendix | Date listed (month/day/year) |
|---|---|---|---|
| *A. oxyrhynchus* | Atlantic sturgeon | II | 7/1/75 |
| *A. sturio* | Baltic sturgeon | I | 7/1/75 |
| Order Osteoglossiformes: | Bonytongues: | | |
| *Arapaima gigas* | Arapaima | II | 7/1/75 |
| *Scleropages formosus* | Asian bonytongue | I | 7/1/75 |
| *S. formosus* (population in Indonesia subject to export quota described by the Secretariat). | Asian bonytongue | II | 7/1/75 |
| Order Cypriniformes: | | | |
| *Caecobarbus geertsi* | African blind barb, Congo blind barb | II | 6/6/81 |
| *Chasmistes cujus* | Cui-ui | I | 7/1/75 |
| *Probarbus jullieni* | Ikan temolek, Pla eesok | I | 7/1/75 |
| Order Atheriniformes: | Livebearers: | | |
| *Cynolebias constanciae* | Annual tropical killifish | II | 7/1/75 |
| *C. marmoratus* | Annual tropical killifish | II pe | 7/1/75 |
| *C. minimus* | Annual tropical killifish | II | 7/1/75 |
| *C. opalescens* | Annual tropical killifish | II pe | 7/1/75 |
| *C. splendens* | Annual tropical killifish | II | 7/1/75 |
| Order Coelacanthiformes: | Coelacanth: | | |
| *Latimeria chalumnae* | Coelacanth, Gombessa | I | 7/1/75 |
| Order Ceratodiformes: | Lungfishes: | | |
| *Neoceratodus forsteri* | Australian lungfish | II | 7/1/75 |
| Order Siluriformes: | Catfishes: | | |
| *Pangasianodon gigas* | Thailand giant catfish | I | 7/1/75 |
| Order Perciformes: | Perch-like fishes: | | |
| *Cynoscion macdonaldi* | Totoaba | I | 2/4/77 |
| PHYLUM MOLLUSCA: | MOLLUSCS: | | |
| CLASS Pelecypoda (=*Bivalvia*): | Clams, Mussels: | | |
| *Conradilla caelata* | Birdwing pearly mussel | I | 7/1/75 |
| *Cyprogenia aberti* | Edible pearly mussel | II | 7/1/75 |
| *Dromus dromas* | Dromedary pearly mussel | I | 7/1/75 |
| *Epioblasma* (=*Dysnomia*) *curtisi* (=*E. florentina curtisi*) | Curtis' pearly mussel | I | 7/1/75 |
| *E. florentina* (=*E. florentina florentina*) | Yellow-blossom pearly mussel | I | 7/1/75 |
| *E. sampsoni* | Sampson's pearly mussel | I | 7/1/75 |
| *E. sulcata perobliqua* | White cat's paw mussel | I | 7/1/75 |
| *E. torulosa gubernaculum* | Green-blossom pearly mussel | I | 7/1/75 |
| *E. torulosa rangiana* | Tan-blossom pearly mussel | II | 7/1/75 |
| *E. torulosa torulosa* | Tuberculed-blossom pearly mussel | I | 7/1/75 |
| *E. turgidula* | Turgid-blossom pearly mussel | I | 7/1/75 |
| *E. walkeri* | Brown-blossom pearly mussel | I | 7/1/75 |
| *Fusconaia cuneolus* | Fine-rayed pigtoe mussel | I | 7/1/75 |
| *F. edgariana* | Shiny pigtoe mussel | I | 7/1/75 |
| *F. subrotunda* | Long solid mussel | II | 7/1/75 |
| *Lampsilis brevicula* | Ozark lamp pearly mussel | II | 7/1/75 |
| *L. higginsi* | Higgin's eye mussel | I | 7/1/75 |
| *L. orbiculata orbiculata* | Pink mucket mussel | I | 7/1/75 |
| *L. satura* | Plain pocketbook mussel | I | 7/1/75 |
| *L. virescens* | Alabama lamp pearly mussel | I | 7/1/75 |
| *Lexingtonia dolabelloides* | Slab-side pearly mussel | II | 7/1/75 |
| *Plethobasus cicatricosus* | White wartyback mussel | I | 7/1/75 |
| *P. cooperianus* | Orange-footed pimpleback mussel | I | 7/1/75 |
| *Pleurobema clava* | Club pearly mussel | II | 7/1/75 |
| *P. plenum* | Rough pigtoe mussel | I | 7/1/75 |
| *Potamilus* (=*Proptera*) *capax* | Fat pocketbook mussel | I | 7/1/75 |
| *Quadrula intermedia* | Cumberland monkey-face mussel | I | 7/1/75 |
| *Q. sparsa* | Appalachian monkey-face mussel | I | 7/1/75 |
| *Toxolasma* (=*Carunculina*) *cylindrella* | Pale lilliput pearly mussel | I | 7/1/75 |
| *Tridacna deras* | Giant clam | II | 5/29/83 |
| *T. gigas* | Giant clam | II | 5/29/83 |
| Tridacnidae spp. (includes all species in genera *Hippopus* and *Tridacna* except those with earlier date in App. II). | Giant clams | II | 8/1/85 |
| *Unio* (=*Megalonaias*) *nickliniana* | Nicklin's pearly mussel | I | 7/1/75 |
| *U.* (=*Lampsilis* or *Cyrtonaias*) *tampicoensis tecomatensis*. | Tampico pearly mussel | I | 7/1/75 |
| *Villosa* (=*Micromya*) *trabalis* | Cumberland bean mussel | I | 7/1/75 |
| CLASS Gastropoda: | Snails: | | |
| *Achatinella* spp. | Oahu tree snails | I | 10/22/87 |
| *Papustyla* (=*Papuina*) *pulcherrima* | Manus Island tree snail | II | 7/1/75 |
| *Paryphanta* spp. (New Zealand species only) | New Zealand amber snails | II | 7/1/75 |
| PHYLUM ANNELIDA: | ANNELID WORMS: | | |
| CLASS Hirudinea: | Leeches: | | |
| Order Arhynchobdelliformes: | Rhynchobedellids: | | |
| *Hirudo medicinalis* | Medicinal leech | II | 10/22/87 |
| PHYLUM ARTHROPODA: | ARTHROPODS: | | |
| CLASS Arachnida: | Arachnids: | | |
| *Brachypelma smithi* | Red-kneed tarantula | II | 8/1/85 |
| CLASS Insecta: | Insects: | | |
| *Bhutanitis* spp. | Bhutan glory swallowtails | II | 10/22/87 |
| *Ornithoptera* spp. (all species except those in App. I or with earlier date in App. II). | Birdwing butterflies | II | 2/16/79 |

| Species | Common name | Appendix | Date listed (month/day/year) |
|---|---|---|---|
| *O. alexandrae* | Queen Alexandra's birdwing butterfly | I | 2/4/77 |
| *O. allotei* | Birdwing butterfly | II | 2/4/77 |
| *O. chimaera* | Birdwing butterfly | II | 2/4/77 |
| *O. goliath* | Birdwing butterfly | II | 2/4/77 |
| *O. meridionalis* | Birdwing butterfly | II | 2/4/77 |
| *O. paradisea* | Paradise birdwing butterfly | II | 2/4/77 |
| *O. victoriae* | Queen Victoria's birdwing butterfly | II | 2/4/77 |
| *Papilio chikae* | Luzon peacock swallowtail | I | 10/22/87 |
| *P. homerus* | Homerus swallowtail | I | 10/22/87 |
| *P. hospiton* | Corsican swallowtail | I | 10/22/87 |
| *Parnassius apollo* | Mountain apollo butterfly | II | 2/4/77 |
| *P. apollo apollo* | Mountain apollo butterfly | II | 7/1/75 |
| *Teinopalpus* spp. | Kaiser-I-Hind butterflies | II | 10/22/87 |
| *Trogonoptera* spp. | Birdwing butterflies | II | 2/16/79 |
| *Troides* spp. | Birdwing butterflies | II | 2/16/79 |
| PHYLUM CNIDARIA (=COELENTERATA): | CORAL-LIKE ANIMALS: | | |
| CLASS Anthozoa: | Corals, Sea anemones: | | |
| Order Antipatharia: | Black corals: | | |
| All species in the Order | | II | 6/6/81 |
| Order Scleractinia: | Stony corals: | | |
| All species in the Order (except the genera with earlier date). | | II | 1/18/90 |
| *Acropora* spp. | Staghorn corals | II | 8/1/85 |
| *Euphyllia* spp. | Trumpet corals | II | 8/1/85 |
| *Favia* spp. | Brain corals | II | 8/1/85 |
| *Fungia* spp. | Mushroom corals | II | 8/1/85 |
| *Halomitra* spp. | Bowl corals | II | 8/1/85 |
| *Lobophyllia* spp. | Brain corals | II | 8/1/85 |
| *Merulina* spp. | Merulinas | II | 8/1/85 |
| *Pavona* spp. | Cactus corals | II | 8/1/85 |
| *Pectinia* spp. | Lettuce corals | II | 8/1/85 |
| *Platygyra* spp. | Brain corals | II | 8/1/85 |
| *Pocillopora* spp. | Brush corals | II | 8/1/85 |
| *Polyphyllia* spp. | Feather corals | II | 8/1/85 |
| *Seriatopora* spp. | Bird nest corals | II | 8/1/85 |
| *Stylophora* spp. | Cauliflower corals | II | 8/1/85 |
| CLASS Hydrozoa: | Sea ferns, Fire corals, Stinging medusae: | | |
| Order Athecata: | | | |
| Milleporidae spp. (all species in family except genus with earlier date). | | II | 1/18/90 |
| *Millepora* spp. | Fire corals | II | 8/1/85 |
| Stylasteridae spp. (all species in family). | | II | 1/18/90 |
| CLASS Alcyonaria: | | | |
| Order Coenothecalia: | | | |
| All species in the Order (except those in genus with earlier date).. | | II | 1/18/90 |
| *Heliopora* spp. | Blue corals | II | 8/1/85 |
| Order Stolonifera: | | | |
| Tubiporidae spp. (all species in family except genus with earlier date).. | | II | 1/18/90 |
| *Tubipora* spp. | Organ-pipe corals | II | 8/1/85 |
| PLANT KINGDOM: | PLANTS: | | |
| Family Agavaceae: | Agave family: | | |
| *Agave arizonica* | New River agave | I | 7/29/83 |
| *A. parviflora* | Santa Cruz striped agave | I | 7/29/83 |
| *A. victoriae-reginae* | Queen Victoria agave | II | 7/29/83 |
| *Nolina interrata* | Dehesa bear-grass | I | 7/29/83 |
| Family Amaryllidaceae: | Amaryllis family: | | |
| *Galanthus* spp. (and their natural hybrids) | Snowdrops | II | 1/18/90 |
| *Sternbergia* spp. | Sternbergias | II | 1/18/90 |
| Family Apocynaceae: | Dogbane family: | | |
| *Pachypodium* spp. (except species listed in App. I) | Pachypodiums | II | 7/1/75 |
| *P. baronii* (and its natural hybrids) | | I | 7/1/75 |
| *P. brevicaule* (and its natural hybrids) | | I | 7/1/75 |
| *P. decaryi* (and its natural hybrids) | | I | 7/1/75 |
| *P. namaquanum* | Half-men, Ghost-men | I | 7/1/75 |
| *Rauvolfia serpentina* (except chemical derivatives) | Snake-root devil-pepper | II | 1/18/90 |
| Family Araceae: | Arum family: | | |
| *Alocasia sanderiana* | | I | 7/1/75 |
| Family Araliaceae: | Ginseng family: | | |
| *Panax quinquefolius* | American ginseng | II | 7/1/75 |
| Family Araucariaceae: | Monkey-puzzle tree family: | | |
| *Araucaria araucana* (all populations except that of Chile). | Monkey-puzzle tree | II | 7/1/75 |
| *A. araucana* (population of Chile) | Monkey-puzzle tree | I | 7/1/75 |
| Family Asclepiadaceae: | Milkweed family: | | |
| *Ceropegia* spp. | Ceropegias | II | 6/28/79 |
| *Frerea indica* | | II | 6/28/79 |

| Species | Common name | Appendix | Date listed (month/day/year) |
|---|---|---|---|
| Family Berberidaceae: | Barberry family: | | |
| *Podophyllum hexandrum* (=*P. emodi*) (except chemical derivatives). | Himalayan may-apple | II | 1/18/90 |
| Family Byblidaceae: | Byblis family: | | |
| *Byblis* spp. | Byblis, Rainbow plants | II | 6/28/79 |
| Family Cactaceae: | Cactus family: | | |
| All species except those in App. I | Cacti | II | 7/1/75 |
| *Ancistrocactus tobuschii* | Tobusch's fishhook cactus | I | 7/1/75 |
| *Ariocarpus agavoides* | Agave living-rock cactus | I | 7/1/75 |
| *A. scapharostrus* | Living-rock cactus | I | 7/1/75 |
| *A. trigonus* | Chaute | I | 7/1/75 |
| *Astrophytum* (=*Echinocactus*) *asterias* | Sea urchin cactus, Star cactus | I | 7/1/75 |
| *Aztekium ritteri* | Aztec cactus | I | 7/1/75 |
| *Backebergia militaris* | Teddy-bear cactus, Military cap | I | 7/1/75 |
| *Coryphantha minima* | Nellie's corycactus | I | 7/1/75 |
| *C. sneedii* (=*C. sneedii* var. *sneedii* and var. *leei*) | Sneed pincushion cactus, Lee pincushion cactus | I | 7/1/75 |
| *C. werdermannii* | Jabali pincushion cactus | I | 7/1/75 |
| *Echinocereus ferreirianus* var. *lindsayi* (=*E. lindsayi*) | Lindsay's hedgehog cactus | I | 7/1/75 |
| *E.* (=*Wilcoxia*) *schmollii* | Lamb's-tail cactus | I | 7/1/75 |
| *Echinomastus* (=*Neolloydia*) *erectocentrus* | | I | 7/1/75 |
| *E.* (=*Neolloydia*) *mariposensis* | Mariposa cactus | I | 7/1/75 |
| *Leuchtenbergia principis* | Agave cactus | I | 7/1/75 |
| *Mammillaria pectinifera* (=*Solisia pectinata*) | Conchilinque | I | 7/1/75 |
| *M. plumosa* | Feather cactus | I | 7/1/75 |
| *M. solisioides* | Pitayita | I | 7/1/75 |
| *Nopalxochia* (=*Lobeira*) *macdougallii* | MacDougall's cactus | I | 7/1/75 |
| *Obregonia denegrii* | Artichoke cactus | I | 7/1/75 |
| *Pediocactus bradyi* | Brady's pincushion cactus | I | 7/1/75 |
| *P. despainii* | San Rafael cactus | I | 7/1/75 |
| *P. knowltonii* | Knowlton's cactus | I | 7/1/75 |
| *P. papyracanthus* | Grama-grass cactus | I | 7/1/75 |
| *P. paradinei* | Houserock Valley cactus | I | 7/1/75 |
| *P. peeblesianus* | Peebles' Navajo cactus | I | 7/1/75 |
| *P. sileri* | Siler's pincushion cactus | I | 7/1/75 |
| *P. winkleri* | Winkler's cactus | I | 7/1/75 |
| *Pelecyphora aselliformis* | Hatchet cactus, Peyotillo | I | 7/1/75 |
| *P.* (=*Encephalocarpus*) *strobiliformis* | Pinecone cactus | I | 7/1/75 |
| *Sclerocactus glaucus* | Uinta Basin hookless cactus | I | 7/1/75 |
| *S. mesae-verdae* | Mesa Verde cactus | I | 7/1/75 |
| *S. pubispinus* | Great Basin fishhook cactus | I | 7/1/75 |
| *S. wrightiae* | Wright's fishhook cactus | I | 7/1/75 |
| *Strombocactus disciformis* | Disc cactus, Top cactus | I | 7/1/75 |
| *Turbinicarpus* (=*Neolloydia*) *lauii* | Turbinicarpus | I | 7/1/75 |
| *T.* (=*Neolloydia*) *lophophoroides* | Turbinicarpus | I | 7/1/75 |
| *T.* (=*Neolloydia*) *pseudomacrochele* | Turbinicarpus | I | 7/1/75 |
| *T.* (=*Neolloydia*) *pseudopectinatus* | Turbinicarpus | I | 7/1/75 |
| *T.* (=*Neolloydia*) *schmiedickeanus* | Turbinicarpus | I | 7/1/75 |
| *T.* (=*Neolloydia*) *valdezianus* | Turbinicarpus | I | 7/1/75 |
| Family Caryocaraceae: | Souari family: | | |
| *Caryocar costaricense* | Ajo | II | 7/1/75 |
| Family Cephalotaceae: | Australian pitcher-plant family: | | |
| *Cephalotus follicularis* | West Australian pitcher plant | II | 6/28/79 |
| Family Compositae (=Asteraceae): | Aster family: | | |
| *Saussurea costus* (=*S. lappa*) | Costus, Kuth root | I | 7/1/75 |
| Family Crassulaceae: | Stonecrop family: | | |
| *Dudleya stolonifera* | Laguna Beach dudleya | I | 7/29/83 |
| *D. traskiae* | Santa Barbara Island dudleya | I | 7/29/83 |
| Family Cupressaceae: | Cypress family: | | |
| *Fitz-Roya cupressoides* | Fitzroya, Alerce | I | 7/1/75 |
| *Pilgerodendron uviferum* | Pilgerodendron | I | 7/1/75 |
| Family Cyatheaceae: | Tree-fern family: | | |
| All species in the family except those with earlier date | | II | 2/4/77 |
| *Cyathea* (=*Hemitelia*) *capensis* | | II | 7/1/75 |
| *C. dredgei* | | II | 7/1/75 |
| *C. mexicana* | | II | 7/1/75 |
| *C.* (=*Alsophila*) *salvinii* | | II | 7/1/75 |
| Family Cycadaceae: | Cycas family: | | |
| All species in the family except species in App. I | | II | 2/4/77 |
| *Cycas beddomei* | Beddome cycad | I | 2/4/77 |
| Family Diapensiaceae: | Diapensia family: | | |
| *Shortia galacifolia* | Oconee bells | II | 7/29/83 |
| Family Dicksoniaceae: | Tree fern family: | | |
| All species in the family | | II | 2/4/77 |
| Family Didiereaceae: | Alluaudia family: | | |
| All species in the family | | II | 2/4/77 |
| Family Dioscoreaceae: | Yam family: | | |
| *Dioscorea deltoidea* | Kniss, Kurta | II | 7/1/75 |
| Family Ericaceae: | Heath family: | | |
| *Kalmia cuneata* | White wicky | II | 7/29/83 |

| Species | Common name | Appendix | Date listed (month/day/year) |
|---|---|---|---|
| Family Euphorbiaceae: | Spurge family: | | |
| *Euphorbia* spp. (excluding non-succulent species) (all species except those in App. I). | Euphorbias | II | 7/1/75 |
| *E.* subgenus *Lacanthis* dwarf species in Madagascar (and their natural hybrids) as given below: | Malagasy dwarf euphorbias as shown: | | |
| *E. ambovombensis* (and its natural hybrids) | | I | 7/1/75 |
| *E. cylindrifolia* (and its natural hybrids) | | I | 7/1/75 |
| *E. decaryi* (and its natural hybrids) | | I | 7/1/75 |
| *E. francoisii* (and its natural hybrids) | | I | 7/1/75 |
| *E. moratii* (and its natural hybrids) | | I | 7/1/75 |
| *E. parvicyathophora* (and its natural hybrids) | | I | 7/1/75 |
| *E. primulifolia* (and its natural hybrids) | | I | 7/1/75 |
| *E. quartziticola* (and its natural hybrids) | | I | 7/1/75 |
| *E. tulearensis* (and its natural hybrids) | | I | 7/1/75 |
| Family Fagaceae: | Beech family: | | |
| *Quercus copeyensis* | Roble. Copey oak | II | 7/1/75 |
| Family Fouquieriaceae: | Ocotillo family: | | |
| *Fouquieria columnaris* | Boojum tree | II | 7/29/83 |
| *F. fasciculata* | Arbol del barril | I | 7/29/83 |
| *F. purpusii* | | I | 7/29/83 |
| Family Gnetaceae: | Gnetum family: | | |
| *Gnetum montanum* | | III (Nepal) | 11/16/75 |
| Family Humiriaceae: | Humiria family: | | |
| *Vantanea barbourii* | Ira chiricana | II | 7/1/75 |
| Family Juglandaceae: | Walnut family: | | |
| *Oreomunnea* (=*Engelhardia*) *pterocarpa* | Gavilan | I | 7/1/75 |
| Family Leguminosae (=Fabaceae): | Pea family: | | |
| *Cynometra hemitomophylla* | Guapinol negro | II | 7/1/75 |
| *Platymiscium pleiostachyum* | Cristobal, Granadillo | II | 7/1/75 |
| *Tachigali versicolor* | Cana fistula | II | 7/1/75 |
| Family Liliaceae: | Lily family: | | |
| *Aloe* spp. (all species except those in App. I) | Aloes | II | 7/1/75 |
| *A. albida* | | I | 7/1/75 |
| *A. pillansii* | Boomaalwyn | I | 7/1/75 |
| *A. polyphylla* | Spiral aloe | I | 7/1/75 |
| *A. thorncroftii* | | I | 7/1/75 |
| *A. vossii* | | I | 7/1/75 |
| Family Magnoliaceae: | Magnolia family: | | |
| *Talauma hodgsonii* | | III (Nepal) | 11/16/75 |
| Family Meliaceae: | Mahogany family: | | |
| *Swietenia humilis* | Pacific Coast mahogany | II | 7/1/75 |
| Family Moraceae: | Mulberry family: | | |
| *Batocarpus costaricensis* | Ojoche macho, Nispero colorado | II | 7/1/75 |
| Family Nepenthaceae: | Old World pitcher-plant family: | | |
| *Nepenthes* spp. (all species except those in App. I) | Tropical pitcher plants | II | 10/22/87 |
| *N. khasiana* | Indian tropical pitcher plant | I | 10/22/87 |
| *N. rajah* | Giant tropical pitcher plant | I | 6/6/81 |
| Family Orchidaceae: | Orchid family: | | |
| All species except those in App. I | Orchids | II | 7/1/75 |
| *Cattleya skinneri* | Guaria morada | I | 7/1/75 |
| *C. trianae* | Christmas orchid | I | 7/1/75 |
| *Didiciea cunninghamii* | | I | 7/1/75 |
| *Laelia jongheana* | | I | 7/1/75 |
| *L. lobata* | | I | 7/1/75 |
| *Lycaste skinneri* (=*virginalis*) var. *alba* | White nun, Monja blanca | I | 7/1/75 |
| *Paphiopedilum* spp. | Asian tropical lady's slippers | I | 7/1/75 |
| *P. druryi* | Drury tropical lady's slipper | I | 7/1/75 |
| *Peristeria elata* | Holy Ghost, Dove orchid | I | 7/1/75 |
| *Phragmipedium* spp. | New World tropical lady's slippers | I | 7/1/75 |
| *Renanthera imschootiana* | | I | 7/1/75 |
| *Vanda coerulea* | Blue vanda | I | 7/1/75 |
| Family Palmae (=Arecaceae): | Palm family: | | |
| *Areca ipot* | | II | 7/1/75 |
| *Chrysalidocarpus decipiens* | | II | 2/4/77 |
| *Neodypsis decaryi* | Triangle palm | II | 7/1/75 |
| Family Papaveraceae: | Poppy family: | | |
| *Meconopsis regia* | | III (Nepal) | 11/16/75 |
| Family Pinaceae: | Pine family: | | |
| *Abies guatemalensis* | Guatemalan fir | I | 7/1/75 |
| Family Podocarpaceae: | Podocarp family: | | |
| *Podocarpus neriifolius* | | III (Nepal) | 11/16/75 |
| *P. parlatorei* | Parlatore's podocarp, Monteromero | I | 7/1/75 |
| Family Podophyllacae (see Berberidacae) | | | |
| Family Portulacaceae: | Portulaca family: | | |
| *Anacampseros* spp. | | II | 7/1/75 |
| *Lewisia cotyledon* | Siskiyou lewisia | II | 7/29/83 |
| *L. maguirei* | Maguire's lewisia | II | 7/29/83 |
| *L. serrata* | Saw-toothed lewisia | II | 7/29/83 |
| *L. tweedyi* | Tweedy's lewisia | II | 7/29/83 |

| Species | Common name | Appendix | Date listed (month/day/year) |
|---|---|---|---|
| Family Primulaceae: | Primrose family: | | |
| *Cyclamen* spp. | Cyclamens | II | 7/1/75 |
| Family Proteaceae: | Protea family: | | |
| *Orothamnus zeyheri* | Marsh-rose | I | 7/1/75 |
| *Protea odorata* | Ground-rose | I | 7/1/75 |
| Family Rubiaceae: | Coffee family: | | |
| *Balmea stormiae* | Ayuque | I | 7/1/75 |
| Family Sarraceniaceae: | New World pitcher-plant family: | | |
| *Darlingtonia californica* | Western pitcher plant, Cobra lily | II | 6/6/81 |
| *Sarracenia* spp. (all species and natural hybrids except species in App. I). | Trumpet pitcher plants | II | 10/22/87 |
| *S. alabamensis* subsp. *alabamensis* (=*S. rubra* subsp. *alabamensis*). | Alabama canebrake pitcher plant | I | 6/6/81 |
| *S. jonesii* (=*S. rubra* subsp. *jonesii*) | Mountain sweet pitcher plant | I | 6/6/81 |
| *S. oreophila* | Green pitcher plant | I | 6/6/81 |
| Family Stangeriaceae: | Stangeria family: | | |
| *Stangeria eriopus* (=*S. paradoxa*) | Stangeria, Fern-leafed cycad | I | 7/1/75 |
| Family Tetracentraceae: | Tetracentron family: | | |
| *Tetracentron sinense* | Tetracentron | III (Nepal) | 11/16/75 |
| Family Theaceae: | Tea family: | | |
| *Camellia chrysantha* | Yellow-flowered camellia, Jinhuacha | II | 8/1/85 |
| Family Welwitschiaceae: | Welwitschia family: | | |
| *Welwitschia mirabilis* (=*W. bainesii*) | Welwitschia | II | 7/1/75 |
| Family Zamiaceae: | Cycad family: | | |
| All species except those in App. I | | II | 2/4/77 |
| *Ceratozamia* spp. | Ceratozamia, Horncone | I | 2/4/77 |
| *Chigua* spp. | | I | 2/4/77 |
| *Encephalartos* spp. | Bread palms, African cycads | I | 7/1/75 |
| *Microcycas calocoma* | Palma corcho, Microcycas | I | 7/1/75 |
| Family Zingiberaceae: | Ginger family: | | |
| *Hedychium philippinense* | Philippine garland flower | I | 7/1/75 |
| Family Zygophyllaceae: | Caltrop family: | | |
| *Guaiacum sanctum* | Holywood lignum vitae | II | 7/1/75 |

Dated: September 25, 1991.

**Richard N. Smith,**

*Acting Director, U.S. Fish and Wildlife Service.*

[FR Doc. 91-23619 Filed 9-30-91; 8:45 am]

BILLING CODE 4310-55-F

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 663

**[Docket No. 901078-0345]**

### Pacific Coast Groundfish Fishery

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

**ACTION:** Notice of fishing restrictions, and request for comments.

**SUMMARY:** NOAA announces a reduction in the trip limit for widow rockfish in the commercial groundfish fishery off Washington, Oregon, and California. This action is authorized by the regulations implementing the Pacific Coast Groundfish Fishery Management Plan. The trip limit is designed to keep landings within the 1991 harvest guideline for this species while extending the fishery as long as possible during the year.

**DATES:** 0001 hours (local time) September 25, 1991, through 2400 hours (local time) December 31, 1991 unless modified, superseded, or rescinded. Comments will be accepted through October 16, 1991.

**FOR FURTHER INFORMATION CONTACT:** William L. Robinson, (Northwest Region, NMFS) 206-526-6140, Rodney McInnis (Southwest Region, NMFS) 213-514-6199, or the Pacific Fishery Management Council at 503-221-6352.

**SUPPLEMENTARY INFORMATION:** Regulations implementing Amendment 4 to the Pacific Coast Groundfish Fishery Management Plan (FMP) were published at 56 FR 736 (January 8, 1991). The amended FMP provides for rapid changes to specific management measures if they have been designated as "routine." Trip landing and frequency limits for widow rockfish are among those management measures that have been previously analyzed, and designated as routine at 50 CFR 663.23(c)(1)(i)(A).

Since January 1, 1991, widow rockfish has been managed by a weekly trip limit of 10,000 pounds and a biweekly trip limit of 20,000 pounds. Only one landing above 3,000 pounds could be made in either a one or two-week period.

At its April 1991 meeting, the Pacific Fishery Management Council (Council) recommended that the Regional Director, Northwest Region, NMFS (Regional Director), impose a 3,000 pound trip limit (with no limit on the number of landings) on the date that the Council's Groundfish Management Team (GMT) projects necessary to extend the fishery as long as possible in 1991. Notice of the Council's intent to take this action was published at 56 FR 20142 (May 2, 1991) with a request for comments. No comments were received.

The best available scientific information provided by the GMT on September 9, 1991, indicates that 4,933 metric tons (mt) of widow rockfish were landed through August 17, 1991. Less than 1,000 mt are projected to be taken between August 17 and September 24, 1991, constituting less than 15 percent of the 1991 harvest guideline of 7,000 mt. Therefore, to extend the season as long as possible without exceeding the harvest guideline, the commercial weekly trip limit for widow rockfish is reduced from 10,000 pounds to 3,000 pounds and the commercial biweekly trip option is abolished. This modification becomes effective on September 25, 1991. This date enables completion of the previous two-week period for fishermen using the biweekly option.

**Secretarial Action**

The Regional Director approved the Council's recommendation and, therefore, the Secretary of Commerce publishes this implementing notice. Effective 0001 hours (local time) September 25, 1991, no more than 3,000 pounds of widow rockfish may be taken and retained, possessed, or landed per vessel per fishing trip.

**Classification**

This action is taken under the authority of, and in accordance with, 50 CFR 663.23(c)(1)(i)(A) and section III.B.2. of the appendix to 50 CFR 663.

This action is authorized by Amendment 4 to the FMP for which a Supplemental Environmental Impact Statement (SEIS) was prepared in accordance with the National Environmental Policy Act (NEPA). Because this action and its impacts have not changed significantly from those considered in the SEIS, this action is categorically excluded from the NEPA requirement to prepare an environmental assessment in accordance with paragraph 5a(3) of the NOAA Directives Manual 02–10.

This action is in compliance with Executive Order 12291, and is covered by the Regulatory Flexibility Analysis prepared for the authorizing regulations.

The public has had the opportunity to comment on this action. The public participated in GMT, Groundfish Advisory Subpanel, Scientific and Statistical Committee, and Council meetings in April 1991 that resulted in the recommendation to take this action. The intent to take this action was announced in the **Federal Register** on May 2, 1991 (56 FR 20142) and no comments relevant to this action were received. Additional public comments will be accepted for 15 days after publication of this notice in the **Federal Register.**

**List of Subjects in 50 CFR Part 663**

Fisheries, Fishing, Administrative practice and procedure, reporting and recordkeeping requirements.

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

Dated: September 25, 1991.

**Joe P. Clem,**

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

[FR Doc. 91–23550 Filed 9–25–91; 5:02 pm]

BILLING CODE 3510–22–M

# Proposed Rules

Federal Register
Vol. 56, No. 190
Tuesday, October 1, 199

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 STATE

### Bureau of Consular Affairs

### 22 CFR Part 41

[Public Notice 1468C]

### Visas: Documentation of Nonimmigrants Under the Immigration and Nationality Act, as Amended; Correction

**ACTION:** Proposed rulemaking; correction.

**SUMMARY:** This document corrects errors contained in the preamble and the regulations to the Department of State's publication in the **Federal Register** of September 3, 1991, 56 FR 43565.

**SUPPLEMENTARY INFORMATION:**

Need for Correction

As published, the preamble to the notice of proposed rulemaking 1468 contains a sentence which may be misleading as it does not reflect the substance of the related paragraph. Two typographical errors in the preamble are also being corrected. In addition, two misspelled words in the text of the regulations are being corrected.

Accordingly, proposed rulemaking 1468 is corrected as follows:

1. In the preamble, on page 53566, column 1, the last sentence to the second paragraph starting with "The proposed regulations", is removed. On page 23569, column 1, second paragraph line 8, change "INA 101(a)(14)" to read "INA 101(a)(44)."

§ 41.51 [Corrected]

2. In § 41.51(c), column 3, line 8, change the word "minor" to read "lesser."

3. In § 41.51(j), column 1, line 2, change the word "quantism" to read "quantum."

Dated: September 25, 1991.

**Stephen K. Fischel,**

*Acting Director, Office of Legislation, Regulations and Advisory Assistance.*

[FR Doc. 91-23498 Filed 9-30-91; 8:45 am]

BILLING CODE 4710-06-M

## DEPARTMENT OF JUSTICE

### 28 CFR Part 11

[AG Order No. 1509-91]

### Debt Collection; Salary and Administrative Offset

**AGENCY:** Department of Justice.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of Justice is issuing regulations that govern the collection of debts owed to the United States. These regulations implement the debt collection procedures provided under sections 5 and 10 of the Debt Collection Act of 1982 (the Act), (Pub. L. No. 97-365), codified at 5 U.S.C. 5514 and 31 U.S.C. 3716. The Act authorizes the Federal Government to collect debts by means of salary and administrative offset provided that there has been appropriate due process.

**DATES:** Written comments must be submitted on or before October 31, 1991.

**ADDRESSES:** Comments may be mailed to James E. Williams, Director, Finance Staff, Justice Management Division, Department of Justice, room 7430, Patrick Henry Building, 601 D. Street, NW., Washington, DC 20530.

**FOR FURTHER INFORMATION CONTACT:** James E. Williams, Director, Finance Staff, Justice Management Division, Department of Justice, telephone number (202) 501-6984.

**SUPPLEMENTARY INFORMATION:** Section 5 of the Debt Collection Act of 1982 (5 U.S.C. 5514) makes several changes in the way executive and legislative agencies collect debts owed the Government. The purpose of the Act is to improve the ability of the Government to collect monies owed it.

Under the Act, when the head of an agency determines that an employee of the agency is indebted to the United States or is notified by the head of another agency that an agency employee is indebted to the United States, the employee's debt may be offset against his or her pay. The amount of the offset may not exceed 15 percent of the employee's disposable pay unless the employee gives written consent.

The employee must be afforded certain due process rights before salary offset deductions can begin. Under the Act, an employee-debtor must be provided with notice of a debt, the opportunity to review the record and to enter into a written repayment agreement, and, on timely application, an opportunity for a hearing, before the Government may collect the debt by offset. The employee must notify the agency of his or her intent to exercise these rights within the time period prescribed in the regulations.

The Act requires agencies to issue regulations for salary offset consistent with the offset regulations issued by the Office of Personnel Management (OPM). OPM issued final rules on July 3, 1984 (49 FR 27470), codified in subpart K of part 550 of title 5 of the Code of Federal Regulations. This proposed rule has been approved by OPM and it establishes the procedures the Department will follow in making a salary offset.

Administrative offset, which may be accomplished pursuant to § 11.9, is a procedure under which the Government may collect a debt owed it by an employee, organization, or entity by withholding payment or offsetting monies owed to the debtor pending resolution of the Government's claim. By and large, the offset is accomplished against monies other than salaries payable by the government. In general, the procedure for salary offset is contained at § 11.8. Nevertheless, when prescribed by statute (e.g., in the case of recouping a travel advance pursuant to 5 U.S.C. 5705), administrative offset procedures pursuant to § 11.9 may be used to offset a Government employee's salary.

In accordance with 5 U.S.C. 605(b), the Attorney General certifies that this rule does not have a significant adverse economic impact on a substantial number of small entities. This rule is not a major rule within the meaning of section 1(b) of E.O. 12291, nor does it have Federalism implications warranting the preparation of a Federalism Assessment pursuant to E.O. 12612.

**List of Subjects in 28 CFR Part 11**

Administrative practice and procedure, Claims, Debt collection,

Government contracts, Government employees, Income taxes, Lawyers, Wages.

By virtue of the authority vested in me by 28 U.S.C. 509 and 510, 5 U.S.C. 301 and 5514, 31 U.S.C. 3716, 5 CFR part 550, subpart K and 4 CFR chapter II, part 11 of title 28 of the Code of Federal Regulations is proposed to be amended as follows:

## PART 11—DEBT COLLECTION

1. The authority citation for part 11 is revised to read as follows:

**Authority:** 5 U.S.C. 301, 5514; 28 U.S.C. 509, 510; 31 U.S.C. 3716, 3718, 3720A; 4 CFR chapter II; 5 CFR part 550, subpart K.

2. A new subpart B, consisting of §§ 11.4 through 11.9 is added to read as follows:

### Subpart B—Administration of Debt Collection

Sec.
11.4 Purpose and scope.
11.5 Delegation of authority.
11.6 Definitions.
11.7 Salary adjustments.
11.8 Salary offset
11.9 Administrative offset.

### Subpart B—Administration of Debt Collection

#### § 11.4 Purpose and scope.

(a) *Purpose.* The purpose of the Debt Collection Act of 1982 (5 U.S.C. 5514 and 31 U.S.C. 3716) is to provide a comprehensive approach to the collection of debts due the Federal Government. This subpart implements sections 5 and 10 of the Act, which authorize the collection of debts owed by persons, organizations, or entities to the Federal Government by offset except that, generally, a debt may not be collected by such means if outstanding for more than ten years after the agency's rights to collect the debt first accrued. This subpart is consistent with the Office of Personnel Management's (OPM) regulations on salary offset, which are codified in subpart K of part 550 of title 5 of the CFR, and with regulations on administrative offset published jointly by the General Accounting Office (GAO) and the Department of Justice, which are codified in part 102 of chapter II of title 4 of the CFR.

(b) *Scope.* (1) This subpart provides Departmental procedures for the collection of certain debts owed the Government.

(2) This subpart applies to collections by the Department from:

(i) Federal employees who are indebted to the Department;

(ii) Employees of the Department who are indebted to other agencies; and

(iii) Other persons, organizations, or entities that are indebted to the Department.

(3) This subpart does not apply to debts or claims arising under the Internal Revenue Code of 1954, as amended (26 U.S.C. 1 *et seq.*); the Social Security Act (42 U.S.C. 301 *et seq.*); the tariff laws of the United States; or to a situation in which the Contract Disputes Act applies (41 U.S.C. 601 *et seq.*); or in any case where collection of a debt is explicitly provided for or prohibited by another statute (e.g., travel advances in 5 U.S.C. 5705 and employee training expenses in 5 U.S.C. 4108).

(4) Nothing in this subpart precludes the compromise, suspension, or termination of collection actions where appropriate under the standards implementing the Federal Claims Collection Act (31 U.S.C. 3711 *et seq.*; 4 CFR parts 101–105; 38 CFR 1.900 through 1.954).

(5) Nothing in this subpart is intended to govern procedures implemented by other agencies under the Act.

#### § 11.5 Delegation of authority.

Authority to conduct the following activities is hereby delegated to heads of Department organizations with respect to debts arising in their respective organizations:

(a) Initiate and effectuate the administrative collection process.

(b) Accept or reject compromise offers, and suspend or terminate collection actions where the claim does not exceed $100,000 or such higher amount as the Attorney General may from time to time prescribe, exclusive of interest, administrative costs, and penalties as provided herein, as set forth in 31 U.S.C. 3177(a)(2).

(c) Report to consumer reporting agencies certain data pertaining to delinquent debts.

(d) Use offset procedures to effectuate collection.

(e) Take any other action necessary to facilitate and augment collection in accordance with the policies contained herein and as otherwise provided by law.

#### § 11.6 Definitions.

Except where the context clearly indicates otherwise, or where the term is otherwise defined elsewhere in the subpart, the following definitions shall apply to this subpart.

(a) *Agency* means:

(1) An executive agency, as defined by section 105 of title 5, United States Code, including the United States Postal Service and the United States Postal Rate Commission;

(2) A military department as defined by section 102 of title 5 of the United States Code;

(3) An agency or court of the judicial branch including a court as defined in section 610 of title 28 of the United States Code, the District Court for the Northern Mariana Islands and the Judicial Panel on Multidistrict Litigation;

(4) An agency of the legislative branch, including the United States Senate and the United States House of Representatives; and

(5) Other establishments that are entities of the Federal Government.

(b) *Bureau* means that Bureau of Prisons (BOP), the Drug Enforcement Administration (DEA), the Federal Bureau of Investigation (FBI), Federal Prison Industries, the Immigration and Naturalization Service (INS), the Office of Justice Programs, and United States Marshals Service (USMS).

(c) *Certification* means a written statement received from a creditor agency which requests the paying agency to offset the salary of an employee and specifies that appropriate due process has been afforded the employee.

(d) *Components* means the bureaus, offices, boards, and divisions of the Department.

(e) *Compromise* means the forgiveness of a debt in accordance with 31 U.S.C. 3177(a)(2) and DOJ Order No. 2120.4E (Copies are available in accordance with 28 CFR part 16, subpart A.).

(f) *Creditor agency* means any agency of the Federal Government to which a debt is owned.

(g) *Department* or *Justice Department* means the Department of Justice and its components.

(h) *Disposable pay* means that part of the current basic pay, special pay, incentive pay, retired pay, retainer pay, or, in the case of an employee not entitled to basic pay, other authorized pay remaining after the deduction of any amount required by law to be withheld. The Department shall allow the following deductions in determining disposable pay subject to salary offset:

(1) Social security taxes;

(2) Amounts deducted for the U.S. Soldiers' and Airmen's Home;

(3) Fines and forfeiture ordered by a court martial or by a commanding officer;

(4) Federal, State or local income taxes no greater than would be the case if the employee claimed all dependents to which he or she is entitled and such additional amounts for which the

employee presents evidence of a tax obligation supporting the additional withholding;

(5) Health insurance premiums;

(6) Normal retirement contributions (e.g., Civil Service Retirement deductions, Survivor Benefit Plan or Retired Servicemen's Family Protection Plan); and

(7) Normal life insurance premiums, exclusive of optional life insurance premiums (e.g., Serviceman's Group Life Insurance and "basic" Federal Employee's Group Life Insurance premiums).

(i) *Employee* means a current employee of the Justice Department or other agency, including a current member of the Armed Forces or Reserve of the Armed Forces of the United States.

(j) *Federal Claims Collection Standards, (FCCS)* means standards jointly published by the Department of Justice and the General Accounting Office in 4 CFR chapter II.

(k) *Hearing official* means an individual responsible for conducting any hearing with respect to the existence or amount of a debt claimed, and rendering a decision on the basis of such hearing. A hearing official must not be under the supervision or control of the Attorney General when the Department is the creditor agency and may be an administrative law judge.

(l) *Notice of Intent to Offset* or *Notice of Intent* means a written notice from a creditor agency to an employee, organization, or entity stating that the debtor is indebted to the creditor agency and apprising the debtor of certain administrative rights.

(m) *Notice of Salary Offset* means a written notice from the paying agency to an employee after a certification has been issued by a creditor agency, informing the employee that salary offset will begin at the next officially established pay interval.

(n) *Organization* means the bureaus individually and the offices, boards, and divisions collectively.

(o) *Organization head* means any Director, Administrator, or Commissioner of the respective Department bureaus, the Director of the Executive Office for United States Trustees, the Director of the Executive Office for United States Attorneys, and the Assistant Attorney General for Administration, who shall serve as the organization head for the offices, boards, and divisions.

(p) *Paying agency* means the agency of the Federal Government that employs the individual who owes a debt to an agency of the Federal Government. In some cases, the Department may be both the creditor and the paying agency.

(q)(1) *Payroll office* means the payroll office in the paying agency that is primarily responsible for the payroll records and the coordination of pay matters with the appropriate personnel office with respect to an employee.

(2) *Applicable payroll office* means the Federal Bureau of Investigation Voucher and Payroll Section with respect to FBI employees, or the Justice Employee Data Service for all other employees of the Department.

(r) *Salary offset coordination officer* means an official designated by an organization head who is responsible for coordinating the debt collection activities of that organization.

**§ 11.7 Salary adjustments.**

Any adjustment to pay arising out of an employee's election of coverage, or a change in coverage, under a Federal benefits program requiring periodic deductions from pay shall not be considered collection of a "debt" for the purposes of this subpart if the amount to be recovered was accumulated over four pay periods or less. In such cases, the Department is not required to comply with § 11.8, but a brief, clear statement should be provided in the employee's earning statement to advise the employee of the overpayment or the collection action, or both, at the time that the adjustment is made.

**§ 11.8 Salary offset.**

(a) *Applicability of salary offset.* This section is applicable to the following Federal salaried individuals and applies to all debts with the exception of debts where collection is explicitly provided for or prohibited by another statute (for instance, travel advances, employee training expenses, etc.):

(1) Individuals who owe the Department a debt and who are currently employed by the Department;

(2) Individuals who owe the Department a debt and who are currently employed by another agency; and,

(3) Individuals who owe a debt to another Federal agency and who are currently employed by the Department.

(b) *Notice requirements before offset.* Deductions under the authority of 5 U.S.C. 5514 will not be made unless the creditor agency provides the employee with written notice that he or she owes a debt to the Federal Government, a minimum of 30 calendar days before salary offset is initiated. When the Department is the creditor agency, this Notice of Intent to Offset an employee's salary shall be hand-delivered or sent by certified mail to the Assistant Director, Justice Employee Data Service, or the Section Chief, Voucher and Payroll Section, Administrative Services Division, FBI, who shall then transmit the Notice of Intent to the debtor-employee. The Notice of Intent shall state:

(1) That the organization head has reviewed the records relating to the claim and has determined that a debt is owed, the amount of the debt, and the facts giving rise to the debt;

(2) The organization head's intention to collect the debt by means of deduction from the employee's current disposable pay account until the debt and all accumulated interest is paid in full;

(3) The amount, frequency, approximate beginning date, and duration of the intended deductions;

(4) An explanation of the Department's policy concerning interest, penalties, and administrative costs, including a statement that such assessments must be made, unless excused, in accordance with the Federal Claims Collection Standards, 4 CFR chapter II.

(5) The employee's right to inspect and copy all records of the Department pertaining to the debt claimed of to receive copies of such records if personal inspection is impractical;

(6) The name, address, and telephone number of an officer or employee of the Department to whom requests for access to Department records relating to the debt must be sent;

(7) The employee's right to a hearing conducted by an impartial hearing official (an administrative law judge, or alternatively, a hearing official not under the supervision and control of the Attorney General) with respect to the existence and amount of the debt claimed, or the repayment schedule (i.e., the percentage of disposable pay to be deducted each pay period), so long as a petition is filed by the employee as prescribed in § 11.8(c);

(8) The employee's right for an opportunity, if not previously provided, to establish a schedule for the voluntary repayment of the debt or to enter into a written agreement to establish a schedule for repayment of the debt in lieu of offset. The agreement shall be in terms agreeable to the Department and shall be in writing, signed by both the employee and the organization head (4 CFR 102.2(e));

(9) The name, address, and telephone number of an officer or employee of the Department to whom a proposal for voluntary repayment must be sent; and the name, address, and telephone number of an officer or employee of the

Department who may be contacted concerning procedures for requesting a hearing;

(10) The method and time period for requesting a hearing;

(11) That the timely filing of a petition for a hearing on or before the 15th calendar day following receipt of such notice of intent will stay the commencement of collection proceedings;

(12) The name and address of the office to which the petition should be sent;

(13) That the Department will initiate certification procedures to implement a salary offset, as appropriate, (which may not exceed 15 percent of the employee's disposable pay) not less than 30 days from the date of receipt of the Notice of Intent to Offset, unless the employee files a timely petition for a hearing;

(14) That a final decision on the hearing (if one is requested) will be issued at the earliest practical date, but not later than 60 days after the filing of the petition requesting the hearing, unless the employee requests, and the hearing official grants, a delay in the proceedings;

(15) That any knowingly false or frivolous statements, representations, or evidence may subject the employee to:

(i) Disciplinary procedures appropriate under chapter 75 of title 5, United States Code, part 752 of title 5, Code of Federal Regulations, or any other applicable statute or regulations;

(ii) Penalties under the False Claims Act, 31 U.S.C. 3729–3731, or under any other applicable statutory authority; and

(iii) Criminal penalties under 18 U.S.C. 286, 287, 1001, and 1002 or under any other applicable statutory authority;

(16) Any other rights and remedies available to the employee under statutes or regulations governing the program for which the collection is being made;

(17) That unless there are applicable contractual or statutory provisions to the contrary, amounts paid on, or deducted from, the debt that are later waived or found not owed to the United States will be promptly refunded to the employee; and,

(18) That proceedings with respect to such debt are governed by section 5 of the Debt Collection Act of 1982 (5 U.S.C. 5514).

(c) *Review of departmental records related to the debt.* (1) An employee who desires to inspect or copy Department records related to the debt must send a letter requesting access to the relevant records to the official designated in the Notice of Intent. The letter must be received in the office of that official within 15 days after the employee receives the Notice of Intent.

(2) In response to a timely request submitted by the debtor, the designating official will notify the employee of the location of the records and the time when the employee may inspect and copy records related to the debt.

(3) If personal inspection is impractical, arrangements shall be made by the salary offset coordination official to send copies of such records to the employee.

(d) *Opportunity for a hearing where the Department is the creditor agency*— (1) *Request for a hearing.* An employee who requests a hearing on the existence of amount of the debt held by the Department or the offset schedule proposed by the Department must send such request to the office designated in the Notice of Intent. The request or petition for a hearing must be received by the office of the official designated on or before the 15th calendar day following receipt by the employee of the Notice. The employee must specify whether an oral hearing is requested. If an oral hearing is desired, the request should explain why the matter cannot be resolved by review of the documentary evidence alone.

(2) *Failure to timely submit.* If the employee files a request or petition for hearing after the expiration of the 15 calendar-day period provided for in § 11.8(c)(1), the organization head may accept the request if the employee can show that the delay was the result of circumstances beyond his or her control because of a failure to receive actual notice of the filing deadline.

(3) *Obtaining the services of a hearing official.* (i) When the debtor is not a Department employee, the Department may request a hearing official from an agent of the paying agency designated in appendix A to part 581 of title 5 of the Code of Federal Regulations, or as otherwise designated by the agency.

(ii) When the debtor is not a Department employee, the Department may contact any agent of another agency designated in appendix A to part 581 of title 5 of the Code of Federal Regulations, or as otherwise designated by the agency, to request a hearing official.

(4) *Procedure.* (i) After the employee requests a hearing, the hearing official shall notify the employee of the form of the hearing to be provided. If the hearing will be oral, the notice shall set forth the date, time, and location of the hearing, which must occur no more than 30 days after the request is received. If the hearing will be conducted by examination of documents, the employee shall be notified within 30 days that he or she should submit evidence and arguments in writing to the hearing official.

(ii) *Oral hearing.* An employee who requests an oral hearing shall be provided an oral hearing if the hearing official determines that the matter cannot be resolved by review of documentary evidence alone (e.g., when an issue of credibility or veracity is involved). The hearing need not be an adversarial adjudication and rules of evidence need not apply. Oral hearings may take the form of, but are not limited to:

(A) Informal conferences with the hearing official in which the employee and agency representative will be given full opportunity to present evidence, witnesses and argument;

(B) Informal meetings in which the hearing examiner interviews the employee; or

(C) Formal written submissions, with an opportunity for oral presentation.

(iii) *Documentary hearing.* If the hearing official determines that an oral hearing is not necessary, he or she shall make the determination based upon a review of the written record.

(iv) *Record.* The hearing official must maintain a summary record of any hearing provided by this Section. See 4 CFR 102.3. Witnesses who testify in oral hearings will do so under oath or affirmation.

(5) *Date of decision.* The hearing official shall issue a written opinion stating his or her decision, based upon all evidence and information developed at the hearing, as soon as practicable after the hearing, but not later than 60 days after the date on which the petition was received by the Department, unless the employee requests a delay in the proceedings. If a delay was so requested, the 60 day decision period shall be extended by the number of days by which the hearing was postponed. Decisions not rendered timely shall result in the waiver of penalty and interest costs. The decision of the hearing official shall be final.

(6) *Content of decision.* The written decision shall include:

(i) A summary of the facts on the origin, nature and amount of the debt;

(ii) The hearing official's findings, analysis and conclusions; and

(iii) The terms of any repayment schedules, if applicable.

(7) *Failure to appear.* If, in the absence of good cause shown (e.g., illness), an employee or the representative of the Department fails to appear, the hearing official shall proceed with the hearing as scheduled, and make his/her determination based

upon the oral testimony presented and the documentation submitted by both parties. At the request of both parties, the hearing official may schedule a new hearing date. Both parties shall be given reasonable notice of the time and place of this new hearing.

(e) *Certification where the Department is the creditor agency.* (1) The salary offset coordination officer shall provide a certification to the appropriate payroll office in all cases where:

(i) The hearing official determines that a debt exists; or

(ii) The employee admits the existence and amount of the debt by failure to request a hearing.

(2) The certification must be in writing and must state:

(i) The employee owes the debt;

(ii) The amount and basis of the debt;

(iii) The date the Government's right to collect the debt first accrued;

(iv) The Department's regulations have been approved by OPM pursuant to 5 CFR part 550, subpart K;

(v) The amount and date the lump sum payment will be collected;

(vi) If the collection is to be made in installments, the number of installments to be collected, the amount of each installment, and the commencing date of the first installment, if a date other than the next officially established pay period is required; and

(vii) The date the employee was notified of the debt the action(s) taken under 5 U.S.C. 5514(b) and the dates such actions were taken.

(f) *Voluntary repayment agreements as alternative to salary offset where the Department is the creditor agency.* (1) In response to a Notice of Intent, an employee may propose to repay the debt in accordance with scheduled installment payments. Any employee who wishes to repay a debt without salary offset shall submit in writing a proposed agreement to repay the debt. The proposal shall set forth a proposed repayment schedule. Any proposal under this paragraph must be received by the office of the official designated in the notice within 15 calendar days after receipt of the Notice of Intent.

(2) In response to a timely proposal by the debtor, the organization head will notify the employee whether the employee's proposed written agreement for repayment is acceptable. It is within the organization head's discretion to accept a repayment agreement.

(3) If the organization head decides that the proposed repayment agreement is unacceptable, the employee will have 15 days from the date he or she received notice of the decision to file a petition for a hearing.

(4) If the organization head decides that the proposed repayment agreement is acceptable, the arrangement must be put in writing and signed by both the employee and the organization head.

(g) *Special review where the Department is the creditor agency.* (1) An employee subject to salary offset or a voluntary repayment agreement, may, at any time, request a special review by the Department of the amount of the salary offset or voluntary payment, based on materially changed circumstances such as, but not limited to catastrophic illness, divorce, death, or disability.

(2) In determining whether an offset would prevent the employee from meeting essential subsistence expenses (costs incurred for food, housing, clothing, transportation and medical care), the employee shall submit a detailed statement and supporting documents for the employee, his or her spouse and dependents indicating:

(i) Income from all sources;

(ii) Assets;

(iii) Liabilities;

(iv) Number of dependents;

(v) Expenses for food, housing, clothing and transportation;

(vi) Medical expenses; and

(vii) Exceptional expenses, if any.

(3) If the employee requests a special review under this section, the employee shall file an alternative proposed offset or payment schedule and a statement, with supporting documents, showing why the current salary offset or payments result in an extreme financial hardship to the employee.

(4) The organization head shall evaluate the statement and supporting documents, and determine whether the original offset or repayment schedule imposes an extreme financial hardship on the employee. The organization head shall notify the employee in writing within 30 days of such determination, including, if appropriate, a revised offset or payment schedule.

(5) If the special review results in a revised offset or repayment schedule, the salary offset coordination officer shall provide a new certification to the paying agency.

(h) *Notice of salary offset where the Department is the paying agency.* (1) Upon receipt of proper certification from the creditor agency, the applicable payroll office shall send the employee a written notice of salary offset. Such notice shall advise the employee that:

(i) The certification has been received from the creditor agency; and

(ii) Salary offset will be initiated at the next officially established pay interval.

(2) The applicable payroll office shall provide a copy of the notice to the creditor agency and advise such agency of the dollar amount to be offset and the pay period when the offset will begin.

(i) *Procedures for salary offset where the Department is the paying agency.* (1) The salary offset coordination officials shall coordinate salary deductions under this section.

(2) The applicable payroll office shall determine the amount of an employee's disposable pay and offset salary.

(3) Deductions shall begin the pay period following receipt by the applicable payroll office of the certification. If this is not possible, deductions should begin within the next officially established pay interval or as soon thereafter as possible.

(4) *Types of collection.*—(i) *Lump-sum payment.* If the amount of the debt is equal to or less than 15 percent of disposable pay, such debt ordinarily will be collected in one lump-sum payment.

(ii) *Installment deductions.* Installment deductions will be made over a period not greater than the anticipated period of employment. The size and frequency of installment deductions will bear a reasonable relation to the size of the debt and the employee's ability to pay. However, the amount deducted from any period will not exceed 15 percent of the disposable pay from which the deduction is made unless the employee has agreed in writing to the deduction of greater amount. The installment payment should normally be sufficient in size and frequency to liquidate the debt in no more than three years. Installment payments of less than $25 should be accepted only in the most unusual circumstances.

(iii) *Lump-sum deductions from final check.* A lump-sum deduction exceeding 15 percent of disposable pay may be made pursuant to 31 U.S.C. 3716 from any final salary payment due a former employee in order to liquidate a debt, whether the former employee was separated voluntarily or involuntarily.

(iv) *Lump-sum deductions from other sources.* Whenever an employee subject to salary offset is separated from the Department, and the balance of the debt cannot be liquidated by offset of the final salary check, the Department, pursuant to 31 U.S.C. 3716, may offset any later payments of any kind against the balance of the debt.

(5) *Mutiple debts.* Where two or more creditor agencies are seeking salary offset, or where two or more debts are owed to a single creditor agency, the applicable payroll office may, at its discretion, determine whether one or

more debts should be offset simultaneously within the 15 percent limitation.

(6) *Precedence of salary deductions by the Department.* (i) For Department employees, debts owed are to be paid in the following order of precedence:

(A) Retirement and Medicare or FICA.

(B) Federal income taxes.

(C) Health benefits premium.

(D) Group life insurance (basic) premiums.

(E) Indebtedness due the Department.

(F) Indebtedness due other agencies.

(G) State income taxes.

(H) Local income taxes.

(I) Garnishments for alimony and child support payments.

(J) Court-ordered bankruptcy payments under chapter 13 of the Revised Bankruptcy Act, 11 U.S.C. 1301.

(K) Optional life insurance premiums.

(L) Other voluntary deductions, including allotments and assignments, in the order determined by the paying agency.

(ii) In the event that a Debt to the Department is certified while an employee is subject to salary offset to repay another agency, the applicable payroll office may decide whether the debt to the other agency should be repaid in full before collecting the Department's claim or whether changes should be made in the salary deductions being sent to the other agency. If debts owed to the Department can be collected in one pay period, the payroll office may suspend the salary offset to the other agency for that pay period in order to liquidate the Department's debt. When an employee has two or more debts owed to Federal agencies, the best interests of the Government shall be the primary consideration in the determination by the payroll office of the order of the debt collection.

(j) *Coordinating salary offset with other agencies*—(1) *Responsibility of the Department as the creditor agency.* (i) The organization head shall designate a salary coordination officer who shall be responsible for:

(A) Arranging for a hearing upon proper petition by a Federal employee;

(B) Preparing the Notice of Intent to Offset, consistent with the requirements of paragraph (b) of this section;

(C) Ensuring that each certificate of debt sent to a paying agency is consistent with the requirements of paragraph (e) of this section; and

(D) Obtaining hearing officials from other agencies pursuant to paragraph (d)(3) of this section.

(ii) *Requesting recovery from current paying agency.* Upon completion of the procedures established in this subpart and pursuant to 5 U.S.C. 5514, the salary coordination official must:

(A) Certify, in writing that the employee owes the debt, the amount and basis of the debt, and date on which payment(s) is due, the date the Government's right to collect the debt first accrued, and that the Department's regulations implementing 5 U.S.C. 5514 have been approved by the Office of Personnel Management;

(B) Advise the paying agency of the action(s) taken under 5 U.S.C. 5514(a)(2) and the date(s) the action(s) was taken, unless the employee has consented to the salary offset in writing or signed a statement acknowledging receipt of the required procedures and the written consent or statement is forwarded to the paying agency; and

(C) Except as otherwise provided in paragraph, (j)(i) of this section, submit a debt claim containing the information specified in paragraphs (j)(1)(ii)(A) and (B) of this section, and an installment agreement or other instruction on the payment schedule, if applicable, to the employee's paying agency.

(iii) If the employee is in the process of separating, the Department must also submit its debt claim to the employee's paying agency for collection. The paying agency must certify the total amount of its collection and notify the Department and the employee as provided in paragraph (j)(2)(iv) of this section.

(iv) If the employee is already separated and all payments due from his or her former paying agency have been paid, the Department may request, unless otherwise prohibited, that money due and payable to the employee from the Federal Government be administratively offset to collect the debt.

(v) When an employee transfers to another paying agency, the Department need not repeat the due process procedures described in 5 U.S.C. 5514 and in this section to resume collecting the debt. Instead, the Department must review the debt upon receiving the former paying agency's notice of the employee's transfer and make sure the collection is resumed by the new paying agency.

(2) *Responsibility of the Department as the paying agency*—(i) *Complete claim.* When the Department receives a certified claim from a creditor agency, deductions should be scheduled to begin at the next officially established pay interval or as soon thereafter as possible. The employee must be given written notice that the Department has received a certified debt claim from the creditor agency, the date salary offset will begin, and the amount of such deductions.

(ii) *Incomplete claim.* When the Department receives an incomplete certification of debt from a creditor agency, the Department shall return the debt claim with notice that procedures under 5 U.S.C. 5514 and 5 CFR 550.1104 must be followed and a properly certified debt claim must be received, before action will be taken to collect from the employee's current pay account.

(iii) *Review.* The Department is not authorized to review the merits of the creditor agency's determination with respect to the amount or validity of the debt certified by the creditor agency.

(iv) *Employees who transfer from one paying agency to another.* If, after the creditor agency has submitted the debt claim to the Department, the employee transfers to an agency outside the Department before the debt is collected in full, the Department must certify the total amount collected on the debt. One copy of the certification must be furnished to the employee and one copy must be sent to the creditor agency along with notice of the employee's transfer.

(k) *Interest, penalties, and administrative costs.* The Department shall assess interest, penalties, and administrative costs on debts owed pursuant to 31 U.S.C. 3717 and 4 CFR chapter II.

(l) *Refunds.* (1) Where the Department is the creditor agency, it shall promptly refund any amount deducted under the authority of 5 U.S.C. 5514 when:

(i) The debt is compromised or otherwise found not to be owing the United States; or

(ii) An administrative or judicial order directs the Department to make a refund.

(2) Unless required by law or contract, refunds under this paragraph (l) shall not bear interest.

(m) *Request from a creditor agency for the services of a hearing official.* (1) The Department may provide a hearing official upon request of the creditor agency when the debtor is employed by the Department and the creditor agency cannot provide a prompt and appropriate hearing before a hearing official furnished pursuant to another lawful arrangement.

(2) The Department may provide a hearing official upon request of a creditor agency when the debtor works for the creditor agency and that agency cannot arrange for a hearing official.

(3) The salary offset coordination officer will arrange for qualified personnel to serve as hearing officials.

(4) Services rendered under this paragraph (m) will be provided on a

fully reimbursable basis pursuant to the Economy Act of 1932, as amended, 31 U.S.C. 1535.

(n) *Non-waiver of rights by payments.* A debtor's payment, whether voluntary or involuntary, of all or any portion of a debt being collected pursuant to this subpart shall not be construed as a waiver of any rights that employee may have under this subpart, or under any statute or regulation, except as otherwise provided by law.

**§ 11.9 Administrative offset.**

(a) *Collection.* The organization head may collect a claim from a person, organization, or entity other than an agency of the United States Government by administrative offset of monies other than salaries payable by the Government. Collection by administrative offset will be undertaken when the claim is certain in amount, where the offset is feasible and desirable and not otherwise prohibited, where the applicable statute of limitations has not expired, and the offset is in the best interest of the United States. Administrative offset procedures may be used for, among other things, collections in accordance with 4 CFR 102.4 for the Civil Service Retirement Offset, 4 CFR 102.6 for collection agency actions, 4 CFR part 105 for judicially enforced collections, and military retirement pay. Administrative offset also may be used for salary offset where such collection is prescribed in the statute that authorized the payment (e.g., travel advance pursuant to 5 U.S.C. 5705).

(b) *Withholding of payment.* Prior to the completion of the procedures contained in paragraph (c) of this section, the Department may withhold a payment to be made to a debtor if:

(1) Failure to withhold payment would substantially prejudice the Department's ability to collect the debt; and

(2) The time before the debtor makes payment does not reasonably permit completion of the procedures in paragraph (c) of this section. Such prior withholding must be followed promptly by completion of the procedures in paragraph (c) of this section.

(c) *Debtor's rights.* Unless the procedures outlined in paragraph (b) of this section are used, prior to collecting any claim by administrative offset, the organization head shall provide the debtor with the following:

(1) Written notification of the nature and amount of the claim, the intention of the organization head to collect the claim through administrative offset, and a statement of the rights of the debtor under this paragraph;

(2) An opportunity to inspect and copy the records of the Department with respect to the claim;

(3) An opportunity to have the Department's determination of indebtedness reviewed by the organization head. Any request by the debtor for review of the determination must be in writing and submitted to the Department within 30 days of the date of the notice of the offset. The organization head may waive the time limit for requesting review for good cause shown by the debtor; and,

(4) An opportunity to enter into a written agreement for the repayment of the amount of the claim at the discretion of the Department. If the procedures in paragraph (b) of this section are used, the procedures in paragraphs (c)(1), (2), and (3) of this section shall be effected after offset.

(d) The Department is authorized to assess interest and related charges on debts that are not subject to 31 U.S.C. 3717 to the extent authorized under the common law or other applicable statutory authority.

Dated: June 27, 1991.

**Dick Thornburgh,**

*Attorney General.*

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## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 21

**RIN 2900-AF13**

### Dependents' Education; Verification of Pursuit and Continued Enrollment

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Proposed regulations.

**SUMMARY:** This proposal would require most students receiving Dependents' Educational Assistance to submit a monthly verification of pursuit and enrollment or continued enrollment in order to receive educational assistance. The intent of the proposal is to prevent overpayments to these students. The proposal also contains a change to the effective date for reductions in Dependents' Educational Assistance.

**DATES:** Comments must be received on or before October 31, 1991. Comments will be available for public inspection until November 11, 1991.

**ADDRESSES:** Send written comments to: Secretary of Veterans Affairs (271A), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection only in the Veterans Services Unit, room 170 of the above address between the hours of 8 a.m. to 4:30 p.m., Monday through Friday (except holidays) until November 11, 1991. A copy of any comments that concern information collection requirement should also be sent to the Office of Management and Budget at the address contained in the Paperwork Reduction section of the preamble.

**FOR FURTHER INFORMATION CONTACT:** June C. Schaeffer, Assistant Director for Policy and Program Administration, Education Service, Veterans Benefits Administration, (202) 233-2092.

**SUPPLEMENTARY INFORMATION:** It has been a long-standing requirement of VA (Department of Veterans Affairs) that monthly benefits would not be released to students training under the Montgomery GI Bill—Active Duty until they submitted a monthly verification that they are continuing to pursue their programs of education. During 1987 through 1989 VA conducted a study to determine whether this monthly self-verification was cost-effective. The study found that not only was it cost-effective for the Montgomery GI Bill—Active Duty, but that it also would be cost-effective in the other educational programs which VA administers. The study discovered that over 50% of the overpayments in a sample of non-Montgomery GI Bill—Active Duty cases would not have occurred if all educational programs had monthly self-verification of pursuit and continued enrollment. Accordingly, VA is proposing to extend monthly self-verification of pursuit and continued enrollment to Dependents' Educational Assistance. At the same time the requirement that an educational institution verify pursuit at least annually is being eliminated.

The law requires that when VA discovers a reduction in training through a monthly self-verification, the department must reduce educational assistance effective the date of reduction in training. This proposal contains a proposed regulatory amendment to implement this provision of law.

The Department of Veterans Affairs has determined that these amended regulations do not contain a major rule as that term is defined by E.O. 12291, entitled Federal Regulation. The regulations will not have a $100 million annual effect on the economy, and will not cause a major increase in costs or prices for anyone. They will have no 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 Secretary of Veterans Affairs has certified that these amended regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), the amended regulations, therefore, are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because the regulations affect only individuals. They will have no significant economic impact on small entities, i.e., small businesses, small private and nonprofit organizations and small governmental jurisdictions.

**The Paperwork Reduction Act**

The amendment to § 21.4203 would require an increased information collecting burden for individuals, while at the same time reducing the information burden for educational institutions. Currently, individuals who are enrolled in courses not leading to a standard college degree and those pursuing apprenticeships and other on-job training certify their continued pursuit to VA monthly. Those enrolled in courses leading to a standard college degree do not. Requiring all to submit a monthly certification will result a public report burden of 5 minutes per response and a total of an additional 20,500 burden hours during fiscal year 1992. Since VA projects a small but steady decline in those receiving dependents' educational assistance in subsequent fiscal years, the number of annual hours will decline also during those years.

All individuals receiving benefits under the Montgomery GI Bill—Active Duty must submit this monthly certification. The information collection has been approved under OMB number 2900–0465. As required by section 3504(h) of the Paperwork Reduction Act, VA is submitting to OMB (the Office of Management and Budget) a request that it modify its current approval to include the additional hours required by these amended regulations. Organizations and individuals desiring to submit comments for consideration by OMB should address them to the Office of Information and Regulatory Affairs, OMB Room 3002, New Executive Office Building, Washington, DC 20503, Attention: Joseph F. Lackey.

The Catalog of Federal Domestic Assistance number for the program affected by this regulation is 64.117.

**List of Subjects in 38 CFR Part 21**

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Schools, Veteran, Vocational education, Vocational rehabilitation.

Approved: June 3, 1991.

**Edward J. Derwinski,**

*Secretary of Veterans Affairs.*

For the reasons set forth in the preamble, 38 CFR part 21 is proposed to be amended as follows:

## PART 21—VOCATIONAL REHABILITATION AND EDUCATION

1. The authority citation for part 21, subpart D is revised to read as follows:

**Authority:** 38 U.S.C. 210.

1A. In § 21.4135, paragraph (s) and its authority citation are revised to read as follows:

**§ 21.4135 Discontinuance dates.**

* * * * *

(s) *Reduction in rate of pursuit of course (§ 21.4270).* (1). VA will reduce an individual's educational assistance allowance effective the first date of the term in which the individual reduces training by withdrawing from part of a course, if the reduction occurs at the beginning of the term.

(2) VA will reduce an individual's educational assistance allowance effective the earlier of the end of the month or end of the term in which an individual reduces training by withdrawing from part of a course when:

(i) The reduction does not occur at the beginning of the term;

(ii) The individual received a lump-sum payment for the quarter, semester, term or other enrollment period during which he or she reduced training; and

(iii) There are mitigating circumstances, or the individual receives a punitive grade for the portion of the course from which he or she withdrew.

(3) VA will reduce an individual's educational assistance allowance effective the date on which an individual reduces training when:

(i) The reduction does not occur at the beginning of the term;

(ii) The individual did not receive a lump-sum payment for the quarter, semester, term or other enrollment period during which he or she reduced training; and

(iii) There are mitigating circumstances, or the individual receives a punitive grade for the portion of the course from which he or she withdrew.

(4) If the individual reduces training by withdrawing from a part of a course: there are no mitigating circumstances; and the individual receives a nonpunitive grade from that portion of the course from which he or she withdrew; VA will reduce the individual's educational assistance effective the later of the following:

(i) The first date of enrollment of the term in which the reduction occurs; or

(ii) December 1, 1976. See paragraphs (e) and (w) of this section also.

(5) An individual who enrolls in several subjects and reduces his or her rate of pursuit by completing one or more of them while continuing training in others, may receive an interval payment based on the subjects completed, if the requirements of § 21.4138(f) of this part are met. If those requirements are not met, VA will reduce the individual's educational assistance allowance effective the date the subject or subjects were completed.

**Authority:** 38 U.S.C. 1780, 3103.

* * * * *

2. In § 21.4138 paragraph (e) is revised and its authority citation is added to read as follows:

**§ 21.4138 Certifications and release of payments.**

* * * * *

(e) *Other payments.* An individual must be pursuing a program of education in order to receive payments. To ensure that this is the case the provisions of this paragraph must be met.

(1) VA will pay educational assistance to an individual (other than one pursuing a program of apprenticeship or other on-job training or a correspondence course, one who qualifies for an advance payment or one who qualifies for a lump-sum payment) only after—

(i) The educational institution has certified his or her enrollment as provided in § 21.4203; and

(ii) VA has received from the individual a verification of the individual's enrollment or verification of pursuit and continued enrollment, as appropriate. Generally, this verification will be required monthly, resulting in monthly payments.

(2) VA will pay educational assistance to an individual pursuing a program of apprenticeship or other on-job training only after—

(i) The training establishment has certified his or her enrollment in the

training program as provided in § 21.4203; and

(ii) VA has received from the individual and the training establishment a certification of hours worked.

(3) VA will pay educational assistance to an individual who is pursuing a correspondence course only after—

(i) The educational institution has certified his or her enrollment;

(ii) VA has received from the individual a certification as to the number of lessons completed and serviced by the educational institution; and

(iii) VA has received from the educational institution a certification or an endorsement on the individual's certificate, as to the number of lessons completed by the individual and serviced by the educational institution.

(Authority: 38 U.S.C. 1780(b), 1780(g), 3103)

* * * * *

3. In § 21.4204 paragraph (a) and its authority citation are revised to read as follows:

**§ 21.4204 Periodic certifications.**

* * * * *

(a) *Reports by eligible persons.* An eligible person enrolled in a course which leads to a standard college degree, excepting eligible persons pursuing the course on a less than half-time basis, must verify each month his or her continued enrollment in and pursuit of his or her courses. In the case of an eligible person who completed, interrupted or terminated his or her course, any communication from the student or other authorized person notifying VA of the eligible person's completion of course as scheduled or earlier termination date, will be accepted to terminate payments accordingly. Reports by other eligible persons will be submitted in accordance with § 21.4203 (e), (f) or (g).

(Authority: 38 U.S.C. 1780(g), 3103)

* * * * *

[FR Doc. 91-23442 Filed 9-30-91; 8:45 am]

BILLING CODE 8320-01-M

# Notices

Federal Register
Vol. 56, No. 190
Tuesday, October 1, 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.

## ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

### Select Committee on International Assistance in Administrative Law; Model Rules Working Group; Notice of Public Meetings

This notice of committee meetings is given pursuant to the Federal Advisory Committee Act (Pub. L. Number 92–463). Attendance at each meeting is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman, (202) 254–7020, at least one day in advance. The committee chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting. Any member of the public may file a written statement with the committee before, during, or after the meeting. Minutes of the meeting will be available on request.

**Select Committee on International Assistance in Administrative Law**

*Date:* Thursday, October 10, 1991.
*Time:* 9:30 a.m.
*Location:* Administrative Conference of the United States, 2120 L Street, NW., suite 500, Washington, DC 20037 (Liberty, 5th Floor).
*Agenda:* The committee will consider the Administrative Conference's role in providing advice and expertise on administrative law issues to foreign countries that request assistance.
*Contact:* Michael Bowers, (202) 254–7020.

**Model Rules Working Group**

*Date:* Friday, November 15, 1991.
*Time:* 12 noon–2: p.m.
*Location:* Administrative Conference of the United States, 2120 L Street, NW., suite 500, Washington, DC 20037 (Liberty, 5th Floor).
*Agenda:* The committee will meet as part of an ongoing effort to develop model rules of practice and procedure which can be used by Federal agencies in formal adjudications.
*Contact:* Gary Edles, 202–254–7420.

Attendance at the committee meetings is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman at least one day in advance. The committee chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting. Any member of the public may file a written statement with the committee before, during, or after the meeting. Minutes of the meeting will be available on request. The contact person's mailing address is: Administrative Conference of the United States, 2120 L Street, NW., suite 500, Washington, DC 200737. Telephone: 202–254–7020.

Dated: September 27, 1991.
**Michael W. Bowers,**
*Deputy Research Director.*

[FR Doc. 91–23695 Filed 9–30–91; 8:45 am]
BILLING CODE 6110–01–M

## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

## DEPARTMENT OF LABOR

### Office of the Secretary

### Immigration and Nationality Act; Replenishment Agricultural Workers; Shortage Number Determination

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

**SUMMARY:** Notice is hereby given that the Secretaries of Agriculture and Labor (the Secretaries) have determined jointly that the number of additional aliens who should be admitted to the United States or who should otherwise acquire the status of aliens lawfully admitted for temporary residence under section 210A of the Immigration and Nationality Act (INA), to meet a shortage of workers to perform seasonal agricultural services (SAS), during fiscal year (FY) 1992, is zero.

Notice is also given that the Secretaries have calculated jointly the annual numerical limitation on the number of such aliens who should be admitted or who should otherwise acquire the status of aliens lawfully admitted for temporary residence, under section 210A of the INA. The annual numerical limitation for FY 1992 is 517,544. This number represents the upper limit on the number of aliens who may be authorized for admission or adjustment of status. The actual number of aliens to be admitted or whose status is to be adjusted for FY 1992 is the "shortage number" announced above.

**DATES:** This notice is effective during the period October 1, 1991, through September 30, 1992, unless superseded by a subsequent notice.

**FOR FURTHER INFORMATION CONTACT:**
Mr. Gary B. Reed, DOL; telephone (202) 523–6007, or
Mr. Al French, USDA; telephone (202) 447–4737 prior to October 25, 1991; after October 25, 1991, (202) 720–4737.

**SUPPLEMENTARY INFORMATION:** Section 303 of the Immigration Reform and Control Act of 1986 added section 210A to the Immigration and Nationality Act (INA). Section 210A of the INA requires that before the beginning of each FY, starting with FY 1990 and ending with FY 1993, the Secretaries determine jointly, according to a specific statutory formula, the number of additional aliens (if any) who should be admitted to the United States or who should otherwise acquire the status of aliens lawfully admitted for temporary residence to meet a shortage of workers to perform SAS. These aliens are known as replenishment agricultural workers (RAWs) and the number of such workers to be admitted in each FY is known as the "shortage number." The INA further provides that the Attorney General shall provide for the admission of a number of RAWs equal to the shortage number, or, if less, a number of RAWs equal to the annual numerical limitation which is established by a statutory formula contained in section 210A(b) of the INA. The Secretaries make the calculation of the annual numerical limitation concurrently with their determination of the shortage number. Regulations regarding the procedure used in the determination of the shortage number and calculation of the annual numerical limitation have been promulgated jointly by the Secretaries. Identical versions of the regulations were published in the **Federal Register** on January 2, 1990 (55 FR 106), and are located at 7 CFR part le and 29 CFR part 503. Criteria for

admission as a RAW are established by the Immigration and Naturalization Service (INS) in regulations located at 8 CFR part 210a.

Because the INS was unable to complete adjudication of all special agricultural worker (SAW) applications by the end of FY 1991, the Secretaries will recalculate the annual numerical limitation prior to the end of each fiscal quarter. This will be done each time by including all those aliens who have been finally adjudicated as SAWs subsequent to any earlier determination of the annual numerical limitation, and by adjusting the number of SAWs who worked in SAS to take into account the increase in the number of reportable workers who obtained SAW status. These quarterly recalculations will continue until the Secretaries are advised by INS and the Director of the Bureau of the Census (the Director) that all applications for SAW status have been finally adjudicated. Thereafter, the annual numerical limitation will be calculated annually for the entire FY.

In recognition of the uncertainties associated with agricultural production, section 210A(a)(7) of the INA contains emergency procedures for adjusting the shortage number. The procedures through which a group or association representing employers or potential employers of individuals who perform SAS may request an increase in the shortage number are set forth in 7 CFR le.20 and 29 CFR 503.20. Until the Secretaries are advised by INS and the Director that all applicants for SAW status have been finally adjudicated, if an emergency increase in the shortage number is granted pursuant to 7 CFR le.20 and 29 CFR 503.20, but additional RAWs would otherwise be barred from entry due to the annual numerical limitation, the Secretaries will recalculate the annual numerical limitation based upon the most recent data available from INS and the Director.

**Authority:** 8 U.S.C. 1161.

Done at Washington, DC, this 23rd day of September, 1991.

**Bruce Gardner,**

*Assistant Secretary for Economics, Department of Agriculture.*

Done at Washington, DC, this 23rd day of September, 1991.

**Lynn Martin,**

*Secretary of Labor.*

[FR Doc. 91-23259 Filed 9-30-91; 8:45 am]

BILLING CODE 3410-01-M AND 4510-23-M

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

**[TB-91-016]**

### Public Hearing Regarding Establishment of a New Tobacco Auction Market

Notice is hereby given of a public hearing regarding an application to combine the Williamston, Robersonville, and Windsor, North Carolina, tobacco markets.

*Date:* November 7, 1991.

*Time:* 10 a.m. local time.

*Place:* Superior Court Courtroom, Martin County Governmental Center, Main Street, Williamston, North Carolina.

*Purpose:* To hear testimony and to receive evidence regarding an application for tobacco inspection and price support services to a new market, which would be a consolidation of the currently designated markets of Williamston, Robersonville, and Windsor, North Carolina. The application was made by Joseph E. Revels, Rogers Warehouse, and William C. Lilley, New Dixie Warehouse, Williamston, North Carolina; Harry T. Gray, Gray's Red Front and Central Warehouse, and H. Edwin Lee, Hardee Warehouse, Robersonville, North Carolina; J.R. Freshwater, Jr., Center Warehouse, and C.B. Griffin, Jr., Planters Tobacco Warehouse, Windsor, North Carolina.

This public hearing will be conducted pursuant to the joint policy statement and regulations governing the extension of tobacco inspection and price support services to new markets and to additional sales on designated markets (7 CFR 29.1 through 29.3).

Dated: September 26, 1991.

**John E. Frydenlund,**

*Deputy Assistant Secretary, Marketing and Inspection Services.*

[FR Doc. 91-23593 Filed 9-30-91; 8:45 am]

BILLING CODE 3410-02-M

### Federal Grain Inspection Service

### Designation of Little Rock (AR), Ohio Valley, Inc. (IN), and Los Angeles (CA)

**AGENCY:** Federal Grain Inspection Service (Service), USDA.

**ACTION:** Notice.

**SUMMARY:** The Service announces the designation of Little Rock Grain Exchange Trust (Little Rock), Ohio Valley Grain Inspection, Inc. (Ohio Valley, Inc.), and Los Angeles Grain Inspection Service, Inc. (Los Angeles), to provide official grain inspection under the United States Grain Standards Act, as amended (Act).

**EFFECTIVE DATE:** November 1, 1991.

**ADDRESSES:** Homer E. Dunn, Chief, Review Branch, Compliance Division, FGIS, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090-6454.

**FOR FURTHER INFORMATION CONTACT:** Homer E. Dunn, telephone 202-447-8525.

**SUPPLEMENTARY INFORMATION:**

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the May 1, 1991, **Federal Register** (56 FR 19977 and 19979), the Service announced that the designations of the Little Rock and Los Angeles terminate on October 31, 1991, and that James L. Goodge, Sr., dba Ohio Valley Grain Inspection (Ohio Valley) requested cancellation of his designation, effective October 31, 1991. In the May 1, 1991, **Federal Register**, the Service also asked persons interested in officially inspecting grain within the geographic areas currently assigned to Little Rock, Los Angeles, and Ohio Valley to submit an application for designation. Applications were to be postmarked by May 31, 1991.

There were two applicants for the Los Angeles area designation: Los Angeles and the California Department of Food and Agriculture (California), and there were two applicants for the Ohio Valley area designation: Ohio Valley, Inc., and J. W. Barton Grain Inspection Service, Inc. (Barton). Los Angeles and California each applied for the entire Los Angeles area. Ohio Valley, Inc., applied for the entire Ohio Valley geographic area. Barton applied for Henderson and Union Counties in the Ohio Valley geographic area. Little Rock, the only applicant for the Little Rock designation, applied for the entire area currently assigned to them.

The Service named and requested comments on the applicants for designation in the July 1, 1991, **Federal Register** (56 FR 29936). Comments were to be postmarked by August 15, 1991. The Service extended the comment period for the Ohio Valley area to September 1, 1991, to provide additional time for interested persons to comment on the applicants. The Service received no comments by the deadlines.

The Service evaluated all available information regarding the designation criteria in Section 7(f)(1)(A) of the Act; and according to section 7(f)(1)(B),

determined that Los Angeles and Ohio Valley, Inc., are better able than any other applicant to provide official services in the geographic areas for which they applied, and that Little Rock is able to provide official inspection services in the Little Rock geographic area.

Effective November 1, 1991, and terminating October 31, 1994, Little Rock, Los Angeles, and Ohio Valley, Inc., are designated to provide official grain inspection services in the geographic areas specified in the May 1 Federal Register.

Interested persons may obtain official grain inspection by contacting Little Rock at 501-372-5302; Ohio Valley, Inc., at 812-858-5444; and Los Angeles at 213-721-9216.

**Authority:** Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: September 24, 1991.

**J. T. Abshier,**

*Director, Compliance Division.*

[FR Doc. 91-23594 Filed 9-30-91; 8:45 am]

BILLING CODE 3410-EN-F

## Request for Applications From Persons Interested in Designation to Officially Inspect Grain in the Geographic Area Presently Assigned to the Quincy (IL) Agency

**AGENCY:** Federal Grain Inspection Service (Service), USDA.

**ACTION:** Notice.

**SUMMARY:** The United States Grain Standards Act, as amended (Act), provides that official agency designations shall terminate not later than triennially and may be renewed. The Service announces that the designation of Anthony L. Marquardt dba Quincy Grain Inspection & Weighing Service (Quincy), will terminate, according to the Act, and asks persons interested in providing official services in the geographic area currently assigned to Quincy to submit an application for designation.

**DATES:** Applications must be postmarked on or before October 31, 1991.

**ADDRESSES:** Applications must be submitted to Homer E. Dunn, Chief, Review Branch, Compliance Division, FGIS, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090-6454. All applications will be made available for public inspection at this address located at 1400 Independence Avenue, S.W., during regular business hours.

**FOR FURTHER INFORMATION CONTACT:** Homer E. Dunn, telephone 202-447-8525.

**SUPPLEMENTARY INFORMATION:**

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

Section 7(f)(1) of the Act authorizes the Administrator of the Service to designate any qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official grain inspection.

The Service designated Quincy, located at 630 South 8th Street, Quincy, IL 62306, to officially inspect grain under the Act on April 1, 1989.

Section 7(g)(1) of the Act provides that designations of official agencies shall terminate not later than triennially and may be renewed according to the criteria and procedures prescribed in Section 7(f) of the Act. Quincy's designation terminates on March 31, 1992.

The geographic area presently assigned to Quincy, in the State of Illinois, pursuant to Section 7(f)(2) of the Act, which will be assigned to the applicant selected for designation is as follows:

Adams, Brown, Greene, Macoupin (southwest of a straight line from the junction of State Route 111 and the northern Macoupin County line southeast to the junction of Interstate 55 and State Route 16), and Pike Counties.

Exceptions to Quincy's assigned geographic area are the following locations inside Quincy's area which have been and will continue to be serviced by the following official agencies:

1. Keokuk Grain Inspection Service, Inc.: Ursa Farmers Coop, Meyer, and Ursa Farmers Coop, Ursa, both in Adams County; and

2. Springfield Grain Inspection, Inc.: Cargill, Inc., Florence, Pike County.

Interested persons, including Quincy, are hereby given the opportunity to apply for designation to officially inspect grain in the geographic area specified above under the provisions of Section 7(f) of the Act and section 800.196(d) of the regulations issued thereunder. Designation in the specified geographic area is for the period beginning April 1, 1992, and ending March 31, 1995. Persons wishing to apply for designation should contact the Compliance Division at the address listed above for forms and information.

Applications and other available information will be considered in determining which applicant will be designated to provide official services in the territory currently assigned to Quincy.

**Authority:** Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: September 24, 1991.

**J. T. Abshier,**

*Director, Compliance Division.*

[FR Doc. 91-23595 Filed 9-30-91; 8:45 am]

BILLING CODE 3410-EN-F

## Request for Comments on the Applicants for Designation in the Geographic Areas Currently Assigned to the Lima (OH) Agency and the State of Virginia (VA)

**AGENCY:** Federal Grain Inspection Service (Service), USDA.

**ACTION:** Notice.

**SUMMARY:** The Service requests interested persons to submit comments on the applicants for designation to provide official services in the geographic areas currently assigned to Lima Grain Inspection Service, Inc. (Lima), and the Virginia Department of Agriculture and Consumer Services (Virginia).

**DATES:** Comments must be postmarked on or before November 15, 1991.

**ADDRESSES:** Comments must be submitted in writing to Homer E. Dunn, Chief, Review Branch, Compliance Division, FGIS, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090-6454. SprintMail users may respond to [HDUNN/FGIS/USDA]. Telecopier users may send responses to the automatic telecopier machine at 202-382-1015, attention: Homer E. Dunn. All comments received will be made available for public inspection at the above address located at 1400 Independence Avenue, S.W., during regular business hours (7 CFR 1.27(b)).

**FOR FURTHER INFORMATION CONTACT:** Homer E. Dunn, telephone 202-447-8525.

**SUPPLEMENTARY INFORMATION:**

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the August 1, 1991, Federal Register (56 FR 36761), the Service asked persons interested in providing official services within the Lima and Virginia geographic areas to submit an application for designation. Applications were to be postmarked by September 3, 1991. Lima and Virginia, the only applicants, each applied for the entire area currently assigned to them.

The Service is publishing this notice to provide interested persons the opportunity to present comments concerning the applicants for designation. Commenters are encouraged to submit reasons and pertinent data for support or objection to the designation of these applicants. All comments must be submitted to the Compliance Division at the above address.

Comments and other available information will be considered in making a final decision. The Service will publish notice of the final decision in the Federal Register, and the Service will send the applicants written notification of the decision.

**Authority:** Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: September 24, 1991.

**J. T. Abshier,**

*Director, Compliance Division.*

[FR Doc. 91-23596 Filed 9-30-91; 8:45 am]

BILLING CODE 3410-EN-F

## Forest Service

### Forest Legacy Program Guidelines

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice; extension of public comment period.

**SUMMARY:** On July 5, 1991, at 56 FR 30733, the Forest Service published notice that the draft guidelines for implementing the Forest Legacy Program were available for public review and comment. The public comment period ended August 19, 1991. Several organizations have indicated that the 45-day review period was not sufficient time to review and analyze the draft guidelines and the impacts on their organizations, and have requested additional time to prepare comments on the proposed guidelines. In response, the Forest Service has decided to extend the comment period an additional 15 days. Any comments received after the initial comment deadline and prior to this notice of extension will be considered in adoption of final guidelines.

**DATES:** Comments must be received in writing and postmarked no later than October 16, 1991.

**ADDRESSES:** Comments should be addressed to: Director, Cooperative Forestry Staff (CF), Forest Service, USDA, P.O. Box 96090, Washington, DC 20090-6090. Due to the limited extended comment period, the Forest Service will ensure expedited delivery of the draft guidelines to persons requesting copies.

Single copies of the draft guidelines for implementing the Forest Legacy Program may be obtained by calling (202) 205-1394.

**FOR FURTHER INFORMATION CONTACT:** Jared Wolfe, Cooperative Forestry Staff (202) 205-1375 or David Sherman, Lands Staff (202) 205-1362.

Dated: September 23, 1991.

**George M. Leonard,**

*Associate Chief.*

[FR Doc. 91-23533 Filed 9-30-91; 8:45 am]

BILLING CODE 3410-11-M

## DEPARTMENT OF COMMERCE

### Economic Development Administration

### Notice of Petitions by Producing Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

**AGENCY:** Economic Development Administration (EDA), Commerce.

**ACTION:** To give firms an opportunity to comment.

Petitions have been accepted for filing on the dates indicated from the firms listed below.

| Firm name | Address | Date petition accepted | Product |
|---|---|---|---|
| Thor Gasket, Inc. | 1111 Elliott Ave West, Seattle, WA 98119 | 08/19/91 | Gaskets—Rubber, Cork |
| Brown Disc Products Company, Inc. | 1120-B Elkton Drive, Colorado Springs, Co 80907 | 08/19/91 | Flexible magnetic media (floppy discs) |
| Accurate Holding Corporation | 443 North Avenue, Garwood, NJ 07027 | 08/22/91 | Roller bearings & Special bearings made of precision machined hardened and ground steel |
| Brookman Cast Industries, Incorporated | 3530 Brady Court NE, Salem, OR 97308 | 08/26/91 | Well shoes and valve bodies |
| North Star Ice Equipment Corporation | 8151 Occidental Avenue South, Seattle, WA 98108 | 08/27/91 | Ice Machines, manufactured parts |
| Dri Mark Products, Inc. | 15 Habor Park Drive, Port Washington, NY 11050 | 08/29/91 | Markers |
| McWilliam & Son, Inc. dba California Tool & Die | 421 South Irwindale Ave, Azusa, CA 91702-3288 | 09/29/91 | Metal stampings |
| Pat Higdon Industries, Inc. | Lake Talquin Rd., PO Drawer 980, Quincy, FL 35351. | 09/04/91 | Juvenile bedroom furniture |
| W.E. Bassett Company (the) | 100 Trap Falls Road Ext, Shelton, CT 06484 | 09/04/91 | Manicure items: Nail clippers, emergy boards, toenail clippers, scissors & files, gift sets |
| Biosonics, Inc. | 3670 Stone Way North, Seattle, WA 98103 | 09/06/91 | Hydroacounstic equipment |
| Griffin Industries, Inc. dba Lynmar Tool Company | 43900 Highway 13 Meeker, CO 81641 | 09/09/91 | Drills of high speed steel |
| R.W. Rexford Company, Inc. | 9th & Spring Garden Streets, Philadelphia, PA 19123. | 09/09/91 | Sheet ink |
| Acme Precision Screw Products, Inc. | 623 Glide Street, Rochester, NY 14606 | 09/10/91 | Machined screws |
| NASCO Industries, Inc. | 3 N.E. 21st Street, Washington, IN 47501 | 09/10/91 | Protective clothing products for chemical food processing, lumber, mining, and road construction |
| Bayer Glass Studios | 179 Dogwood Avenue, Crawford, CO 81415 | 09/17/91 | Bowls of sand, soda and color rods (5% lead) |

The petitions were submitted pursuant to section 251 of the Trade Act of 1974 (19 U.S.C. 2341). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceeding may request a public hearing on the matter. A request for a hearing must be received by the Trade Adjustment Assistance Division, Room 4015A, Economic Development Administration, U.S. Department of

Commerce, Washington, DC 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: September 24, 1991.

**L. Joyce Hampers,**

*Assistant Secretary for Economic Development.*

[FR Doc. 91-23621 Filed 9-30-91; 8:45 am]

BILLING CODE 3510-24-M

## Foreign-Trade Zones Board

**[Docket 54-91]**

### Foreign-Trade Zone 81—Portsmouth, NH; Application for Subzone ABB Combustion Engineering Nuclear Power Equipment Plant, Newington, NH

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the New Hampshire State Port Authority, grantee of FTZ 81, Portsmouth, New Hampshire, requesting special-purpose subzone status for the industrial/nuclear equipment manufacturing plant of Asea Brown Boveri Combustion Engineering (ABBCE) (subsidiary of ABB Asea Brown Boveri Group, Switzerland), located in Newington, Rockingham County, New Hampshire. 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 September 18, 1991.

The plant (10 acres; 30,000 sq. ft.) is located at 55 Old Dover Road (north of Woodbury Avenue) in Newington, New Hampshire, two miles west of Portsmouth. The facility (130 employees) is used to manufacture nuclear reactor vessel internals (core support barrels, surveillance capsules, fuel assemblies) and control equipment, reactor coolant pumps, condensers, and spent fuel storage racks. The finished equipment is sold to domestic and foreign electric utility, petrochemical and defense/aerospace companies. Some of the components for the reactor coolant pumps are sourced abroad, including thrust bearing assemblies, impellers, diffusers, pump casings, seal housing assemblies and support skirts (HTS# 8413.91.9090-6). The components are dutiable at 3 percent *ad valorem*, as are the finished reactor coolant pumps.

Zone procedures would exempt ABBCE from Customs duty payments on the foreign components used in its exports. On its domestic sales, the company would be able to defer Customs duty payments until the finished pumps are shipped from the plant. The applicant indicates that zone savings will improve the plant's international competitiveness.

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: John J. Da Ponte, Jr. (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Victor G. Weeren, Assistant Regional Commissioner, U.S. Customs Service, Northeast Region, 10 Causeway Street, suite 801, Boston, Massachusetts 02222-1056; and, Col. Philip Harris, Division Engineer, U.S. Army Engineer Division New England Division, 424 Trapelo Road, Waltham, Massachusetts 02254-9149.

Comments concerning the proposed foreign-trade subzone are invited from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before November 29, 1991.

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Customs Service, Federal Building, room 103; 80 Daniel Street, Portsmouth, New Hampshire 03801.

Office of the Executive Secretary; Foreign-Trade Zones Board; U.S. Department of Commerce, room 3716; 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Dated: September 25, 1991.

**John J. Da Ponte, Jr.,**

*Executive Secretary.*

[FR Doc. 91-23622 Filed 9-30-91; 8:45 am]

BILLING CODE 3510-DS-M

## International Trade Administration

**[A-570-007]**

### Barium Chloride from the People's Republic of China; Intent To Revoke Antidumping Duty Order

**AGENCY:** International Trade Administration/Import Administration, Department of Commerce.

**ACTION:** Notice of intent to revoke antidumping duty order.

**SUMMARY:** The Department of Commerce is notifying the public of its intent to revoke the antidumpting duty order on barium chloride from the PRC. Interested parties who object to this revocation must submit their comments in writing no later than October 31, 1991.

**EFFECTIVE DATE:** October 1, 1991.

**FOR FURTHER INFORMATION CONTACT:** Michael Rill or Richard Rimlinger, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377-4733.

**SUPPLEMENTARY INFORMATION:**

#### Background

On October 17, 1984, the Department of Commerce ("the Department") published an antidumping duty order on barium chloride from the PRC (49 FR 40635). The Department has not received a request to conduct an administrative review of this order for the most recent four consecutive annual anniversary months.

The Department may revoke an antidumping duty order or finding if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by § 353.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke this antidumping duty order.

#### Opportunity to Object

No later than October 31, 1991, interested parties, as defined in § 353.2(k) of the Department's regulations, may object to the Department's intent to revoke this antidumping duty order.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B-099, U.S. Department of Commerce, Washington, DC 20230.

If interested parties do not request an administrative review by October 31, 1991, in accordance with the Department's notice of opportunity to request administrative review, or object to the Department's intent to revoke by October 31, 1991, we shall conclude that the order is no longer of interest to interested parties and shall proceed with the revocation.

This notice is in accordance with 19 CFR 353.25(d).

Dated: September 23, 1991.

**Roland L. MacDonald,**

*Acting Deputy Assistant Secretary for Compliance.*

[FR Doc. 91-23623 Filed 9-30-91; 8:45 am]

BILLING CODE 3510-DS-M

[A-583-080]

## Carbon Steel Plate From Taiwan; Determination Not To Revoke Antidumping Finding

**AGENCY:** International Trade Administration/Import Administration, Department of Commerce.

**ACTION:** Notice of determination not to revoke antidumping finding.

**SUMMARY:** The Department of Commerce is notifying the public of its determination not to revoke the antidumping finding on carbon steel plate from Taiwan.

**EFFECTIVE DATE:** October 1, 1991.

**FOR FURTHER INFORMATION CONTACT:** Michael Rill or Paul McGarr, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–4733.

**SUPPLEMENTARY INFORMATION:** On June 6, 1991, the Department of Commerce ("the Department") published in the Federal Register (56 FR 26050) its intent to revoke the antidumping finding on carbon steel plate from Taiwan (44 FR 33877, June 13, 1979). The Department may revoke a finding if the Secretary concludes that the finding is no longer of interest to interested parties. We had not received a request for an administrative review of the finding for the last four consecutive annual anniversary months and therefore published a notice of intent to revoke pursuant to § 353.25(d)(4) of the Department's regulations (19 CFR 353.25(d)(4)).

On June 28, 1991, Bethlehem Steel Corporation, a U.S. producer of carbon steel plate, objected to our intent to revoke the finding. Therefore, we no longer intend to revoke the finding.

Dated: September 24, 1991.

**Joseph A. Spetrini,**

*Deputy Assistant Secretary for Compliance.*

[FR Doc. 91–23624 Filed 9–30–91; 8:45 am]

BILLING CODE 3510-DS-M

[A-122-814]

## Initiation of Antidumping Duty Investigation: Pure and Alloy Magnesium From Canada

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** October 1, 1991.

**FOR FURTHER INFORMATION CONTACT:** Rick Herring or Magd Zalok, Office of Countervailing Duty Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, room B099, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377–3530 or (202) 377–4162.

**Initiation:**

*The Petition*

On September 5, 1991, the Magnesium Corporation of America filed with the Department of Commerce (the Department) an antidumping duty petition on behalf of the United States industry producing pure and alloy magnesium. In accordance with 19 CFR 353.12 (1991), the petitioner alleges that imports of pure and alloy magnesium from Canada are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are materially injuring, or threaten material injury to, domestic producers of magnesium. The petitioner has stated that it has standing to file the petition because it is an interested party, as defined in 19 CFR 353.2(k), and because it has filed the petition on behalf of the U.S. industry producing magnesium. If any interested party, as described in 19 CFR 353.2(k) (3), (4), (5), or (6), wishes to register support for, or opposition to, this investigation, please file written notification with the Assistant Secretary for Import Administration.

*United States Price and Foreign Market Value*

Petitioner based U.S. price (USP) on delivered sales transactions to unrelated U.S. customers from Norsk Hydro Magnesium, a Canadian manufacturer of the subject merchandise. Norsk Hydro Magnesium is a subsidiary of the Norwegian company Norsk Hydro A.S. USP was calculated pursuant to purchase price methodology (19 CFR 353.41(b)). A deduction from USP was made for freight charges. Freight charges were based on the distance between the Norsk Hydro plant in Becancour, Quebec and its U.S. customers and the freight rates which petitioner incurs when shipping magnesium.

Petitioner provided home market prices based on sales transactions between Norsk Hydro and an unrelated customer in Canada. Petitioner alleges that these prices were below Norsk Hydro's cost of production. Therefore, petitioner provided foreign market value (FMV) based on constructed value pursuant to 19 CFR 353.50. Since petitioner uses a production process that is different from Norsk Hydro, petitioner calculated cost of production and constructed value based on information obtained from a 1991 tour of Norsk Hydro's Canadian plant, chemical engineering principles and, for certain steps in the production process, its own experience in producing magnesium. Petitioner included Norsk Hydro's interest on capital in its calculation of constructed value. Since the interest on capital is not an expense in accordance with generally accepted accounting principles, we adjusted petitioner's calculated constructed value by excluding interest on capital. We first compared the cost of production to home market prices and determined that these prices were below Norsk Hydro's cost of production. Therefore, FMV was based on constructed value pursuant to 19 CFR 353.51(b). We compared the adjusted constructed value to the USP and calculated alleged dumping margins ranging from 27.18 percent to 32.74 percent.

Petitioner's analysis provides reasonable grounds to believe or suspect that Norsk Hydro has made sales in the home market at prices below cost of production. Therefore, pursuant to section 773(b) of the Act, we are initiating an investigation to determine whether home market sales are made at prices below the cost of production.

*Initiation of Investigation*

Under 19 CFR 353.13(a), the Department must determine, within 20 days after a petition is filed, whether the petition properly alleges the basis on which an antidumping duty may be imposed under section 731 of the Act, and whether the petition contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on pure and alloy magnesium from Canada and find that it meets the requirements of 19 CFR 353.13(a). Therefore, we are initiating an antidumping duty investigation to determine whether imports of pure and alloy magnesium from Canada are being, or are likely to be, sold in the United States at less than fair value.

In accordance with 19 CFR 353.13(b) we are notifying the International Trade Commission (ITC) of this action.

Any producer or reseller seeking exclusion from a potential antidumping dity order must submit its request for exclusion within 30 days of the date of the publication of this notice. The procedures and requirements regarding the filing of such requests are contained in 19 CFR 353.14.

*Scope of Investigation*

The products covered by this investigation are pure and alloy magnesium from Canada. Pure unwrought magnesium contains at least

99.8 percent magnesium by weight and is sold in various slab and ingot forms and sizes. Magnesium alloys contain less than 99.8 percent magnesium by weight, with magnesium being the largest metallic element in the alloy by weight. Pure and alloy magnesium are currently provided for in subheadings 8104.11.0000 and 8104.19.0000, respectively, of the Harmonized Tariff Schedule (HTS). Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

*Preliminary Determination by ITC*

The ITC will determine by October 21, 1991, whether there is a reasonable indication that imports of pure and alloy magnesium from Canada are materially injuring, or threaten material injury to, a U.S. industry. If its determination is negative, the investigation will be terminated. If affirmative, the Department will make its preliminary determination on or before February 12, 1992, unless the investigation is terminated pursuant to 19 CFR 353.17 or the preliminary determination is extended pursuant to 19 CFR 353.15.

This notice is published pursuant to section 732(c)(2) of the Act and 19 CFR 353.13(b).

Dated: September 25, 1991.

**Eric I. Garfinkel,**

*Assistant Secretary for Import Administration.*

[FR Doc. 91-23627 Filed 9-30-91; 8:45 am]

BILLING CODE 3510-DS-M

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[A-403-803]

## Initiation of Antidumping Duty Investigation: Pure and Alloy Magnesium From Norway

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** October 1, 1991.

**FOR FURTHER INFORMATION CONTACT:** Rick Herring or Magd Zalok, Office of Countervailing Duty Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, room B099, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377-3530 or (202) 377-4162.

### Initiation

*The Petition*

On September 5, 1991, the Magnesium Corporation of America filed with the Department of Commerce (the Department) an antidumping duty petition on behalf of the United States industry producing pure and alloy magnesium. In accordance with 19 CFR 353.12 (1991), the petitioner alleges that imports of pure and alloy magnesium from Norway are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are materially injuring, or threaten material injury to, domestic producers of magnesium. The petitioner has stated that it has standing to file the petition because it is an interested party, as defined in 19 CFR 353.2(k), and because it has filed the petition on behalf of the U.S. industry producing magnesium. If any interested party, as described in 19 CFR 353.2(k) (3), (4), (5), or (6), wishes to register support for, or opposition to, this investigation, please file written notification with the Assistant Secretary for Import Administration.

*United States Price and Foreign Market Value*

Petitioner based United States Price (USP) on prices from Norsk Hydro A.S., a manufacturer and exporter of the subject merchandise, to an unrelated U.S. customer. USP was calculated pursuant to purchase price methodology (19 CFR 353.41(b)). However, petitioner did not provide data on the expenses incurred in delivering the subject merchandise to the United States. Therefore, no deductions to USP were made.

Petitioner did not have home market prices; therefore, petitioner based foreign market value (FMV) on constructed value pursuant to 19 CFR 353.50. Since petitioner uses a production process that is different from that used by Norsk Hydro, petitioner calculated constructed value based on chemical engineering principles and, for certain steps in the production process, its own experience in producing magnesium. Petitioner included Norsk Hydro's interest on capital in its constructed value. Since the interest on capital is not an expense in accordance with generally accepted accounting principles, we adjusted petitioner's calculated constructed value by excluding interest on capital. We adjusted dolomite costs to agree with the supporting documentation. We compared the adjusted constructed value to the USP and calculated an alleged dumping margin of 10.92 percent.

*Initiation of Investigation*

Under 19 CFR 353.13(a), the Department must determine, within 20 days after a petition is filed, whether the petition properly alleges the basis on which an antidumping duty may be imposed under section 731 of the Act, and whether the petition contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on pure and alloy magnesium from Norway and find that it meets the requirements of 19 CFR 353.13(a). Therefore, we are initiating an antidumping duty investigation to determine whether imports of pure and alloy magnesium from Norway are being, or are likely to be, sold in the United States at less than fair value.

In accordance with 19 CFR 353.13(b) we are notifying the International Trade Commission (ITC) of this action.

Any producer or reseller seeking exclusion from a potential antidumping duty order must submit its request for exclusion within 30 days of the date of the publication of this notice. The procedures and requirements regarding the filing of such requests are contained in 19 CFR 353.14.

*Scope of Investigation*

The products covered by this investigation are pure and alloy magnesium from Norway. Pure unwrought magnesium contains at least 99.8 percent magnesium by weight and is sold in various slab and ingot forms and sizes. Magnesium alloys contain less than 99.8 percent magnesium by weight, with magnesium being the largest metallic element in the alloy by weight. Pure and alloy magnesium are currently provided for in subheadings 8104.11.0000 and 8104.19.0000, respectively, of the Harmonized Tariff Schedule (HTS). Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

*Preliminary Determination by ITC*

The ITC will determine by October 21, 1991, whether there is a reasonable indication that imports of pure and alloy magnesium from Norway are materially injuring, or threaten material injury to, a U.S. industry. If its determination is negative, the investigation will be terminated. If affirmative, the Department will make its preliminary determination on or before February 12, 1992, unless the investigation is terminated pursuant to 19 CFR 353.17 or the preliminary determination is extended pursuant to 19 CFR 353.15.

This notice is published pursuant to section 732(c)(2) of the Act and 19 CFR 353.13(b).

Dated: September 25, 1991.

**Eric I. Garfinkel,**

*Assistant Secretary for Import Administration.*

[FR Doc. 91–23628 Filed 9–30–91; 8:45 am]

BILLING CODE 3510–DS–M

[A–588–045]

## Steel Wire Rope From Japan; Intent To Revoke Antidumping Duty Finding

**AGENCY:** International Trade Administration/Import Administration; Department of Commerce.

**ACTION:** Notice of Intent to revoke antidumping duty finding.

**SUMMARY:** The Department of Commerce is notifying the public of its intent to revoke the antidumping finding on steel wire rope from Japan. Interested parties who object to this revocation must submit their comments in writing no later than October 31, 1991.

**EFFECTIVE DATE:** October 1, 1991.

**FOR FURTHER INFORMATION CONTACT:** Sheila Forbes or Tom Futtner, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377–8120.

**SUPPLEMENTARY INFORMATION:**

### Background

On October 15, 1973, the Department of Treasury published an antidumping finding on steel wire rope from Japan (38 FR 28571). The Department has not received a request to conduct an administrative review of this finding for the most recent four consecutive annual anniversary months.

The Department may revoke an antidumping duty order or finding if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by § 353.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke this antidumping finding.

### Opportunity to Object

No later than October 31, 1991, interested parties, as defined in § 353.2(k) of the Department's regulations, may object to the Department's intent to revoke this antidumping finding.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B-099, U.S. Department of Commerce, Washington, DC 20230.

If interested parties do not request an administrative review by October 31, 1991, in accordance with the Department's notice of opportunity to request administrative review, or object to the Department's intent to revoke by October 31, 1991, we shall conclude that the order is no longer of interest to interested parties and shall proceed with the revocation.

This notice is in accordance with 19 CFR 353.25(d).

Dated: September 23, 1991.

**Roland L. MacDonald,**

*Acting Deputy Assistant Secretary for Compliance.*

[FR Doc. 91–23625 Filed 9–30–91; 8:45 am]

BILLING CODE 3510–DS–M

[A–588–068]

## Steel Wire Strand for Prestressed Concrete 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 administrative review.

**SUMMARY:** In response to requests from the petitioner, the Department of Commerce has conducted administrative reviews of the antidumping finding on steel wire strand for prestressed concrete from Japan for the periods December 1, 1985, through November 30, 1987. Also, in response to a request by a respondent, the Department has conducted an administrative review of steel wire strand for prestressed concrete from Japan for the period December 1, 1987, through November 30, 1988. The reviews indicate that no shipments of the subject merchandises took place during the review periods.

Interested parties are invited to comment on these preliminary results.

**EFFECTIVE DATE:** October 1, 1991.

**FOR FURTHER INFORMATION CONTACT:** Fred Baker or Robert Marenick, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–5255.

**SUPPLEMENTARY INFORMATION:**

### Background

On December 1, 1986, the Department of Commerce (the Department) published a notice of "Opportunity to Request Administrative Review" (51 FR 43225) for the period December 1, 1985, through November 30, 1986. The petitioner requested an administrative review on December 30, 1986. On December 3, 1987, the Department published a notice of "Opportunity to Request Administrative Review" (52 FR 45982) for the period December 1, 1986, through November 30, 1987. The petitioner requested an administrative review on December 24, 1987. We initiated both reviews on March 25, 1988 (53 FR 9788). On November 29, 1988, the Department published a notice of "Opportunity to Request Administrative Review" (53 FR 48004) for the period December 1, 1987, through November 30, 1988. A respondent, Mitsui & Co., Ltd. (Mitsui), requested an administrative review on December 29, 1988. We initiated the review on January 31, 1989 (54 FR 4871). The Department has now conducted these administrative reviews in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act) (19 U.S.C. 1675). The final results of the last administrative review in this case were published in the **Federal Register** on November 7, 1990 (56 FR 33250).

### Scope of the Review

Imports covered by these reviews are shipments of steel wire strand, other than alloy steel, not galvanized, which are stress-relieved and suitable for use in prestressed concrete. During these review periods, such merchandise was classifiable under Tariff Schedules of the United States Annotated (TSUSA) item number 642.1120. Such merchandise is currently classifiable under the Harmonized Tariff Schedule (HTS) item number 7312.10.30.15. The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive. These reviews cover one exporter of Japanese steel wire strand to the United States, Mitsui, and three consecutive periods from April 1, 1985, through November 30, 1988.

### Preliminary Results of the Review

Mitsui reported that all sales to the United States during these review periods were of steel wire strand for prestressed concrete manufactured by Kawatetsu Wire Products Co., Ltd. (Kawatetsu). Kawatetsu was specifically excluded from the finding issued December 8, 1978 (43 FR 57599). Since Mitsui has no shipments of merchandise subject to the finding during these periods, we preliminarily determine a dumpling margin of 15.80 percent, based on the final results of the last administrative review with shipments.

Parties to the proceeding may request disclosure within 5 days of the date of publication of this notice. Any interested party may request a hearing within 10

days of the date of publication. Any hearing, if requested, will be held 44 days after the date of publication of this notice, or the first workday thereafter. Interested parties may submit case briefs and/or written comments not later than 30 days after the date of publication. Rebuttal briefs, limited to issues raised in case briefs, may be filed not later than 37 days after the date of publication. The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any such written comments or at a hearing.

The Department shall determine, and the Customs Service shall 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.

Furthermore, the following deposit requirements will be effective upon publication of the final results of these administrative reviews for all shipments of steel wire strand for prestressed concrete from Japan entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for the reviewed firm will be that established in the final results of these administrative reviews; (2) for merchandise exported by manufacturers or exporters not covered in these reviews but covered in previous reviews or the final determination in the original less-than-fair-value investigation, the cash deposit rate will continue to be the rate published in the most recent final results or determination for which the manufacturer or exporter received a company-specific rate; and (3) the cash deposit rate for any future entries from all other manufacturers or exporters who are not covered in this or prior administrative reviews and who are unrelated to the reviewed firm or any previously reviewed firm will be zero percent. This is the most current non-BIA rate for any firm in this proceeding.

These administrative reviews 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: September 19, 1991.

**Eric I. Garfinkel,**

*Assistant Secretary for Import Administration.*

[FR Doc. 91-23626 Filed 9-30-91; 8:45 am]

BILLING CODE 3510-DS-M

## Quarterly Update of Foreign Government Subsidies on Articles of Quota Cheese

**AGENCY:** International Trade Administration/Import Administration Department of Commerce.

**ACTION:** Publication of quarterly update of Foreign Government subsidies on articles of quota cheese.

**SUMMARY:** The Department of Commerce, in consultation with the Secretary of Agriculture, has prepared a quarterly update to its annual list of foreign government subsidies on articles of quota cheese. We are publishing the current listing of those subsidies that we have determined exist.

**EFFECTIVE DATE:** October 1, 1991.

**FOR FURTHER INFORMATION CONTACT:** Patricia W. Stroup or Kelly Parkhill, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377-2786.

**SUPPLEMENTARY INFORMATION:** Section 702(a) of the Trade Agreements Act of 1979 ("the TAA") requires the Department of Commerce ("the Department") to determine, in consultation with the Secretary of Agriculture, whether any foreign government is providing a subsidy with respect to any article of quota cheese, as defined in section 701(c)(1) of the TAA, and to publish an annual list and quarterly updates of the type and amount of those subsidies.

The Department has developed, in consultation with the Secretary of Agriculture, information on subsidies (as defined in section 702(h)(2) of the TAA) being provided either directly or indirectly by foreign governments on articles of quota cheese.

In the current quarter the Department has determined that the subsidy amounts have changed for several of the countries for which subsidies were identified in our last quarterly update to the annual subsidy list. The appendix to this notice lists the country, the subsidy program or programs, and the gross and net amount of each subsidy on which information is currently available.

The Department will incorporate additional programs which are found to constitute subsidies, and additional information on the subsidy programs listed, as the information is developed.

The Department encourages any person having information on foreign government subsidy programs which benefit articles of quota cheese to submit such information in writing to the Assistant Secretary for Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

This determination and notice are in accordance with section 702(a) of the TAA (19 U.S.C. 1202 note).

Dated: September 25, 1991.

**Eric I. Garfinkel,**

*Assistant Secretary for Import Administration.*

APPENDIX QUOTA CHEESE SUBSIDY PROGRAMS

| Country | Program(s) | Gross [1] subsidy | Net [2] subsidy |
|---|---|---|---|
| Belgium | European Community EC Restitution Payments | 38.9¢/lb. | 38.9¢/lb. |
| Canada | Export Assistance on Certain Types of Cheese | 30.6¢/lb. | 30.6¢/lb. |
| Denmark | EC Restitution Payments | 48.7¢/lb. | 48.7¢/lb. |
| Finland | Export Subsidy | 158.6¢/lb. | 158.6¢/lb. |
| France | EC Restitution Payments | 47.8¢/lb. | 47.8¢/lb. |
| Greece | EC Restitution Payments | 58.6¢/lb. | 58.6¢/lb. |
| Ireland | EC Restitution Payments | 51.2¢/lb. | 51.2¢/lb. |
| Italy | EC Restitution Payments | 63.0¢/lb. | 63.0¢/lb. |
| Luxembourg | EC Restitution Payments | 38.9¢/lb. | 38.9¢/lb. |
| Netherlands | EC Restitution Payments | 42.5¢/lb. | 42.5¢/lb. |
| Norway | Indirect (Milk) subsidy | 17.2¢/lb. | 17.2¢/lb. |
| | Consumer Subsidy | 38.2¢/lb. | 38.2¢/lb. |
| | | 55.4¢/lb. | 55.4¢/lb. |
| Portugal | EC Restitution Payments | 38.5¢/lb. | 38.5¢/lb. |
| Spain | EC Restitution Payments | 43.1¢/lb. | 43.1¢/lb. |

APPENDIX QUOTA CHEESE SUBSIDY PROGRAMS—Continued

| Country | Program(s) | Gross [1] subsidy | Net [2] subsidy |
|---|---|---|---|
| Switzerland | Deficiency Payments | 93.3¢/lb | 93.3¢/lb. |
| U.K. | EC Restitution Payments | 36.0¢/lb | 36.0¢/lb. |
| W. Germany | EC Restitution Payments | 49.7¢/lb | 49.7¢/lb. |

[1] Defined in 19 U.S.C. 1677(5).
[2] Defined in 19 U.S.C. 1677(6).

[FR Doc. 91–23631 Filed 9–30–91; 8:45 am]
BILLING CODE 3510–DS–M

[C–122–815]

## Initiation of Countervailing Duty Investigation: Pure and Alloy Magnesium From Canada

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** October 1, 1991.

**FOR FURTHER INFORMATION CONTACT:** Kristal A. Eldredge or Rick Herring, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377–0631 and (202) 377–3530, respectively.

**SUPPLEMENTARY INFORMATION:**

### The Petition

On September 5, 1991, we received a petition in proper form from Magnesium Corporation of America, on behalf of the U.S. industry producing pure and alloy magnesium (magnesium). Petitioner filed amendments to the petition on September 6, 10, 13, and 18, 1991. In accordance with 19 CFR 355.12 (1991), petitioner alleges that manufacturers, producers, or exporters of magnesium in Canada receive subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act).

Since Canada is a "country under the Agreement" within the meaning of section 701(b) of the Act, Title VII of the Act applies to this investigation, and the U.S. International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from Canada materially injure, or threaten material injury to, the U.S. industry.

Petitioner has stated that it has standing to file the petition because it is an interested party as defined under 19 CFR 355.2(i), and because it has filed the petition on behalf of the U.S. industry manufacturing the product which is subject to this investigation. If any interested party, as described in 19 CFR 355.2(i) (3), (4), (5), or (6), wishes to register support for, or opposition to, this petition, please file written notification with the Assistant Secretary for Import Administration.

### Initiation of Investigation

Under 19 CFR 355.13(a) the Department must determine, within 20 days after a petition is filed, whether the petition properly alleges the bases on which a countervailing duty may be imposed under section 701(a) of the Act, and whether the petition contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on magnesium from Canada and have found that it meets these requirements. Therefore, we are initiating a countervailing duty investigation to determine whether Canadian manufacturers, producers, or exporters of magnesium receive subsidies.

In accordance with 19 CFR 355.13(b), we are notifying the ITC of this action.

### Scope of Investigation

The products covered by this investigation are pure and alloy magnesium from Canada. Pure magnesium unwrought contains at least 99.8 percent magnesium by weight sold in various slab and ingot forms and sizes. Magnesium alloys contain less than 99.8 percent magnesium by weight, with magnesium being the largest metallic element in the alloy by weight. Pure and alloy magnesium are currently provided for in subheadings 8104.11.0000 and 8104.19.0000, respectively, of the Harmonized Tariff Schedule (HTS). Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

### Allegations of Subsidies

Petitioner lists a number of practices by the Government of Canada (GOC) and the Government of the province of Quebec which allegedly confer subsidies on manufacturers, producers, or exporters of magnesium in Canada. We are initiating an investigation of the following programs:

A. *Federal Programs*
1. Quebec Resource Regions (Outside the Central Regions)
2. St. Lawrence River Environmental Technology Development Program
3. Program for Export Market Development
4. Export Development Program

B. *Joint Federal-Provincial Program*
Government Funding of Institute of Magnesium Technology (IMT)

C. *Provincial Programs*
1. Hydro-Quebec "Program of Risk and Profit Sharing"
2. Major Opportunities to Stimulate Technology (MOST) Programs
3. Development Assistance Program (AQVIR)
4. Industrial Feasibility Study Assistance Program
5. Export Promotion Assistance Program
6. Manpower Training Programs
7. Creation of Scientific Jobs in Industries
8. Business Investment Assistance Program
9. Business Financing Program
10. Research and Innovation Activities Program
11. Export Assistance Program
12. Other Research and Innovation Programs

We are not initiating an investigation of the following programs alleged in the petition:

1. Remission of Import Duties

Petitioner alleges that the GOC offers remission of import duties paid for raw materials or manufactured goods used in products earmarked for exportation or for production machinery and equipment not available in Canada. We found this program, with respect to imports of machinery and equipment, not to be countervailable in the Final Affirmative Countervailing Duty Detemination; Certain Fresh Atlantic Ground Fish from Canada (51 FR 10041, March 24, 1986). Absent the provision of new evidence, or an allegation of changed circumstances, we have no basis upon which to initiate an investigation of this program. For the remission of import duties on raw materials, there is no evidence or allegation that remission of duties is paid on non-physically incorporated

materials. Remission of duties on physically incorporated materials is not a countervailable subsidy. Therefore, we are not initiating an investigation of this program.

For the programs listed below, petitioner has either (1) not provided an explanation as to how the benefits are limited to a specific enterprise or industry or group of enterprises or industries or (2) not provided an explanation as to why the magnesium industry would qualify for benefits from these programs. Therefore, we are not initiating an investigation of these programs.

2. Technology Inflow Program

Petitioner alleges that the GOC offers financial support in the form of sharing the costs of activities such as meetings of foreign experts in Canada and abroad, exploratory missions or working tours by Canadians abroad for up to five months.

3. Manpower Training Programs

Petitioner alleges that the GOC offers incentive programs for hiring and training workers. These programs are administered by the Employment and Immigration Canada.

4. Manpower Retraining and Development Program

Petitioner alleges that the GOC and Government of Quebec (GOQ) offer free technical evaluation of manpower training needs of an organization. This program also provides financing for retraining and development courses given by educational institutions.

5. Manpower Adaption Program

Petitioner alleges that the GOC and GOQ finance evaluations and organization services, and employee training.

6. Technology Outreach Program

Petitioner alleges that the GOC offers financial support of up to 50 percent, over a five-year period, to cover average operating costs of starting up national technology centers and, in some cases, to cover the costs of the eligible fixed assets of these centers. This program may also cover up to 50 percent of the operating costs of established centers provided services are in keeping with national development priorities.

7. Advanced Manufacturing Technology Application Program

Petitioner alleges that the GOC provides contributions of up to 75 percent to cover the costs of consulting services to carry out commercial and technical feasibility studies for upgrading manufacturing operations.

8. Microelectronics and Systems Development Program

Petitioner alleges that the GOC offers financing of up to five million dollars of eligible costs of a research and development project for innovative microelectronic components or systems using advanced microelectronics. Eligible costs include salaries, equipment, evaluation of prototypes, research on patents and copyrights, patent applications, subcontracts, etc.

9. Strategic Technologies Program

Petitioner alleges that the GOC offers contributions to cover up to 50 percent of eligible costs for the creation of research and development and/or Technology Application Alliances of Canadian companies with other Canadian companies or foreign firms, research institutes and universities leading to innovative projects, or new application of information technology.

10. The Automotive Components Initiative

Petitioner alleges that the GOC offers financial assistance to industries that manufacture or would like to manufacture automotive components. The assistance may cover up to 50 percent of the costs of consulting services to evaluate the need for improving the quality and distribution of the firm's products and 50 percent of the costs implementing the recommendations.

*ITC Notification.* Section 702(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all non-privileged and non-proprietary information. We will also allow the ITC access to all privileged and business proprietary information in the Department's files, provided the ITC confirms in writing that it will not disclose such information, either publicly or under administrative protective order, without written consent of the Deputy Assistant Secretary for Investigations, Import Administration.

*Preliminary Determination by the ITC.* The ITC will determine by October 21, 1991, whether there is a reasonable indication that imports of magnesium from Canada are materially injuring, or threaten material injury to, a U.S. industry. If its determination is negative, the investigation will be terminated. If affirmative, the Department will make its preliminary determination on or before November 29, 1991, unless the investigation is terminated pursuant to 19 CFR 355.17 or the preliminary determination is extended pursuant to 19 CFR 355.15.

This notice is published pursuant to section 702(c)(2) of the Act.

Dated: September 25, 1991.

**Eric I. Garfinkel,**

*Assistant Secretary for Import Administration.*

[FR Doc. 91-23629 Filed 9-30-91; 8:45 am]

BILLING CODE 3510-DS-M

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[C-403-804]

## Dismissal of Countervailing Duty Petition and Termination of Proceeding: Pure and Alloy Magnesium From Norway

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** October 1, 1991.

**FOR FURTHER INFORMATION CONTACT:** Kristal A. Eldredge or Rick Herring, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-0631 and (202) 377-3530, respectively.

**SUPPLEMENTARY INFORMATION:** .

### The Petition

On September 5, 1991, we received a petition from Magnesium Corporation of America, on behalf of the U.S. industry producing pure and alloy magnesium (magnesium). Petitioner alleges that the Norwegian government authorized a Norwegian government-owned company, which produces magnesium, to "write-off" part of its investment in the company's subsidiary located in Canada and that this write-off constitutes a subsidy.

### Dismissal of Petition

Under 19 CFR 355.13(a) the Department must determine, within 20 days after a petition is filed, whether the petition properly alleges the bases on which a countervailing duty may be imposed under section 705 of the Tariff Act of 1930, as amended, (the Act), and whether the petition contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on magnesium from Norway and have found that it does not meet these requirements.

Petitioner's only allegation is that the Norwegian government authorized a

Norwegian government-owned company, which produces magnesium, to "write-off" part of its investment in the company's subsidiary located in Canada. Petitioner does not, however, allege that the write-off is pursuant to a particular government action or program which benefits a specific enterprise or industry or group of enterprises or industries, as opposed to a tax statute or regulation that is applicable to all companies. Nor does petitioner provide any other information describing the nature of the write-off or how it may provide a benefit to a Norwegian producer.

Therefore, we do not have sufficient basis to initiate a countervailing duty investigation to determine whether Norwegian manufacturers, producers, or exporters of magnesium receive subsidies.

In accordance with 19 CFR 355.13(c), we are notifying the International Trade Commission of this Action.

This notice is published pursuant to section 702(c) (3) of the Act (19 U.S.C. 1671a(c) (3)).

Dated: September 25, 1991.

**Eric I. Garfinkel,**

*Assistant Secretary for Import Administration.*

[FR Doc. 91-23630 Filed 9-30-91; 8:45 am]

BILLING CODE 3510-DS-M

## Performance Review Board Membership

This notice announces the appointment by the Department of Commerce Under Secretary for International Trade, J. Michael Farren, of the Performance Review Board. This is a revised list of membership which includes previous members as listed in the April 24, 1991 **Federal Register** Announcement (56 FR 18806) with additional members added to a two year term. The purpose of the International Trade Administration's PRB is to review and make recommendations to the appointing authority on performance and other issues concerning members of the Senior Executive Service (SES). The members on the PRB are:

Joseph A. Spetrini, Chairperson, Deputy Assistant Secretary for Compliance, Import Administration

Jonathan C. Menes, Director, Office of Finance, Industry and Planning, Trade Development

Henry P. Misisco, Director, Office of Automotive Industry Affairs, Trade Development

Marilyn Wagner, Deputy Director, Office of Operations, Department of Agriculture, (non-ITA member)

Marjory Searing, Deputy Assistant Secretary for Japan, International Economic Policy

Frederick Volcansek, Deputy Assistant Secretary for Basic Industries

Daniel E. Sullivan, Deputy Assistant Secretary for Domestic Operations, U.S. & Foreign Commercial Service

Dated: September 23, 1991.

**James T. King, Jr.,**

*Personnel Officer, ITA.*

[FR Doc. 91-23530 Filed 9-30-91; 8:45 am]

BILLING CODE 3510-25-M

## Minority Business Development Agency

### Business Development Center Applications: Buffalo, NY (Service Area)

**AGENCY:** Minority Business Development Agency, Commerce.

**ACTION:** Notice.

**SUMMARY:** In accordance with Executive Order 11625, the Minority Business Development Agency (MBDA) is soliciting competitive applications under its Minority Business Development Center (MBDC) program to operate an MBDC for approximately a 3-year period, subject to Agency priorities, recipient performance and the availability of funds. The cost of performance for the first budget period (12 months) is estimated as $165,000 in Federal funds, and a minimum of $29,118 in non-Federal (cost sharing) contribution, from March 1, 1992 to February 28, 1993. Cost-sharing contributions, may be in the form of cash contributions, client fees, in-kind contributions or combinations thereof. The MBDC will operate in the Buffalo, N.Y. SMSA geographic service area.

The funding instrument for the MBDC will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

The MBDC program is designed to provide business development services to the minority business community for the establishment and operation of viable minority businesses. To this end, MBDC funds organizations that can identify and coordinate public and private sector resources on behalf of minority individuals and firms; offer a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated initially by regional staff on the following criteria: The experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodologies) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70 percent of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive. The selection of an application for further processing by MBDC will be made by the Director based on a determination of the application most likely to further the purpose of the MBDC Program. The application will then be forwarded to the Department for final processing and approval, if appropriate. The Director will consider past performance of the applicant on previous Federal awards.

MBDCs shall be required to contribute at least 15 percent of the total project cost through non-Federal contributions. To assist them in this effort, MBDCs may charge client fees for management and technical assistance (M&%TA) rendered. Based on a standard rate of $50 per hour, MBDCs will charge client fees at 20 percent of the total cost for firms with gross sales of $500,000 or less, and 35 percent of the total cost for firms with gross sales of over $500,000.

MBDCs performing satisfactorily may continue to operate after the initial competitive year for up to 2 additional budget periods. MBDCs with year-to-date "commendable" and "excellent" performance ratings may continue to be funded for up to 3 or 4 additional budget periods, respectively. Under no circumstances shall an MBDC be funded for more than 5 consecutive budget periods without competition. Periodic reviews culminating in year-to-date quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's performance, the availability of funds and the Agency priorities.

Awards under this program shall be subject to all Federal and Departmental regulations, policies, and procedures applicable to Federal assistance awards.

In accordance with OMB Circular A-129, "Managing Federal Credit Programs," applicants who have an outstanding account receivable with the Federal Government may not be considered for funding until these debts have been paid or arrangements

satisfactory to the Department of Commerce are made to pay the debt.

Applicants are subject to Governmentwide Debarment and Suspension (Nonprocurement) requirements as stated in 15 CFR part 26.

The departmental Grants Officer may terminate any grant/cooperative agreement in whole or in part at any time before the date of completion whenever it is determined that the MBDC has failed to comply with the conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are failure to meet cost-sharing requirements; unsatisfactory performance of MBDC work requirements; and reporting inaccurate or inflated claims of client assistance or client certification. Such inaccurate or inflated claims may be deemed illegal and punishable by law.

On November 18, 1988, Congress enacted the Drug-Free Workplace Act of 1988 (Pub. L. 100–690, title V, subtitle D). The statute requires contractors and grantees of Federal agencies to certify that they will provide a drug-free-workplace. Pursuant to these requirements, the applicable certification form must be completed by each applicant as a precondition for receiving Federal grant or cooperative agreement awards.

"Certification for Contracts, Grants, Loans, and Cooperative Agreements" and SF–LLL, the "Disclosure of Lobbying Activities" (if applicable) is required in accordance with section 319 of Public Law 101–121, which generally prohibits recipients of Federal contracts, grants, and loans from using Legislative Branches of the Federal Government in connection with a specific contract, grant or loan.

**CLOSING DATE:** The closing date for applications is November 4, 1991. Applications must be postmarked on or before November 4, 1991.

Proposals will be reviewed by the Washington Regional Office, mailing address for submission is:

**ADDRESSES:** Gina A. Sanchez, Regional Director, Washington Regional Office, Minority Business Development Agency, 14th & Constitution Ave. NW., room 6711, Washington, DC 20230.

**FOR FURTHER INFORMATION CONTACT:** John F. Iglehart, Regional Director New York Regional Office at (212) 264–3263.

**SUPPLEMENTARY INFORMATION:** Anticipated processing time of this award is 120 days. Executive Order 12372 "Intergovernmental Review of Federal Programs" is not applicable to this program. Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above New York address.

11.800 Minority Business Development, (Catalog of Federal Domestic Assistance)

Dated: September 24, 1991.

**William R. Fuller,**

*Regional Director (Deputy), New York Regional Office.*

[FR Doc. 91–23561 Filed 9–30–91; 8:45 am]

BILLING CODE 3510–21–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: DOD FAR Supplement, 252.249–7001, Notification of Substantial Impact on Employment; DD Form 2604; OMB Control Number 0704–0327.

*Type of Request:* Expedited Submission—Approval Date Requested: October 25, 1991.

*Average Burden Hours/Minutes per Response:* 16 Hours.

*Responses per Respondent:* 7.5.

*Number of Respondents:* 114.

*Annual Burden Hours:* 13,680.

*Annual Responses:* 855.

*Needs and Uses:* Section 4201 of the National Defense Authorization Act for Fiscal Year 1991 (Pub. L. 101–510, Division D, Title XLII; Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act of 1990) requires the Secretary of Defense to notify the Department of Labor if a modification or termination of a major defense contract or subcontract will have a substantial impact on employment. The Act defines what constitutes a major defense contract or subcontract and establishes criteria for determining if there is a substantial impact on employment. The statute reflects Congressional concern about the economic impact on communities, businesses, and employees affected by "(1) the annual budget of the President submitted to Congress and any longer-term guidance document of the Secretary of Defense; (2) the public announcement of the realignment or closure of a military installation or defense facility; or (3) the cancellation or curtailment of a major defense contract" (Sec. 4101(a) of Pub. L. 101–510). In order to comply with the requirement to provide prompt notice to the Secretary of Labor, the Department of Defense needs to know if a proposed contract modification or termination will have a substantial impact on employment, as defined in the Act and implemented in the regulation. This information can only be provided by the contractor or subcontractor affected by the modification or termination. The final rule applies to all contract modifications and terminations for convenience of prime contracts over $5 million and subcontracts of $500,000 or more. Contractors may use optional form DD 2604, Notification of Substantial Impact, to provide the required notification. OMB granted emergency approval of this information collection for the period ending September 30, 1991, under OMB control number 0704–0327.

*Affected Public:* Businesses or other for-profit organizations, including small businesses or organizations.

*Frequency:* On occasion.

*Respondents Obligation:* Voluntary.

*OMB Desk Officer:* Mr. Peter Weiss.

Written comments and recommendations on the proposed information collection should be sent to Mr. Peter Weiss 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: September 26, 1991.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

BILLING CODE 3810–01–M

# NOTIFICATION OF SUBSTANTIAL IMPACT

*(Pub. L. 101-510, Div. D, Title XII; DFARS 252.249-7001)*

*Form Approved*
*OMB No. 0704-0327*
*Expires*

Public reporting burden for this collection of information is estimated to average per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Defense, Washington Headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302, and to the Office of Management and Budget, Paperwork Reduction Project (0704-XXXX), Washington, DC 20503.

**PLEASE DO NOT RETURN YOUR COMPLETED FORM TO EITHER OF THESE ADDRESSES. RETURN COMPLETED FORMS TO THE INDIVIDUAL OR ADDRESS SPECIFIED IN THE INSTRUCTIONS ON BACK.**

**1. TYPE OF ACTION BEING REPORTED** *(X a. or b. and (1) or (2), as applicable)*

| | a. CONTRACT MODIFICATION | | b. CONTRACT TERMINATION | | (1) Prime Contract Over $5 Million | | (2) Subcontract Over $500,000 |
|---|---|---|---|---|---|---|---|

**2. CONTRACTING OFFICE OR ADMINISTRATIVE CONTRACTING OFFICE**

| a. NAME | b. LOCATION *(Include Zip Code)* |
|---|---|
| | |

**3. PRIME CONTRACTOR**

| a. NAME | b. LOCATION *(Include Zip Code)* |
|---|---|
| c. PRIME CONTRACT NUMBER | d. CONTRACT MODIFICATION NUMBER *(If applicable)* |

**4. SUBCONTRACTOR** *(If applicable)*

| a. NAME | b. LOCATION *(Include Zip Code)* |
|---|---|
| c. SUBCONTRACT NUMBER | |

**5. MODIFICATION OR TERMINATION APPLIES TO:**

| a. COMPANY NAME | b. COMPLETE ADDRESS OF WORK LOCATION *(Street, City, County, State and Zip Code)* |
|---|---|
| c. DIVISION | |

d. TYPE OF BUSINESS *(X one)*

| | a. LARGE BUSINESS | | b. SMALL BUSINESS | | c. SMALL DISADVANTAGED BUSINESS | | d. OTHER *(Specify)* |
|---|---|---|---|---|---|---|---|

**6. BRIEF DESCRIPTION OF ITEM(S) BEING CANCELLED OR TERMINATED**

| 7. TOTAL CONTRACT PRICE OF ITEM(S) BEING CANCELLED OR TERMINATED | 8. NUMBER OF EMPLOYEES AFFECTED | 9. PERCENT OF CONTRACTOR WORKFORCE AFFECTED AT WORK LOCATION | 10. PERCENT REDUCTION IN SALES / PRODUCTION | |
|---|---|---|---|---|
| | | | a. SALES | b. PRODUCTION |
| $ | | % | % | % |

**11. REPORTING OFFICIAL**

| a. TYPED OR PRINTED NAME *(Last, First, Middle Initial)* | b. CORPORATE TITLE | |
|---|---|---|
| c. TELEPHONE NUMBER *(Include Area Code)* | d. SIGNATURE | e. DATE OF REPORT *(YYMMDD)* |

**DD Form 2604, 910911 Draft**

## INSTRUCTIONS FOR COMPLETION OF DD FORM 2604, NOTIFICATION OF SUBSTANTIAL IMPACT

**CONTRACTORS:** Use this form to provide the notice required by DFARS 249.102 and 252.249-7001 if a modification or termination for convenience of a major defense contract or subcontract will have a substantial impact on employment, as defined in 252.249-7001. Complete one form for each affected prime contract over $5 million and/or each affected subcontract over $500,000. Submit completed forms to the cognizant contracting officer or administrative contracting officer.

**CONTRACTING ACTIVITIES:** DFARS 249.7003 requires heads of contracting activities to submit contractor notifications to the Office of Economic Adjustment (OEA), Assistant Secretary of Defense (Force Management and Personnel) within 10 work days after receipt from the contractor. Mail or telefax notices to: Office of Economic Adjustment, 400 Army-Navy Drive, Suite 200, Arlington, VA 22202-2884, ATTN: Division D Notification; Telefax No. (703) 697-3021.

**Item 1.** X either a. or b. If you are reporting a modification to a prime contract or a subcontract, X a. If you are reporting a termination of a prime contract or a subcontract, X b.

X either (1) or (2). If the modification or termination applies to a prime contract of $5 million or more, X (1). If the modification or termination applies to a subcontract of $500,000 or more, X (2).

**Item 2.** Identify the name and location of the cognizant contracting or administrative contracting office.

**Item 3.** For every report being submitted, identify the prime contractor's name and location, the complete contract number for the prime contract, and the applicable contract modification number (only applicable to reports for prime contracts).

**Item 4.** Complete only if reporting the modification or termination of a subcontract awarded under the prime contract. Identify the subcontractor's name, location, and subcontract number.

**Item 5.** Provide details on the identification and location of the prime contractor or the subcontractor affected by the modification or termination. Identify: the company's name and division; the complete address of the affected work location, including county; and the type of business (If "Other," specify, e.g., educational institution, HBCU-MI, etc.).

**Item 6.** Briefly describe the items cancelled or terminated by the modification or termination.

**Item 7.** Enter the sum value of all items cancelled as a result of the modification or termination.

**Item 8.** Identify the number of contractor or subcontractor employees affected at the reported work location.

**Item 9.** Identify the percent of contractor or subcontractor workforce affected at the reported work location.

**Item 10.** Identify the percent reduction in sales or production for the prime contractor, or, if reporting on a subcontract, for the subcontractor.

**Item 11.** Provide the name, title, telephone number and signature of the individual preparing the report, as well as the date of report.

**DD Form 2604, 910911 Draft (Back)**

[FR Doc. 91-23581 Filed 9-30-91; 8:45 am]
BILLING CODE 3810-01-C

## Department of the Army

### Johnston Atoll Chemical Agent Disposal System (JACADS) Phase II Operational Verification Testing; Finding of No significant Impact

**AGENCY:** Department of Defense, United States Army.

**ACTION:** Finding of no significant impact.

**Description of Action**

The Army proposes to resume chemical disposal operations a the Johnston Atoll Chemical Agent Disposal System (JACADS) by continuing with Phase 2 of the Operational Verification Test (OVT) and eventually, with destruction of the remaining stockpile of chemical munitions stored at Johnston Island. The Army has assessed the environmental effects of JACADS operations in previous environmental analyses. During Phase 1 operations and the subsequent shutdown period, the Army learned of new information regarding the welds in some piping systems of JACADS and has since taken steps to assess and respond to that information.

The Army has prepared the present environmental assessment (EA) to determine whether the welds information and the subsequent Army responses are "significant new circumstances or information" that would require the development of a supplemental environemtal impact statement under the Council on Environmental Quality (CEQ) Regulations 40 CFR 1502.9. In the EA, the Army considered several alternatives: (1) Alternative A—No action, the Army would not resume operation of the JACADS facility; (2) Alternative B—Postponement of Phase 2 OVT pending further radiography of welds; and (3) Alternative C—Commencement of Phase 2 OVT (proposed action) 30 days after publication of this Finding of No Significant Impact (FNSI). The Army has determined that the proposed action will not have significant impact on public health and the environment.

**Facts and Conclusions**

In early 1991, the Army commenced a reevaluation of the radiographic weld verification work that had been performed on the 13 Class II JACADS process piping systems by Finlay Laboratory Services, Inc. (Finlay), one of the original JACADS subcontractors of the New Construction Contract (NCC). The Army's decision was based on information that had surfaced in an investigation of Finlay concerning alleged contract irregularities. The Army decided that the evaluation would take place during the OVA shutdown period that was to begin at the completion of Phase 1 operations.

The Army began by retaining the firm of Nova Enterprises for evaluation of a sampling of Finlay's radiography and the underlying welds. This evaluation indicated that a number of Finlay's radiography were substandard and could not be relied upon to verify weld quality, indicating a basis for thorough evaluation of the welds. The Army then retained the firm of Hellier & Associates to re-radiograph more than 500 of the welds that had been originally radiographed by Finlay. The Army selected these welds based on their importance to plant operations and safety, and included among them all welds radiographed by Finlay in the agent, propane, and plant air systems, which are considered critical systems.

Hellier's work indicated that a number of the welds were not in strict compliance with contract specifications. Hellier concluded, however, that the imperfections found in these welds were relatively insignificant and were not of a nature to develop into through thickness cracks, with the possible exception of one weld. That weld, which was in a sodium hydroxide (decontaminating solution) line, contained an imperfection that may have had a potential to develop into a through thickness crack, although whether this potential existed could not be confirmed through radiography. The Army decided to repair or replace all of the noncomplying welds identified by Hellier and has now completed that work.

The Army also asked the JACADS operations contractor, United Engineers and Constructors (UE&C), to review all of the remaining welds in the 13 piping systems to determine if any additional welds, beyond those already identified by the Army, should be reinspected. UE&C performed a conservative "postulated weld failure analysis" and identified additional welds which, if they were to develop through thickness cracks, could adversely affect agent operations, personnel safety or the environment. UE&C recommended that the Army reinspect and repair or otherwise address these welds, and concluded that upon implementation of its recommendations, operation of the 13 Class II piping systems would pose an extremely remote risk to safety, agent operations and the environment, comparable to the risk that could be expected if all welds in these systems were in strict compliance with contract specifications. The Army will implement all UE&C's recommendations prior to resuming disposal operations.

Additionally, the Army asked the Ralph M. Parsons Company, the JACADS dosing contractor that developed the contract specifications for quality and verification of JACADS welds, to review UE&C's analysis. The design contractor agreed with UE&C's analytical approach and found that the steps taken by the Army to validate the safety of the subject welds were appropriate.

Finally, as part of its ongoing quality assurance program, E&C has verified the safety and reliability of welds in piping systems installed under the Equipment Installation Contract.

Based on the EA and the supporting analyses provided by the Army and its contractors, I am satisfied that the Army has identified and repaired, replaced or otherwise adequately addressed all welds verified by Finlay in the 13 Class II process piping systems in which postulated cracks could potentially cause significant environmental effects. Furthermore, I am satisfied that the Army has adequately addressed the integrity of all full penetration welds installed pursuant to the Equipment Installation Contract. I therefore concluded that the new information regarding noncomplying JACADS welds does not constitute "significant new circumstances or information" requiring preparation of a supplemental Environmental Impact Statement. The environmental impacts of continued operation of JACADS have been adequately addressed in existing environmental analysis.

**FOR FURTHER INFORMATION CONTACT:**

Office of the Assistant Secretary of the Army (Installation, Logistics and Environment), ATTN: SFIL-CD (Mr. Thomas Hess), Pentagon, Washington, DC 20310–0110; telephone (703) 695–1020.

Issued at The Pentagon, Washington, DC.

Dated: September 25, 1991.

**Michael W. Owen,**

*Prncipal Deputy Assistant Secretary of the Army (Installations, Logistics and Environment).*

[FR Doc. 91–23575 Filed 9–30–91; 8:45 am]

BILLING CODE 3710–08–M

## Board of Visitors, United States Military Academy; Open Meeting

In accordance with section 10(a)(20) of the Federal Advisory Committee Act (Public Law 92–463), announcement is made of the following meeting.

*Name of Committee:* Board of Visitors, United States Military Academy.

*Date of Meeting:* 30 October–2 November 1991.

*Place of Meeting:* West Point, New York.
*Start Time of Meeting:* 1930 hours, 30 October 1991.
*Proposed Agenda:* Briefing/Discussions on Financial Structure and Operation of the United States Military Academy to include Executive Summary of FY92 USMA Budget; Faculty Selection; and Leadership Issues involving Gender. The Board will hold a roundtable discussion with the Brigade First Captain and regimental chain of command on cadet leadership issues. They will receive updates on Graduate Performance and the status of pending legislation affecting or of interest to the service academies. The Board will observe the Academy academic programs in a classroom environment and will participate in a roundtable discussion with senior faculty members regarding academic programs and outcomes. Drafting of Board Conclusions and Recommendations for inclusion in the Annual Board of Visitors Report.

All proceedings are open. For further information, contact Lieutenant Colonel Stephen R. Furr, United States Military Academy, West Point, NY 10996–5000, (914) 938–4200.

**John O. Roach, II,**

*Army Liaison Officer with the Federal Register.*

[FR Doc. 91–23560 Filed 9–30–91; 8:45 am]

BILLING CODE 3710–08–M

## Defense Nuclear Agency (DNA); Membership of the Defense Nuclear Agency Performance Review Board

**AGENCY:** Department of Defense, Defense Nuclear Agency.

**ACTION:** Notice of membership of the Defense Nuclear Agency Performance Review Board.

**SUMMARY:** This notice announces the appointment of the members of the Performance Review Board (PRB) of the Defense Nuclear Agency. The publication of PRB membership is required by 5 U.S.C. 4314(c)(4). The Performance Review Board shall provide fair and impartial review of Senior Executive Service performance appraisals and make recommendations regarding performance and performance awards to the Director, Defense Nuclear Agency.

**EFFECTIVE DATE:** The effective date of service for the appointees of the DNA PRB is on or about 30 October 1991.

**FOR FURTHER INFORMATION CONTACT:** D. Dial-Alfred, Policy Branch (CVPO), Defense Nuclear Agency, Washington, DC 20305–1000, (703) 325–7593.

**SUPPLEMENTARY INFORMATION:** The names and titles of the members of the DNA PRB are set forth below. All are DNA officials unless otherwise identified:

Dr. George W. Ullrich, Deputy Director.
Dr. E. John Ainsworth, Scientific Director.
Ms. Joan Ma Pierre, Director for Radiation Sciences.
Mr. Curtis L. Dierdorff, Director of Personnel, Defense Mapping Agency.
Dr. Spiros G. Pallas, Special Assistant to the Deputy Director for Tactical.
Warfare Programs, Office of the Secretary of Defense.

The following DNA officials will serve as alternate members of the DNA PRB, as appropriate.

Dr. E. John Ainsworth, Scientific Director.
Mr. John M. Bachkosky, Director for Plans, Programs and Requirements.
Dr. Paul H. Carew, Comptroller.
Mr. Frederick S. Celec, Deputy Director for Operations.
Mr. Jonathan Z. Farber, Special Assistant to the Deputy Director.
Mr. David G. Freeman, Director, Acquisition Management Office.
Dr. Kent L. Goering, Chief, Structural Dynamics Division.
Mr. Richard L.Gullickson, Chief, Electronmagnetic Applications Division.
Mr. Joseph W. LaComb, Chief, Nevada Operations Office.
Dr. Don A. Linger, Director for Test.
Mr. Clifton B. McFarland, Jr., Chief, Weapons Effects Division.
Mrs. Joan Ma Pierre, Director for Radiation Sciences.
Mr. Robert C. Webb, Chief, Electronics Effects Division.
Dr. Leon A. Wittwer, Chief, Atmospheric Effects Division.

Dated: September 26, 1991.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 91–23580 Filed 9–30–91; 8:45 am]

BILLING CODE 3810–01–M

## DEPARTMENT OF EDUCATION

### Proposed Information Collection Request, Department of Education

**ACTION:** Notice of proposed information collection request; correction.

On September 10, 1991, the Director of the Office of Information Resources Management published in the **Federal Register** at 56 FR 46174 a notice of proposed information collection request for the National Assessment of Educational Progress (NAEP) 1991–1992 Assessment: Background/Attitude, Reading, Mathematics and Writing. With regard to the NAEP 1991–1992 Assessment, the date was incorrectly stated regarding comments from interested persons. Therefore, the following change is made: The deadline date for comments on the NAEP Assessment is corrected to read October 1, 1991.

**FOR FURTHER INFORMATION CONTACT:** Mary P. Liggett, Department of Education, 400 Maryland Avenue, SW., room 5624, Regional Office Building 3, Washington, DC 20202. Telephone: (202) 708–5174.

Dated: September 27, 1991.

**Mary P. Liggett,**

*Acting Director, Office of Information Resources Management.*

[FR Doc. 91–23661 Filed 9–27–91; 11:45 am]

BILLING CODE 4000–01–M

### Proposed Information Collection Requests

**AGENCY:** Department of Education.

**ACTION:** Notice of proposed information collection requests.

**SUMMARY:** The Director, Office of Information Resources Management, invites comments on proposed information collection requests as required by the Paperwork Reduction Act of 1980.

**DATES:** An expedited review has been requested in accordance with the Act, since allowing for the normal review period would adversely affect the public interest. Approval by the Office of Management and Budget (OMB) has been requested by October 28, 1991.

**ADDRESSES:** Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection request should be addressed to Mary P. Liggett, Department of Education, 400 Maryland Avenue, SW., room 5624, Regional Office Building 3, Washington, DC 20202.

**FOR FURTHER INFORMATION CONTACT:** Mary P. Liggett (202) 708–5174.

**SUPPLEMENTARY INFORMATION:** Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 3517) requires that the Director of OMB provide interested Federal agencies and persons an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Office of Information Resources Management, publishes this notice with the attached proposed information collection request prior to submission of this request on OMB. This notice contains the following information: (1) Type of review requested, e.g., expedited; (2) Title; (3) Abstract; (4) Additional Information; (5) Frequency of collection; (6) Affected public; and (7) Reporting and/or Recordkeeping burden. Because an expedited review is requested, a description of the information to be collected is also included as an attachment to this notice.

Dated: September 26, 1991.

**Mary P. Liggett,**

*Acting Director, Office of Information Resources Management.*

**Office of Planning, Budget and Evaluation**

*Type of Review:* Expedited.
*Title:* Descriptive Study of the Chapter 1 Migrant Program: Substudy on Migrant Participation in Regular chapter 1.
*Abstract:* This substudy will obtain national data regarding why students enrolled in the Migrant Education Program (MEP) are not enrolled in the regular Chapter 1 program. This information will be used for program improvement and policy refinement.
*Additional Information:* An expedited review is requested to incorporate results of the substudy in the final report to Congress. Failure to collect this information in a timely manner would result in incomplete data reported to Congress. This instrument entails telephone interview questions which collects information from school principals, assistant principals or MEP coordinators. The questions consist of the following:

1. Did this school offer Chapter 1 Basic Grant services (excluding Chapter 1 Migrant Education Program services) during the 1989–90 regular school? (If "Yes," continue with Q.2; if "No," terminate interview.)
2. At what grade levels were chapter 1 Basic Grant services offered?
3. For each grade level where chapter 1 basic services were offered, what subjects were taught (by the Chapter 1 Basic Grant program)?
   a. Reading.
   b. Other language arts.
   c. Mathematics.
   d. Other (Specify).
4. What test score cutoffs were used to determine eligibility?
5. Were there any reasons (other than grade level or cutoff score) why a student would not receive Chapter 1 Basic Grant services in this school?

*Frequency:* One time.
*Affected Public:* State or local government.
*Reporting Burden:*
*Responses:* 267.
*Recordkeeping Burden:*
*Recordkeepers:* 0.
*Burden Hours:* 53.
*Burden Hours:* 0.

[FR Doc. 91–23632 Filed 9–30–91; 8:45 am]

BILLING CODE 4000–01–M

## Proposed Information Collection Requests

**AGENCY:** Department of Education.

**ACTION:** Notice of proposed information collection requests.

**SUMMARY:** The Director, Office of Information Resources Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

**DATES:** Interested persons are invited to submit comments on or before October 31, 1991.

**ADDRESSES:** Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Mary P. Liggett, Department of Education, 400 Maryland Avenue, SW., room 5624, Regional Office Building 3, Washington, DC 20202.

**FOR FURTHER INFORMATION CONTACT:** Mary P. Liggett (202) 708–5174.

**SUPPLEMENTARY INFORMATION:** Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Acting Director, Office of Information Resources Management, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, containing the following:

(1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from May P. Liggett at the address specified above.

Dated: September 26, 1991.

**Mary P. Liggett,**

*Acting Director, Office of Information Resources Management.*

**Office of Special Education and Rehabilitative Services**

*Type of Review:* New.
*Title:* Evaluation of Procedures to Recruit and Retain Qualified Field Service Personnel in the State-Federal Rehabilitation Program.
*Frequency:* One time.
*Affected Public:* State or local governments; Federal agencies or employees.
*Reporting Burden:*
*Responses:* 1,843.
*Burden Hours:* 1,628.
*Recordkeeping Burden:*
*Recordkeepers:* 0.
*Burden Hours:* 0.
*Abstract:* This study will be used to address problems of personnel shortages and high staff turnover at state VR agencies nationally. The Department will use the information for improving the impact and outcomes of recruitment and retention activities.

**Office of Elementary and Secondary Education**

*Type of Review:* New.
*Title:* Survey on School Facility Needs—Construction Assistance under Public Law 81–815.
*Frequency:* On occasion.
*Affected Public:* State or local governments.
*Reporting Burden:*
*Responses:* 178.
*Burden Hours:* 356.
*Recordkeeping Burden:*
*Recordkeepers:* 0.
*Burden Hours:* 0.
*Abstract:* This study will be used to obtain current data from school applicants that are on the priority list to receive construction assistance. The Department will use the information to determine the degree of need for facilities in each school district on the priority list.

**Office of Elementary and Secondary Education**

*Type of Review:* Extension.
*Title:* Application for Grants under the Women's Educational Equity Act (WEEA) Program.
*Frequency:* Annually.
*Affected Public:* Individuals or households; State or local governments; non-profit institutions.
*Reporting Burden:*
Responses: 400.
*Burden Hours:* 6,400.
*Recordkeeping Burden:*
Recordkeepers: 0.
*Burden Hours:* 0.
*Abstract:* This form will be used by state educational agencies to apply for funding under the Women's Educational Equity Act (WEEA) Program. The Department uses the information to make grant awards.

**Office of Elementary and Secondary Education**

*Type of Review:* Extension.
*Title:* State Performance Report—Chaper 1 Migrant Education Program.
*Frequency:* Annually.
*Affected Public:* State or local governments.
*Reporting Burden:*
Responses: 51.
*Burden Hours:* 5,610.
*Recordkeeping Burden:*
Recordkeepers: 0.
*Burden Hours:* 0.
*Abstract:* State educational agencies that have participated in the chapter 1 Migrant Education Program are to submit the report to Department. The Department uses the information to assess the accomplishments of project goals and effective program management.

**Office of Postsecondary Education**

*Type of Review:* Extension.
*Title:* Application for Institutional Eligibility and Certification.
*Frequency:* On Occasion.
*Affected Public:* Businesses or other for-profit; non-profit institutions.
*Reporting Burden:*
Responses: 4,370.
*Burden Hours:* 13,110.
*Recordkeeping Burden:*
Recordkeepers: 0.
*Burden Hours:* 0.
*Abstract:* This form will be used by state educational agencies to apply for funding under the Higher Education Act Programs. The Department uses the information to make grant awards.

**Office of Management**

*Type of Review:* Extension.
*Title:* Education Department General Administrative Regulations (EDGAR).
*Frequency:* As required.
*Affected Public:* State or local governments; non-profit institutions; small businesses or organizations.
*Reporting Burden:*
Responses: 1.
*Burden Hours:* 0.
*Recordkeeping Burden:*
Recordkeepers: 0.
*Burden Hours:* 0.
*Abstract:* These regulations establish uniform requirements for the administration of direct and state administered grants awarded by the Department of Education. The Department will use the information to ensure compliance and conformity among education Department grantees.

[FR Doc. 91-23633 Filed 9-30-91; 8:45 am]
BILLING CODE 4000-01-M

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## Office of Postsecondary Education

**[CFDA Number 84.097A]**

## Law School Clinical Experience Program

**AGENCY:** Department of Education.

**ACTION:** Notice of Technical Assistance Workshop.

**SUMMARY:** The Department of Education will conduct a Technical Assistance Workshop to assist applicants under the Law School Clinical Experience Program. The Technical Assistance Workshop is scheduled to be held on October 18, 1991, from 8:30 a.m. to 4 p.m., in the General Services Administration Building's Auditorium, Regional Office Building Number 3, 7th & D Streets, SW., D Street Entrance, Washington, DC 20202.

**FOR FURTHER INFORMATION CONTACT:** Mrs. Barbara J. Harvey, Division of Higher Education Incentive Programs, 400 Maryland Avenue, SW., Washington, DC 20202-5251. Telephone (202) 708-7863. Deaf and Hearing impaired individuals may call the Federal Dual Party Relay Service at 1-800-877-8339 (in the Washington, DC, 202 area code, telephone 708-9300) between 8 a.m. and 7 p.m., Eastern time.

**Program Authority:** 20 U.S.C. 1134s-1134t.

Dated: September 25, 1991.

**Michael J. Farrell,**

*Acting Assistant Secretary for Postsecondary Education.*

[FR Doc. 91-23634 Filed 9-30-91; 8:45 am]
BILLING CODE 4000-01-M

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## DEPARTMENT OF ENERGY

## Finding of No Significant Impact—Installation and Operation of the Advanced Fleet Reactor Prototype in the S8G Prototype Plant, Kenneth A. Kesselring Site, Saratoga County, NY

**AGENCY:** Department of Energy.

**ACTION:** Finding of no significant impact.

**SUMMARY:** The Department of Energy (DOE) Office of Naval Reactors has prepared an Environmental Assessment (EA) of the proposed action to install and operate the Advanced Fleet Reactor prototype in the S8G Prototype Plant at the Kesselring Site. The Advanced Fleet Reactor (AFR) has been designed for use in the Navy's newest class of attack submarines, the SEAWOLF (SSN-21) Class. The purpose of the proposed action is to confirm satisfactory performance of the AFR prototype prior to use of this design in an operating warship. Operation of new design reactor cores in land based prototype plants prior to their use in warships has been a standard Naval Reactors practice for over 35 years, since the first nuclear powered submarine, USS NAUTILUS.

The EA also discusses alternatives to the proposed action and concludes that there are no alternatives to the proposed action that would accomplish the desired goal of confirming proper operation of the AFR prototype without excessive cost or compromising other important Naval Reactors objectives. The EA discusses the limited extent of the proposed action, which consists of replacing the existing expended S8G reactor core with an AFR prototype reactor core and some related equipment. The EA summarizes and references the extensive body of existing published reports which discuss the environmental performance of the Kesselring Site, including the releases of radioactivity from the Site and the absence of environmental impact from Site operations. The EA discusses how the replacement of the S8G core with the AFR core, which has a slightly higher power rating, would not significantly affect radiological and nonradiological emissions from the Kesselring Site.

Based on the analysis in the EA, Naval Reactors issued a proposed Finding of No Significant Impact (FONSI) on July 1, 1991. The proposed FONSI was published in the **Federal Register** on July 5, 1991, beginning a 30-day public review period (Vol. 56, No. 129, pp. 30741-30743). The fact that the proposed FONSI appeared in the **Federal Register** and was available for review along with the EA at the

Schenectady Public Library was advertised in several local newspapers in the Schenectady area through public notices placed by Naval Reactors. Copies of the EA and proposed FONSI also were distributed to interested parties.

Eight letters were received. These comment letters and the Naval Reactors responses to these comments are presented in a new appendix D to the EA. Appendix D has been sent to the commenters, to other interested parties, and has been placed with the EA in the Schenectady Public Library. Also, copies of the EA, comment letters, and references cited in the EA have been placed in the DOE Headquarters Public Reading Room at the Forrestal Building, 1000 Independence Avenue SW., Washington, DC. A summary of the comments and the Naval Reactors responses have been included at the end of this notice.

After considering the comments received in these letters, Naval Reactors has concluded that no new information has been made available that would change the determination that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment, within the meaning of the National Environmental Policy Act (NEPA) of 1969, (42 U.S.C. 4321 et seq.). Therefore, Naval Reactors is issuing this final FONSI.

**ADDRESSES AND FURTHER INFORMATION:** Persons requesting additional information on the FONSI for installation and operation of the AFR prototype in the S8G Prototype Plant, the NEPA process associated with this proposed action, or wishing a copy of the EA should contact Mr. Kevin Davis, U.S. Department of Energy, Office of Naval Reactors (NE–60), Washington, DC, 20585, (703)–603–5564.

**SUPPLEMENTARY INFORMATION:**

**Background**

The Naval Nuclear Propulsion Program is a joint Navy/DOE program established in Presidential Executive Order 12344 (permanently enacted by Public Law 98–525, 42 U.S. Code 7158). The Office of Naval Reactors is the Naval Nuclear Propulsion Program organization within the DOE. Under the law, Naval Reactors is responsible for all matters pertaining to Naval nuclear propulsion including "* * * research, development, design, acquisition, specification, construction, inspection, installation, certification, testing, overhaul, refueling, operating practices and procedures, maintenance, supply support, and ultimate disposition of naval nuclear propulsion plants * * *" and "* * * the safety of reactors and associated naval nuclear propulsion plants, and control of radiation and radioactivity associated with naval nuclear propulsion activities * * *."

The United States Navy currently has 142 nuclear powered warships in operation. These vessels represent over 40% of the Navy's principal combatants. The first ship of the Navy's newest class of attack submarines, the SEAWOLF (SSN–21) Class, was authorized in the Fiscal Year 1989 Department of Defense Appropriation Act. It is currently under construction at the Electric Boat Division Shipyard at Groton, Connecticut and is scheduled to go to sea in the mid 1990's. A second SEAWOLF Class submarine was authorized by Congress in the Fiscal Year 1991 Department of Defense Appropriation Act.

**Proposed Action**

Naval Reactors operates seven prototype naval nuclear propulsion plants which were built to confirm satisfactory performance of new warship propulsion plant designs before they were installed and used in ships at sea. In addition to this function, these prototype plants provide a training platform for naval officers and enlisted personnel. Subsequent to their construction, the prototype plants have been used to test new components, including improved reactor cores. Since the inception of the Naval Nuclear Propulsion Program in 1949, over 35 different reactor core designs have been developed and operated. Continuing this practice, Naval Reactors proposes to install and operate the AFR prototype in the S8G Prototype Plant.

The S8G Prototype Plant began operation in 1979 as the prototype for the TRIDENT submarine and is the most modern Naval prototype plant. The S8G Prototype Plant was constructed with containment and engineered safety features comparable to a commercial nuclear power plant. Installation of the AFR Prototype will require removing the depleted S8G core and its supporting structure from inside the reactor vessel, the reactor vessel head, and the control rod drive mechanisms, followed by replacement with AFR equipment.

**Alternatives Considered**

There are no alternatives to the proposed action which would accomplish the Naval Reactors objective of confirming satisfactory operation of the AFR prototype without either excessive cost or jeopardizing other important missions of Naval Reactors. The no action alternative would be to continue operation of the S8G Prototype Plant with an identical replacement S8G core and not confirm satisfactory operation of the AFR prototype prior to operation in the first SEAWOLF submarine. This would depart from successful Naval Reactors practice of over 35 years. Confirmation of AFR operation in an existing Navy ship would require removing a TRIDENT submarine from strategic deterrent service and would not provide as much useful technical information as operation in a land based prototype. No other existing Naval Reactors prototype is suitable for installation of the AFR prototype, and no other DOE owned reactor could accommodate it. The alternative of constructing a totally new prototype plant is undesirable due to the cost exceeding $2 billion.

**Environmental Considerations**

An extensive body of existing environmental reports document the environmental performance of the Kesselring Site, including the S8G Prototype Plant and the three other prototype plants at the Site. The four prototype plants combined release a very small fraction of the amount of radioactivity released by a typical commercial nuclear power plant operating in accordance with Nuclear Regulatory Commission license limits. Radiological environmental monitoring by Kesselring Site personnel, and independent monitoring by the State of New York, have not detected any off-site radioactivity from Site operations. There is no radioactivity from the Site detectable in the small trout stream which runs through the Site and receives Site liquid effluents. Releases of airborne radionuclides result in off-site doses that are less than one percent of the U.S. Environmental Protection Agency standard. Nonradioactive effluents including thermal effluents also are carefully controlled. Routine biological monitoring of the trout stream demonstrates that the Kesselring Site has not degraded this healthy trout stream. The General Accounting Office recently completed a thorough fourteen month review of environment, health, and safety matters (including reactor safety) at DOE sites under the cognizance of Naval Reactors, including the Kesselring Site. The General Accounting Office reported to Congress that they found no significant deficiencies.

Since the AFR core is rated at a power only slightly greater than the S8G core,

there would be no discernible change in the year to year variations in the very small radiological effluents from the Site. The temperature of nonradioactive liquid effluents would not increase and stringent New York State limits on thermal releases to the trout stream would continue to be met. Routine radioactive and nonradioactive waste generation would not be affected by installation and operation of an AFR prototype reactor core rather than a replacement S8G core. These waste generation rates would remain consistent with past waste generation from the Kesselring Site. There will be no increase in hazardous or mixed hazardous and radioactive waste generation as a result of AFR prototype installation and operation.

U.S. Naval nuclear propulsion reactors have an outstanding safety record. In over 3900 reactor-years of operation, there has never been a nuclear reactor accident nor any event having a significant effect on the environment. As discussed in the EA, features which are built into U.S. Naval nuclear propulsion reactors to make them battleworthy also enhance reactor reliability and safety. As discussed in the classified appenedix to the EA, the design of the AFR allows the AFR prototype to improve performance without sacrificing safety margins. As is the case for all new Naval reactor plant designs, the S8G Prototype Plant design was reviewed with the Nuclear Regulatory Commission and the Advisory Committee on Reactor Safeguards. Even in the event of an accident of remote probability where the engineered safety features of the prototype plant are assumed to fail to work, operation of the S8G Prototype Plant would meet the reactor siting criteria of 10 CFR 100 used for commercial reactors. The EA discusses how the replacement of the S8G reactor core with an AFR prototype core would not affect this conclusion.

**Determination**

Based on the information and analysis in the EA as well as review of the letters commenting on the EA and proposed FONSI, Naval Reactors considers that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment, within the meaning of NEPA. Therefore, Naval Reactors has determined that preparation of an environmental impact statement is not required.

Issued at Arlington, VA this 20th day of September 1991.

**B. DeMars,**

*Deputy Assistant Secretary for Naval Reactors.*

**Summary of Public Comment on the Environmental Assessment and Proposed Finding of No Significant Impact and Naval Reactors Responses**

Eight letters were received concerning this EA and the proposed Finding of No Significant Impact. A summary of each substantive comment and the Naval Reactors response is provided below:

*1. U.S. Environmental Protection Agency, Region II (August 5, 1991)*

*Comment 1:* Page 2, Paragraph 3. The EA states that, "The NRC staff concluded that the operation of the S8G reactor constitutes an acceptable risk * * *." The numeric level of risk deemed acceptable, or the method of drawing the conclusion, should be included.

*Response:* The NRC made the conclusion cited in the EA (page 2) following their extensive review of the design of the S8G Prototype Plant, including classified design information, with consideration of Site environmental factors. The NRC staff concluded that the operation of the S8G reactor constitutes an acceptable risk provided the Naval Nuclear Propulsion Program system of selection, training, and qualification of nuclear plant personnel continued. The NRC conclusion was not based upon a numeric level of risk. Further information on the outstanding safety record of U.S. Naval nuclear propulsion plants is provided in the EA on pages 10 through 12.

*Comment 2:* Page 7, Paragraph 1. Although the Knolls Atomic Power Lab (KAPL) describes the radiation releases over the past ten years as much less than commercial nuclear plants, the yearly radiation releases during KAPL's lifetime were not included. These data should be included in future documents.

*Response:* The action proposed is installation and operation of a new design AFR core in place of the current S8G core. Information on radioactivity releases over the past ten years is relevant for comparison with the S8G core which has been in operation since 1979. Information on the earlier years of KAPL operations at the Kesselring Site is beyond the scope of this EA. However, information on releases of radioactivity is available in the publicly available Kesselring Site Environmental Summary Report and annual site environmental monitoring reports. The EA (page 6) stated that the historical impacts of the Kesselring Site prototypes are described in the summary report which was Reference 4 of the EA.

*Comment 3:* Page 10, Paragraph 1. The EA states that, "For the past 10 years, no person in the Program has received more than two rem of occupational radiation exposure in a year." To better explain the safety record of the site, the whole body doses of individuals each year over the sites' lifetime should be included in the EA.

*Response:* The Naval Reactors policy of limiting personnel occupational radiation exposure to less than two rem per year has been in effect during the past ten years as stated in the EA (page 10). Prior to that time, some individuals received higher doses. However, no person at the Kesselring Site has ever exceeded Federal limits for occupational radiation exposure. Information on occupational radiation exposure for the past ten years is relevant for comparison with the S8G core which has been in operation since 1979. Occupational radiation exposure from early years of Kesselring Site operation is beyond the scope of this EA. The EA (page 16) does note that installation of the AFR prototype core rather than a new S8G core could not significantly affect occupational radiation exposure during the refueling overhaul.

*Comment 4:* Page 10, Paragraph 4. It is stated that the Safety and Analysis plan analyzed how "the S8G Prototype Plant is designed to withstand a wide variety of accident conditions without damage to the reactor core or release of significant amounts of radioactivity." The term "significant amounts of radiation" should be quantified. Also, the EA does not discuss whether, during the various accident scenarios, other portions of the reactor (besides the core) would be damaged, breached, or destroyed.

*Response:* The Safety Analysis Report for the S8G Prototype Plant, which analyses how the plant is designed to withstand a wide variety of accident conditions, is classified due to the necessary inclusion of detailed design information on the plant. This report has been reviewed by the NRC. The generic description of the types of analyses included in the document was provided in the EA (page 11), which special attention being given to the extreme hypothetical case. Even under these conditions, the 10 CFR part 100 siting criteria are met. Further, the EA (pages 16 and 17) notes that even with the slightly higher amount of radioactivity in the AFR core, installation of the AFR prototype in the S8G Prototype Plant

will not affect the conclusion of the original S8G Prototype Plant Safety Analysis Report that the operation of this prototype would meet the 10 CFR part 100 siting criteria. As discussed further in response to comment 1 from the Natural Resources Defense Council, it is not possible to provide detailed information about a Naval nuclear propulsion reactor in an unclassified manner that would allow for a detailed unclassified evaluation. However, the EA does describe independent review of Naval Reactors activities at DOE sites including the Kesselring Site by the GAO. The EA (page 6) cites the extension GAO review of Naval Reactors programs and their conclusion that they found no significant deficiencies. The GAO review team included personnel with expertise in nuclear engineering, radiological protection, environmental controls, and occupational safety.

*Comment 5:* Page 11, Paragraph 2. The EA refers to reactor siting criteria defining off-site exposure limits of "25 rem to the whole body and 300 rem to the thyroid." It should be stated that these numbers apply to once in a lifetime accidental or emergency doses to radiation workers.

*Response:* These doses are established for off-site members of the public in 10 CFR part 100 for the purposes of siting commercial power reactors. The EA (page 11) included a direct quote from the 10 CFR part 100 regulation on the significance and use of these doses. The complete footnote from 10 CFR part 100 which contained the statement cited in the EA is as follows:

> The whole body dose of 25 rem referred to above corresponds numerically to the once in a lifetime accidental or emergency dose for radiation workers which, according to NCRP recommendations may be disregarded in the determination of their radiation exposure status (see NBS Handbook 69 dated June 5, 1959). However, neither its use nor that of the 300 rem value for thyroid exposure as set forth in these site criteria guides are intended to imply that these numbers constitute acceptable limits for emergency doses to the public under accident conditions. Rather, this 25 rem whole body and 300 rem thyroid value have been set forth in these guides as reference values, which can be used in the evaluation of reactor sites with respect to potential reactor accidents of exceedingly low probability of occurrence, and low risk of public exposure to radiation.

*Comment 6:* Page 13, Paragraph 3. The document describes the typical low-level radioactive waste per year at Kesselring as 140 cubic meters. The EPA should be given an estimate of radioactive waste (both high- and low-level) that will be generated by installing the AFR core and removing the old core.

*Response:* Since the proposed action covered by this EA is installation of an AFR core rather than an S8G core, the EA reviews the potential for environmental impacts based on differences associated with the two cores. With regard to any high level waste associated with the fuel and fission products contained in the cores themselves, the EA (page 17) states that handling and processing of an AFR core at the end of its life would not differ significantly from handling and processing a second S8G core. Cores removed from prototype reactors are handled in the same way as cores removed during routine refueling of the 163 reactors in the 142 nuclear powered ships of the U.S. Navy which include aircraft carrier reactors which are much larger in size and rated power than either AFR or S8G. The minor differences in size and radioactivity content between an S8G core and an AFR core (which are classified in their details) would not affect expended core handling and processing.

The amount of low level waste associated with refueling the S8G Prototype Plant would not be affected by the type of core installed. The typical amount cited for the four reactor Kesselring Site is based on past data and includes waste resulting from maintenance, overhaul, and refueling operations at the other prototypes plants. The S8G Prototype Plant refueling and overhaul, which will take place during three calendar years, will be similar to work at the other prototypes. The 140 cubic meter amount is expected to remain unchanged on average. The EA (page 17) states that all of the radioactive waste would be within the NRC limits for low level radioactive waste disposal (10 CFR part 61). In addition, since the AFR prototype rated power is only slightly higher than that of an S8G core, the radioactivity content of radioactive materials generated during operation of the AFR prototype would remain essentially unchanged.

*Comment 7:* Page 16, Paragraph 4. Although it is stated that "Installation of the AFR prototype will not result in a significant increase in radioactive or hazardous waste generation compared to refueling with a replacement S8G core," there is no discussion of the core support structure, reactor vessel head, and control drive mechanisms. These components are large, highly contaminated, and not standard removal items during normal core removal. This will produce a large volume of radioactive waste that does not seem to have been accounted for. The radioactive waste generation resulting from this non-standard core replacement should be more accurately quantified.

*Response:* Unlike commercial reactors which are refueled at intervals of two years or less, Naval reactors operate in excess of ten years between refuelings. Thus, it is not uncommon to have reactor support structure and other components replaced at refuelings even when the same design core is being installed. There have been two shipments of such support structures from the Kesselring Site in the past ten years. Although detailed engineering planning has not been conducted for refueling the S8G Prototype Plant with an S8G core, replacement of the support structure and reactor vessel head would have to be considered even if a new S8G core were to be installed. The EA states that the volume of this waste would be approximately 100 cubic meters. This is consistent with the 140 cubic meter annual average for the Kesselring State which includes such shipments in the past.

*Comment 8:* Page 7, Paragraph 4. The document states that the "amount of airborne radionuclides released, and the off-site impact" are calculated using EPA approved calculational models. The type of model used (i.e., COMPLY code, AIRDOS PC) is needed to fully interpret the information.

*Response:* The EA (page 7) references the annual report which discusses airborne radionuclides releases. The EPA approved calculational model used for the Kesselring Site is CAP 88.

*Comment 9:* Page 7, Paragraph 4. In this same paragraph, reference is made to the latest New York report showing no readings above background levels of radioactivity. The background levels, as well as the readings given in the New York State report, are needed to clarify this statement.

*Response:* The New York State report, Reference 10 of the EA, did not include distant background samples to compare with the results measured at the Site boundary. The report listed the individual air and water sample results and stated the following:

> 1. *Radioactivity in Air. Gross beta activity at this location was within the normal range for background levels.*
>
> 2. *Radioactivity in Water.* Both locations show values typical of normal background levels for gross alpha, gross beta and tritium activity.

*Comment 10:* Page 12, Paragraph 3. Discussion is offered regarding formal academic training on nuclear propulsion technology and practical training at prototype for Navy operators. A

description of the safety training and training in emergency procedures received by Navy operating personnel should also be provided.

*Reponse:* Installation and operation of the AFR prototype instead of a replacement S8G core would not require any change in emergency planning or in training of Navy operators. The EA (pages 10 through 12) discusses qualification and training of Navy personnel. This process includes screening for proper educational background, six months of formal academic training, and six months of practical training under constant direct supervision at a prototype reactor point. An important part of this supervised training covers how to respond to potential casualty situations. Such training includes not only review of casualty procedures, but also participation in numerous casualty drills at the prototype, first as a student under the supervision of a qualified instructor, and later demonstrating satisfactory performance as a qualified watchstander. The EA (page 11) referenced Congressional testimony on this subject as a source of further information on this subject.

*2. U.S. Environment Protection Agency (August 16, 1991)*

This letter requested an independent review of the EA by EPA Headquarters personnel with the necessary security clearances to allow access to classified information.

*3. U.S. Environmental Protection Agency (September 11, 1991)*

This letter acknowledged the review that was conducted with EPA Headquarters. This review included classified information as well as the proposed resolution of the above comments from EPA Region II. This EPA letter stated that "Based upon this meeting and the information provided, the Office of Radiation Programs considers the EPA comments resolved and has no further comment on the proposed action."

*4. Natural Resources Defense Council and Knolls Action Project (August 5, 1991)*

*Comment 1:* The EA is inadequate because it relies on a classified "shield" which prevents members of the public from independently verifying statements in the unclassified portions of the EA.

*Response:* A great deal of information contained or referenced in the EA is publicly available, especially that pertaining to Federal environmental regulatory activities which confirm the absence of significant environment impact from Kesselring Site operations. The commenter did not provide any facts refuting the EA's characterization of the information provided in the EA's many references.

The EA also discusses the legal requirements and need to protect classified information on Naval nuclear propulsion plant design and operation (page 1). Even in this area, however, the EA provides unclassified information which clearly shows that U.S. Naval nuclear propulsion reactors have an outstanding safety record, and that their releases to the environment are minuscule compared to commerical nuclear power plants. The EA notes that the Congressional General Accounting Office and the U.S. Nuclear Regulatory Commission have had substantial access to classified information on Naval reactor design and operation as part of their reviews of Program work. It should be noted that the inability of private citizens or organizations to review classified information would exist even if an Environmental Impact Statement were prepared for the proposed action.

*Comment 2:* The EA does not provide sufficient information to justify its statement that radiation dose impacts from the AFR would be significantly lower than those experienced from commerical reactors. Information to back this statement can not be legitimately classified.

*Response:* The EA (pages 7–9) provided unclassified information which showed that routine releases of radioactivity in both airborne and liquid effluents from all four Naval prototype reactors at the Kesselring Site each year have been less than 0.5 percent of the routine releases from an average commerical reactor. The EA cited the use of EPA approved calculational models which were used to calculate the very small dose to the public from airborne releases of radioactivity from the Site. These EPA models are publicly available. The EA cited unclassified environmental monitoring reports showing no detectable radioactivity off the Kesselring Site or in the small trout steam which runs through the Site and receives the Site's liquid effluent. This unclassified information clearly demonstrates that Naval prototype reactors have radiological impacts much smaller than commerical reactors. The commenter supplied no information to refute these facts.

*Comment 3:* The discussion of the alternative of installing the AFR in an existing Navy ship was deficient since it only considered TRIDENT submarines and not other Navy ships. The Navy uses retired nuclear powered submarines to train sailors.

*Response:* The submarines retired from strategic service to be used for training are of the smaller S5W reactor type. The S5W reactor type, other submarine reactor types smaller than TRIDENT, and nuclear powered cruiser reactor types are physically incapable of accommodating AFR installation and operation. Installing the AFR prototype core in an aircraft carrier reactor would be very expensive and would require removing from sevice a multi-billion dollar national defense asset. This is just as undesirable as removing a TRIDENT submarine from service, and neither action is necessary when there is an existing land based prototype which is available.

*Comment 4:* The EA does not include discussion of the alternatives of improving the safety of the proposed action by installing improved effluent control systems, an emergency core cooling system, or a secondary containment system.

*Response:* As discussed in the EA and in an earlier response above, the effluents from the Kesselring Site reactors are already so low that installation of additional equipment to effect further reductions is unnecessary. With respect to installation of additional safety features, the EA quoted the findings of the GAO which stated that "Contrary to some allegations, we found that the protoype reactors do employ enhanced safety systems and do meet the intent of NRC's safety criteria for normal operations and accident conditions." Thus, this comment does not raise any valid alternative that should have been considered.

*Comment 5:* Case law indicates that startup of any nuclear reactor or restart of a shutdown reactor should require the consideration of an Environmental Impact Statement.

*Response:* The criterion for requiring an EIS is if the proposed action is a "major Federal action significantly affecting the quality of the human environment." The EA shows that in the case of the proposed action of installation and operation of the AFR prototype in the S8G Prototype Plant, there is no such significant impact. The fact that the S8G Prototype Plan will be shut down for a period of more than two years during the refueling and overhaul does not by itself mean that the impact of restart will be significant. Kesselring Site prototype plants routinely shut down for maintenance and less frequently for refueling. However, since the radiological releases and the nonradiological impacts such as thermal

releases from the prototype plants are so small, as described in the EA, interruption and restart of the prototype plants does not result in a significant impact warranting an EIS.

*Comment 6:* The Council on Environmental Quality (CEQ) regulations state that the extent of controversy surrounding a proposed action can affect its significance. The proposed action is clearly controversial in this case.

*Response:* For this proposed action, there is no widespread technical controversy. As discussed above, the U.S. Environmental Protection Agency considers their comments resolved and has no further comment on the proposed action. No other Federal agency and no State or local regulatory or governmental officials had any comment on the EA's analysis of the potential environmental impact of the proposed action. Only four letters from the public addressed technical concerns, and these concerns are discussed in response to their comments. During the public input process cited by the commenter, many individuals and organizations expressed opposition to the proposed action because they thought that there was no need for SEAWOLF class submarines. Three of the comment letters reiterated this contention. The EA (Appendix B) noted that discussion of the geopolitical and military needs leading to Congressional authorization of SEAWOLF class submarines is beyond the scope of this EA.

*Comment 7:* The EA implicitly concedes that the installation of a new, untested nuclear reactor near major population centers affects public health and safety.

*Response:* The EA cited analysis that the Kesselring Site meets the reactor siting criteria of the NRC's 10 CFR part 100 reactor siting regulations. The EA did not conclude that the proposed action would affect public health and safety.

*Comment 8:* The S8G Prototype Plant lacks a pressurizable secondary containment structure designed to trap radioactive and other hazardous materials in the event of an accident.

*Response:* The comment is incorrect. The S8G Prototype Plant has a pressurizable containment structure. The EA (page 2) stated that the S8G Prototype Plant was constructed with containment and engineered safety features comparable to a commercial nuclear power plant. The EA quoted the findings of the GAO which stated that "Contrary to some allegations, we found that the prototype reactors do employ enhanced safety systems and do meet the intent of NRC's safety criteria for normal operations and accident conditions."

*Comment 9:* The DOE will, in essence, construct a new nuclear reactor in the existing S8G Trident prototype plant. These changes will alter the probability of fission product release under various reactor accident scenarios.

*Response:* The commenter defines the proposed action as the construction of a new nuclear reactor. This is not the case. During the public input into preparation of the EA, several people expressed concern about their perception that a totally new reactor might be built at the Kesselring Site. The EA clearly indicated what components would be replaced with new components, and how the prototype would remain, for the most part, essentially unchanged. The EA also discusses (pages 16 and 17) the lack of significant impact from the slightly higher fission product inventory associated with the slightly higher AFR prototype rated power.

*Comment 10:* The AFR prototype with its higher power represents a significant departure from previous reactor designs which makes its installation and operation significant environmentally.

*Response:* The commenter has quoted unclassified extracts of classified Congressional testimony by the Director of the Naval Nuclear Propulsion Program to conclude that the advances in the AFR core design must make it environmentally significant. This conclusion is incorrect. The classified appendix A of the EA specifically discussed how the AFR prototype achieves improved performance without sacrificing long-standing safety margins.

*Comment 11:* The AFR design development was hidden even from Governmental officials charged with overseeing environmental safety concerns such as the Defense Nuclear Facilities Safety Board (DNFSB) and the DOE Office of Nuclear Safety and Office of Environment, Safety, and Health.

*Response:* The development of Naval nuclear propulsion plants has not been "hidden" from Government officials. Those Government officials who by statute are responsible for ensuring the safe design, operation, and performance of Naval reactors have full access to such information. For example, the EA (page 6) cites the extensive GAO review of Naval Reactors programs and their conclusion that they found no significant deficiencies. The GAO review team included personnel with expertise in nuclear engineering, radiological protection, environmental impact, and occupational safety. The EA (page 2) cited the long-standing Naval Reactors practice of having new propulsion plant designs reviewed on a classified basis by the Nuclear Regulatory Commission. This included review of the design of the S8G Prototype Plant prior to its initial operation. The Program's judgment was that NRC reviews contribute to safe operation of Naval reactors. Neither the other parts of DOE nor the DNFSB have any authority or responsibility in this area nor have they been staffed to maintain any special expertise relevant to Naval nuclear propulsion which would warrant their involvement. Also, as noted above, EPA Headquarters conducted a review which included access to classified information and stated that their comments were resolved and they had no further comments on the proposed action.

*Comment 12:* The EA relies on the inadequate 1972 EIS to substantiate the safety of the AFR prototype. The EA does not contain sufficient technical data that would permit an independent analysis of the environmental impact of the proposed action separate from the outdated 1972 EIS.

*Response:* The EA references the S8G EIS as a source of information on the S8G Prototype Plant, but it does not rely on the S8G EIS for analysis of the environmental impact of the proposed action. The EA with its appendices and references does contain the technical information to evaluate the environmental impact of the proposed action.

*Comment 13:* The EA is inadequate because it fails to consider the potential impact of a serious core damaging accident such as the Three Mile Island accident. The EA also inadequately analyzes the consequences of lesser accident scenarios. The EA does not describe in any way the size, composition, or design of the reactor or cooling system, making it impossible to evaluate the adequacy of the reactor in the event of a nuclear accident.

*Response:* The EA discusses the potential impact of accidents in both the unclassified portion of the EA and in the classified appendix. As discussed in an earlier response above, it is not possible to provide detailed information about a Naval nuclear propulsion reactor in an unclassified manner that would allow for a detailed unclassified evaluation. However, the unclassified portion of the EA (page 11) discusses the types of accident analyses that have been performed for the proposed action including discussion of a hypothetical accident involving significant core damage. The unclassified portion of the EA also cited the relevant testimony of the GAO after their classified review of Naval Reactors sites, including their

review of reactor safety. The GAO stated "In evaluating reactor safety, two elements must be considered—reactor design and reactor operations. We evaluated the design and operational aspects of each operating prototype reactor, and found that Naval Reactors laboratories and sites have provided safety measures that are consistent with the requirements for commercial nuclear reactors. According to the Nuclear Regulatory Commission (NRC) Deputy Assistant for Reactor Regulation, the prototype reactors may exceed some of the commercial safety requirements because of their rugged design and construction for combat stress and their relatively small size." The GAO also noted that "Contrary to some allegations, we found that the prototype reactors do employ enhanced safety systems and do meet the intent of NRC's safety criteria for normal operations and accident conditions."

*Comment 14:* The EA failed to adequately consider the health and safety consequences of routine releases of radioactivity including compliance with the EPA 40 CFR part 61 airborne radioactivity regulations and the revised radiation risk estimates issued by the National Academy of Sciences in 1990. The EA does not provide sufficient technical data to support an independent assessment of the consequences of routine releases of radiation.

*Response:* The EA (pages 7–10) and the unclassified environmental reports referenced in the EA provide extensive information on the very small amounts of radioactivity in effluents from the Kesselring Site. Also, the EA noted that the Kesselring Site has performed the analysis required by the 40 CFR part 61 regulations, the airborne effluents are a small fraction of the EPA permitted dose standard, and that this information has been submitted to the EPA. The radiation risk factors used in the EA (page 10) and by the EPA in development of their 40 CFR part 61 compliance models are consistent with the 1990 National Academy of Sciences recommendations. The EA cited the National Academy of Sciences report as the source for the radiation exposure risk factor used in the EA.

*Comment 15:* The EA does not discuss the environmental and health risks associated with the generation of hazardous wastes by the S8G project at the Kesselring Site or explain how this would be affected by the proposed action.

*Response:* The EA and the unclassified reports referenced by the EA discuss the amount of hazardous wastes generated by the Kesselring Site and how it is handled in accordance with Federal and State hazardous waste regulations. The EA discusses how the routine reactor servicing work necessary to install the AFR prototype is no different with regard to hazardous waste generation than the reactor servicing work which has been conducted in the past at the Kesselring Site which is discussed in the referenced reports.

*Comment 16:* The EA fails to discuss adequately the environmental impact of the extremely acidic ion exchange regeneration generated in connection with operation of the nuclear reactor, including the hazardous character of these highly corrosive wastes and the treatment or disposal of these wastes.

*Response:* There are no radioactive ion exchange regeneration wastes generated in connection with operation of the Kesselring Site reactors. The subject of ion exchange resin regeneration solutions was raised during the public input process. The EA specifically discussed (page 13) that acid and base solutions are generated during processing of normal well water into the pure demineralized water that is used in some Site applications. The EA stated that these solutions are neutralized before release in Site liquid effluents. This is a common process that is performed by many commercial or industrial sites which need chemically pure water for their processes. Neutralization of acidic and basic solutions is performed in what is called an elementary neutralization unit. Under applicable hazardous waste regulations, elementary neutralization units do not require hazardous waste treatment permits due to the lack of complexity of the process and its common use.

*Comment 17:* The EA does not adequately discuss the environmental impact of solid waste storage and disposal. It is impossible to determine from the EA whether the Kesselring Site complies with solid waste disposal requirements.

*Response:* Disposal of routine non-hazardous solid waste was not identified as a concern during the public input process. The proposed action would not have any significant impact on non-hazardous solid waste generation and disposal compared to continued operation with a new S8G reactor core. Solid waste handling is discussed in the unclassified environmental reports referenced by the EA.

*Comment 18:* The EA does not adequately discuss the impact of effluents from oil fired boilers at the Kesselring Site.

*Response:* The proposed action does not affect the continued operation of the Site boilers. This issue was raised during the public input process, and the EA (page 14) notes that the boilers are used for heating buildings and comply with all New York State regulations under the Clean Air Act. Additional information on this subject is available in the unclassified environmental reports referenced by the EA.

*Comment 19:* The EA does not discuss the impact of groundwater withdrawals on local water supplies and the impact on the water supply of nearby residents.

*Response:* The proposed action does not include an expansion of water use at the Kesselring Site. This issue was raised during the public input process, and the EA (pages 13 and 17) specifically notes that water usage levels will remain the same as they have been since the 1970's. The unclassified reports referenced by the EA indicate that there has been no adverse impact on availability or quality of off-site well water due to Kesselring Site water use.

*Comment 20:* The EA does not adequately discuss the thermal impact of the higher power AFR prototype or the environmental impact of other contaminants.

*Response:* The issue of thermal impacts was raised during the public input process. The EA (pages 13 and 17) notes that the thermal energy generated by Kesselring Site prototypes is dissipated into the air by mechanical draft cooling towers. The EA also discusses the strict New York State temperature limits on discharges to the small trout stream and how the proposed action will not require any change to these strict limits. The unclassified environmental reports referenced by the EA provide further information that the trout stream is not affected by the temperature of Kesselring Site effluents. With regard to other potential contaminants, the EA provides an extensive discussion of the small radioactive releases from the Kesselring Site. With regard to nonradioactive effluents, the EA states (pages 17 and 18) that they would not be affected by the proposed action. Furthermore, the unclassified environmental reports referenced by the EA provide further information on this subject.

*Comment 21:* The EA fails to adequately address the potential for contamination of groundwater from operation of the nuclear reactor. The EA also fails to discuss the impact on groundwater quality from surface water discharges and on-site landfills.

*Response:* Since this issue of radioactive contamination of groundwater was raised during the

public input process, the EA (pages 13 and 17) specifically states that the Kesselring Site does not discharge effluents to groundwater either by injection wells or by seepage basins and that the proposed action would not change this policy. Furthermore, the unclassified environmental reports referenced by the EA confirm the absence of radiological impact on the groundwater at the Kesselring Site. The EA also discussed lack of impact due to release of liquid effluents to the trout stream. The proposed action will not affect disposal of solid waste or the landfill. However, the EA (page 15) referenced other unclassified reports which discuss the landfill. The EA quoted the conclusions of the GAO review which stated "We reviewed all the past problems at each laboratory and site and found that they have all been characterized, are periodically monitored, and controlled where necessary."

*5. Albany Peace & Energy Council (August 4, 1991, Nattell)*

*Comment 1:* The EA does not consider the option of computer models and operations as opposed to real system operations.

*Response:* Computer models are extensively used in the design of any new reactor core. Extensive computer modeling of the AFR reactor core has already been conducted. As discussed in the EA (page 2), actual operation of a new design core in a land based prototype is the final step to confirm satisfactory operation before use in ships at sea. The EA did discuss the no action alternative (page 5) in which the first operation of the new design would be in the first SEAWOLF submarine. The EA presented and discussed the reasons for rejecting this alternative.

*Comment 2:* The EA fails to provide any information on the dynamics of the reactor so that issues regarding potential accidents, hazardous waste production, and public and worker exposure to toxic materials can be addressed.

*Response:* Hazardous waste production and public and worker exposure to radioactive and hazardous materials were specifically discussed in the EA. A detailed discussion of the design features of the AFR reactor core could not be provided in the unclassified portion of the EA due to the need to protect classified information on this sensitive military technology. The unclassified portion of the EA did include information on the extensive safety record of Naval nuclear propulsion plants, the safety analyses performed for the AFR prototype, and independent outside reviews of Naval Reactors design practices (including classified material) by the Nuclear Regulatory Commission and the Congressional General Accounting Office.

*Comment 3:* The EA fails to provide any information on the emergency evacuation plans that will be in place to ensure the safety of the public. Claiming that these plans cannot be revealed due to national security concerns is an affront to the American public. The public has a right to know what these plans are and to challenge their adequacy.

*Response:* Emergency preparedness was discussed in the EA (pages 12 and 13) and in response to a March 1991 letter from the State of New York which was discussed in appendix C of the EA. As stated in appendix C, since the prototype plants at the Kesselring Site have design power ratings that are only a small fraction of commercial nuclear power plants, the extensive off-site emergency planning procedures required for commercial nuclear plants are unnecessary at the Kesselring Site. The EA and appendix C did identify emergency planning documents applicable to the Kesselring Site, including the Federal Radiological Emergency Response Plan, the New York State Radiological Response Plan, the State Radiological Emergency Preparedness Plan, the State Disaster Preparedness Plan, and the Special Operating Procedure for the Kesselring Site.

*Comment 4:* The EA fails to address the dynamics of the removal of the S8G reactor. Emergency plans, waste transportation and storage of hazardous waste are not addressed.

*Response:* The proposed action is installation and operation of the AFR prototype in the S8G Prototype Plant. Removal of the expended S8G reactor core, while necessary for the proposed action, would be performed even if the proposed action were not taken and the plant were to be refueled with an identical S8G core. The EA states (page 17) that the expended S8G core will be shipped to DOE facilities in Idaho for inspection and processing in the same manner as fuel removed during any other Naval nuclear propulsion plant refueling. The extensive safety record cited in the EA includes over 280 safe refueling and defuelings of Naval nuclear propulsion plants. Emergency plans were discussed as noted in the response to the previous comment. Hazardous waste generation, storage, and disposal were discussed in the EA (pages 13, 14, and 17).

*Comment 5:* The EA also fails to address the likelihood that the SEAWOLF Class submarines will be significantly reduced or cancelled in future military budgets since the original mission of the submarine has been negated by the collapse of the Soviet threat.

*Response:* As noted in the EA (page 1), Congress has authorized construction of two SEAWOLF submarines and the first of these is under construction. The need to confirm satisfactory operation of the AFR prototype prior to its use in the first SEAWOLF submarine is not affected by the number of additional SEAWOLF submarines authorized and constructed.

*6. Albany Peace & Energy Council (August 5, 1991, Ellis)*

*Comment 1:* APEC oral and written comments provided during the public input process remain valid today.

*Response:* The public comments were discussed in appendix B of the EA. Issues related to the proposed action were addressed in the EA.

*Comment 2:* Inadequate time was allowed for public review both during the public hearing and the 30 day review period for the EA.

*Response:* Time allowed for public review in all cases was at least equivalent to the times specified in the Council on Environmental Quality (CEQ) regulations. Consistent with the CEQ regulations, the EA is a concise document of twenty pages. The appendices which discussed public and state comments added only seven additional pages.

*Comment 3:* The public input process becomes an afterthought when it occurs many years after work on the Seawolf program has begun.

*Response:* The CEQ regulations require that the National Environmental Policy Act process be completed before any action is taken which would have an adverse impact on the environment or limit the choice of reasonable alternatives. In this case, the proposed action has not been taken, so there has been no environmental impact or limitation of options.

*Comment 4:* The EA did not list the names of people who commented at the public hearing to provide input to the EA.

*Response:* CEQ regulations require an EA to be a concise document with a recommended page length of 15 pages. The public comments were summarized in an appendix and were separately available to any interested party.

*Comment 5:* Appendix B of the EA stated that public comments were available in the Schenectady Public Library. When the author checked the

library for his letter, it was not available. Failure to make the letter available in the library and failure to specifically identify it in the EA indicates that DOE does not wish to make the record available to the public.

*Response:* The transcript of the public meeting (including APEC's oral comments) and the written statements received at the meeting were placed in the library in December 1990 and were confirmed present when the EA was made available by the July 5, 1991 **Federal Register** notice. The APEC comment letter was received after the December 1990 meeting and inadvertently was not placed in the library with the transcript. On July 10, 1991, the author called the Schenectady Naval Reactors Office and stated that his letter was not in the library. A copy was placed in the library the following morning.

*Comment 6*: Tensions between the U.S. and U.S.S.R. are lower, so there is no need for the SEAWOLF class of submarines.

*Response*: As noted in the EA (page 1), Congress has authorized construction of two SEAWOLF submarines and the first of these is under construction. The need to confirm satisfactory operation of the AFR prototype prior to its use in the first SEAWOLF submarine is not affected by the number of additional SEAWOLF submarines authorized and constructed.

*Comment 7*: Replacing the core of a propulsion plant reactor is a "major Federal action significantly affecting the quality of the human environment" regardless of whether the core is small.

*Response*: Replacing a core in a propulsion reactor is an operation that the Naval Nuclear Propulsion Program has safely performed over 280 times. The EA did not identify any significant impacts associated with the proposed action which would make this action a "major Federal action significantly affecting the quality of the human environment."

*Comment 8*: It is absurd that the DOE can argue that dismantling of the hardly used Shoreham reactor requires an EIS, but that no EIS is required for installation of a new reactor core.

*Response*: Discussion of Shoreham decommissioning is beyond the scope of this EA. However, the DOE argued for a Shoreham decommissioning EIS chiefly due to the potential environmental impact of alternative sources of power that would be needed in place of Shoreham, not the actual impacts of physical dismantling.

*Comment 9*: The APEC letter providing input to preparation of the EA noted that former KAPL engineer Robert Stater stated that Kesselring Site containments are "not as thick or secure as in commercial plants." This discrepancy was not addressed in the EA.

*Response*: The EA stated (page 2) that the S8G Prototype Plant was constructed with containment and engineered safety features comparable to a commercial nuclear power plant. Furthermore, the EA quoted the independent review of the GAO which stated "In evaluating reactor safety, two elements must be considered—reactor design and reactor operations. We evaluated the design and operational aspects of each operating prototype reactor, and found that Naval Reactors laboratories and sites have provided safety measures that are consistent with the requirements for commercial nuclear reactors. According to the Nuclear Regulatory Commission (NRC) Deputy Assistant for Reactor Regulation, the prototype reactors may exceed some of the commercial safety requirements because of their rugged design and construction for combat stress and their relatively small size." The GAO also noted that "Contrary to some allegations, we found that the prototype reactors do employ enhanced safety systems and do meet the intent of NRC's safety criteria for normal operations and accident conditions."

*Comment 10*: The EA states that there is a small difference in the power output of the AFR and S8G reactors while newspapers have cited Congressional testimony describing AFR as "an entirely new concept of a pressurized water reactor" and a "very high power reactor." The EA does not resolve these differences.

*Response*: The statement in the EA that there is a small difference in the power output of the AFR and S8G reactors is correct. Without the full text of the classified Congressional testimony by the Director of the Naval Nuclear Propulsion Program, unclassified excerpts can be misinterpreted. The classified appendix A of the EA specifically discusses the Director's testimony. Appendix A also discusses the power level of the AFR prototype and how it achieves improved performance without sacrificing long-standing safety margins.

*Comment 11*: The EA does not adequately describe the consequences of a nuclear accident. The public has a right to know how bad such an accident could be.

*Response*: The EA (pages 11, 16, and 17) discusses the potential impact of a severe core damaging accident and concludes that the reactor siting criteria of the NRC's 10 CFR 100 regulations for commercial reactors would be met. The radiological criteria of those regulations are specifically stated in the EA (page 11).

*Comment 12*: The claim in the EA that there has never been "a nuclear reactor accident or any incident having a significant effect on the environment" is untrue. Recent reports in the San Diego Union stated that crew members from two nuclear submarines reported serious problems including a near sinking and serious leakage of radiation. A full EIS should examine reports of U.S. Navy nuclear powered ship accidents.

*Response*: The newspaper articles cited by the commenter were inaccurate. There were no nuclear accidents in these two submarines, both of which have been in normal operation since these articles appeared. The San Diego Union reporter who wrote the articles subsequently informed the Navy that his sources, who were not part of the nuclear-trained segment of the crew, recanted their stories when pressed for additional details.

*7. Mary Anne Winslow (August 3, 1991)*

*Comment 1*: The DOE has only produced a superficial EA. The 20 year old environmental analysis done for the S8G Prototype Plant is too antiquated to risk the inherent dangers. The EA does not address the wide range of environmental and public health issues.

*Response*: The EA did discuss potential environmental impacts associated with the proposed action including the potential impacts identified during the public input process. The commenter did not cite any specific issues that should have been addressed. The EA references the S8G Prototype Plant EIS as a source of information on the S8G Prototype Plant, but it does not rely on the S8G for analysis of the environmental impact of the proposed action.

*8. Dean Royer (August 11, 1991)*

*Comment 1*: The EA did not consider the impact of a major accident.

*Response*: The EA discusses the potential impact of accidents in both the unclassified portion of the EA and in the classified appendix. As discussed in an earlier response above, it is not possible to provide detailed information about a Naval nuclear propulsion reactor in an unclassified manner that would allow for a detailed unclassified evaluation. However, the unclassified portion of the EA (page 11) discusses the types of accident analyses that have been performed for the proposed action including discussion of a hypothetical

accident involving significant core damage. The unclassified portion of the EA also cited the relevant testimony of the GAO after their classified review of Naval Reactors sites, including their review of reactor safety. The GAO stated "In evaluating reactor safety, two elements must be considered—reactor design and reactor operations. We evaluated the design and operational aspects of each operating prototype reactor, and found that Naval Reactors laboratories and sites have provided safety measures that are consistent with the requirements for commercial nuclear reactors. According to the Nuclear Regulatory Committee (NRC) Deputy Assistant for Reactor Regulation, the prototype reactors may exceed some of the commercial safety requirements because of their rugged design and construction for combat stress and their relatively small size." The GAO also noted that "Contrary to some allegations, we found that the prototype reactors do employ enhanced safety systems and do meet the intent of NRC's safety criteria for normal operations and accident conditions."

*Comment 2*: The EA did not consider the health risks to workers from receiving occupational radiation exposure.

*Response*: The EA (pages 10 and 16) identified that occupational radiation exposure at the Kesselring Site is limited to levels far less than permitted by Federal regulations and that the proposed action would not alter this policy.

*Comment 3*: The use of this reactor is a sham. The SEAWOLF submarine is an unnecessary expense in light of the unlikely aggression of the Soviet Union.

*Response*: As noted in the EA (page 1), Congress has authorized construction of two SEAWOLF submarines and the first of these is under construction. The need to confirm satisfactory operation of the AFR prototype prior to its use in the first SEAWOLF submarine is not affected by the number of additional SEAWOLF submarines authorized and constructed.

[FR Doc. 91-23009 Filed 9-30-91; 8:45 am]
BILLING CODE 6450-01-M

## Floodplain Statement of Findings for Surface-Based Investigations at Yucca Mountain, Nevada

**AGENCY:** Department of Energy, Office of Civilian Radioactive Waste Management.

**ACTION:** Statement of findings.

**SUMMARY:** The information contained in this statement of findings (SOF) has been prepared in support of a DOE decision to locate surface-based site investigation activities, such as borehole drilling, dirt-road construction, excavation of trenches across fault zones, and other minor surface disturbances, within the 100-year floodplain at the Yucca Mountain, Nevada site. Scientific investigation consists of surface-based facilities and sub-surface activities in an Exploratory Studies Facility (ESF). The information contained in this SOF addresses only surface-based investigations. It does not address sub-surface activities in the ESF or potential repository surface facilities. Once decisions have been finalized on the ESF, a supplemental SOF will be issued to evaluate the cumulative impacts of activities related to the surface-based investigations and the sub-surface activities in the ESF.

This SOF has been prepared pursuant to 10 CFR 1022, "Compliance with Floodplain/Wetlands Environmental Review Requirements." In accordance with this regulation, a Floodplain/Wetlands Notice of Involvement was published in the **Federal Register** on February 9, 1989 (Vol. 54, No. 26, page 6318), and a Floodplain Assessment was prepared to identify potential impacts of the proposed action on the floodplain, and to consider feasible alternatives. Wetlands are not discussed because the U.S. Fish and Wildlife Service (USFWS) has determined that "* * * site characterization activities should not affect any wetlands on or near the Yucca Mountain site" (USFWS, 1988). DOE has determined that there are no practicable alternatives to the proposed action, and that the proposed action has been designed to minimize potential harm to and within the floodplain.

**ADDRESSES:** Requests for copies of the Floodplain Assessment should be directed to: Kathleen Grassmeier, Yucca Mountain Site Characterization Project Office, Department of Energy, Nevada Operations, P.O. Box 98518, Las Vegas, Nevada 89193-8513, (702) 794-7525.

**FOR FURTHER INFORMATION CONTACT:** Ms. Deborah Valentine, OCRWM RPRB, room 7F-070, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-5559.

**SUPPLEMENTARY INFORMATION:**

### I. Project Description

In accordance with the Nuclear Waste Policy Act, of 1982 as amended (NWPAA), Yucca Mountain, Nevada is being studied to determine its suitability as the first underground repository for the permanent disposal of the Nation's commercial high-level radioactive waste. Before a decision is made whether or not to locate the repository at Yucca Mountain, however, the geology and hydrology of the site must be investigated thoroughly to determine if the site is suitable to safely isolate the waste from the surrounding environment. Further investigations will be undertaken to characterize the site for licensing.

Investigations of the Yucca Mountain site will consist of both surface-based facilities and sub-surface activities in an Exploratory Studies Facility (ESF). The information contained in this statement of findings (SOF) addresses only surface-based investigation activities. It does not address sub-surface activities in the ESF or potential repository surface facilities. Once decisions have been finalized on the ESF, a supplemental SOF will be issued to evaluate the cumulative impacts of activities related to the surface-based investigations and the ESF facilities. The surface-based investigations, such as borehole drilling, dirt-road construction, excavation of trenches across fault zones, and other minor surface disturbances, will require temporary, small-scale activities for which construction of permanent structures or long-term storage of hazardous material are not necessary. Eight boreholes will be completed on new drill pads, requiring an area of 2.5 acres each. Thirteen boreholes will be on existing pads located in or near dry washes. These washes were designated "as areas of probable inundation" in a study of the probable characteristics of the 100-year, 500-year, and regional maximum floods on the Nevada Test Site (Squires and Young). Approximately eight miles of new roads, averaging 50-feet wide, would be constructed in flood-prone areas; no trenches are currently planned in washes. All actions will conform with applicable state and local floodplain protection standards.

### II. Floodplain Impacts

The "base floodplain" considered in this assessment is the 100-year floodplain. The 500-year floodplain, "critical-action floodplain", was not considered in this assessment because the proposed surface-based investigations will not involve critical-action activities. ("Critical-action" is defined in 10 CFR 1022.4 as any activity for which even a slight chance of flooding would be too great, such as storage of highly volatile, toxic, or water-reactive materials).

To determine the extent of the 100-year floodplain, estimates were made based on available data. Flood

Insurance Rate Maps and Flood Hazard Boundary Maps are not available for Yucca Mountain and vicinity. In addition, this assessment does not discuss wetlands, because the U.S. Fish and Wildlife Service (USFWS) has concluded that "* * * characterization activities should not affect any wetlands on or near the Yucca Mountain, site." (USFWS, 1988).

The total area subject to possible disturbance is approximately 74 acres. Surface-based investigations will require the construction of trenches, dirt roads, and drill pads. During construction, some vegetation will be lost and surface soils will be disturbed; however, siltation is not expected to be much above that which is normal and impact to vegetation and wildlife are not expected to be significant. The slight disturbances attributable to the surface-based investigations proposed in the floodplain area are not expected to result in any significant effects on lives and property downstream.

It is anticipated that wildlife displaced in the project area by activities at the site will return to the area once those activities have been completed. The desert tortoise is the only USFWS-listed threatened species that inhabits the area. In February, 1990, the USFWS determined that site characterization activities are not likely to jeopardize the continued existence of the species. Procedures for mitigating potential impacts on the tortoise population have been developed.

A survey performed by the Desert Research Institute has identified two sites in the floodplain that contain cultural resources. Activities in these areas will proceed under provisions of a Programmatic Agreement with the Advisory Council on Historic Preservation.

Potential indirect impacts of proposed activities on flora and fauna include fugitive dust emissions, elevate noise levels, and increased human activities associated with construction. The Environmental Assessment for the Yucca Mountain site concluded that construction emissions are not expected to create adverse air quality effects; no significant long-term impacts to wildlife are anticipated; and human activity could increase the potential for range fires and subsequent effects to vegetation and wildlife (DOE, 1986).

### III. Alternatives

The proposed action alternative, to locate some of the surface-based investigation activities in the floodplain, was chosen to provide necessary information to complete site characterization, as required by the NWPAA. Locating some facilities and activities in the floodplain is important is important to insure that investigations are conducted in areas that are representative of the entire site. Alternate locations for specific activities will be considered if preactivity surveys reveal that the activities may adversely affect the floodplain. However, there may be situations where alternate locations may be unsuitable due to conflicts with other resources: those situations will be evaluated on a location-by-location basis and the area that would create the least adverse impact, while enhancing long-term ecological stability, will be selected.

While the proposed action alternative is not expected to cause any significant adverse effects to the floodplain, people or property, the potential for adverse impacts will be minimized by ensuring that mitigation measures, as described below, are undertaken.

### IV. Mitigation

As required by 10 CFR 1022.12(A)(3), DOE has adopted a program to mitigate the potential adverse effects of activities occurring in the floodplain.

Site-specific mitigation measure based on the findings from pre-activity surveys of individual locations will be incorporated into the design of activity locations. While it is unlikely that flooding will occur because precipitation is so infrequent, appropriate mitigation measures such as construction of diversion channels, rip-rapp, and berms will be incorporated into facility designs. Before clearing undisturbed land, installing new facilities or equipment, or performing experiments in a previously untested area, DOE will review the proposed activity to ensure that it conforms with environmental compliance requirements, land access requirements, and environmental monitoring and mitigation program requirements. Approval will not be granted unless (1) the pre-activity survey indicates that the proposed work will not significantly affect biological or archaeological resources; (2) it can be determined that the work is not expected to conflict with commitments to environmental safeguards set forth in the Environmental Monitoring and Mitigation Plan; and (3) the land access and environmental compliance reviews verify that all applicable regulations have been satisfied.

Additionally, Reclamation Guidelines will be developed in conjunction with DOE's Reclamation Program Plan and Reclamation Implementation Plan, which discuss DOE policy for reclaiming disturbed areas and describe how reclamation practices will be implemented at the Yucca Mountain site. The Reclamation Guidelines include (1) procedures for site clearance; topsoil salvage; erosion control; drainage control; recontouring; revegetation; and road siting, construction, and maintenance; and (2) measures designed to minimize impacts on the floodplain and mitigate effects associated with construction activities in the floodsplain.

### V. Determination

The benefits resulting from locating some of the proposed surface-based site investigation activities in the 100-year floodplain at the Yucca Mountain site outweigh potential adverse environments impacts on the flooplain. Alternatives have been reviewed, environmental impacts have been evaluated, and comments received on the Site Characterization Plan and Floodplain Notice of Involvement have been considered. DOE has determined that there is no practicable alternative to the proposed action and that the proposed action has been designed to minimize harm to and within the floodplain.

Issued in Washington, DC, September 25, 1991.

**John W. Bartlett,**

*Office of Civilian Radioactive Waste Management.*

[FR Doc. 91-23608 Filed 9-30-91; 8:45 am]

BILLING CODE 6450-01-M

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## Federal Energy Regulatory Commission

**[Docket No. CP91-3124-000, et al.]**

## El Paso Natural Gas Co., et al.; Natural Gas Certificate Filings

September 24, 1991.

Take notice that the following filings have been made with the Commission:

### 1. El Paso Natural Gas Co.

[Docket No. CP91-3124-000]

Take notice that on September 17, 1991, El Paso Natural Gas Company (El Paso), P.O.Box 1492, El Paso, Texas 79978, filed in Docket No. CP91-3124-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Panda Resources, Inc., a producer, under the blanket certificate issued in Docket No. CP88-433-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file

with the Commission and open to public inspection.

El Paso states that, pursuant to an agreement dated July 29, 1991, under its Rate Schedule T–1, it proposes to transport up to 10,300 MMBtu per day equivalent of natural gas. El Paso indicates that the gas would be transported from various receipt points on its system, and would be redelivered in various delivery points. El Paso further indicates that it would transport 10,300 MMBtu on an average day and 3,759,500 MMBtu annually.

El Paso advises that service under § 284.223(a) commenced August 16, 1991, as reported in Docket No. ST91–10340.

*Comment date:* November 8, 1991, in accordance with Standard Paragraph G at the end of this notice.

**Transcontinental Gas Pipe Line Corporation; Mississippi River Transmission Corporation; Mississippi River Transmission Corporation**

[Docket Nos. CP91–3013–000, CP91–3114–000, CP91–3115–000]

Take notice that Transcontinental Gas Pipe Line Corporation, P.O. Box 1396, Houston, Texas 77251, and Mississippi River Transmission Corporation, 9900 Clayton Road, St. Louis, Missouri 63124, (Applicants) filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of shippers under the blanket certificates issued in Docket No. CP88–328–000 and Docket No. CP89–1121–000, respectively, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[1]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicants and is summarized in the attached appendix.

*Common date:* November 8, 1991, in accordance with Standard Paragraph G at the end of this notice.

[1] These prior notice requests are not consolidated.

| Docket No. (date filed) | Shipper name (type) | Peak day, average day, annual MMBtu | Receipt points | Delivery points | Contract date, rate schedule, service type | Related docket, start up date |
|---|---|---|---|---|---|---|
| CP91–3013–000 (9–9–91) | O&R Energy, Inc. (marketer). | 3,400,000<br>100,000<br>36,500,000 [1] | Various | Various | 7–3–91, IT, Interruptible | ST91–10163–000 7–24–91 |
| CP91–3114–000 (9–17–91) | Transok, Inc. (intrastate pipeline). | 100,000<br>100,000<br>36,500,000 | Various | IL, MO | 6–14–91, ITS, Interruptible | ST91–10170–000 7–31–91 |
| CP91–3115–000 (9–17–91) | Arkla Energy Marketing Company (marketer). | 350<br>350<br>126,750 | Various | AR | 6–14–91, FTS, Firm | ST91–10169–000 8–1–91 |

[1] Transco's quantities are in dekatherms.

**3. Northern Border Pipeline Co.**

[Docket No. CP91–967–002]

Take notice that on September 20, 1991, Northern Border Pipeline Company (Northern Border), 1111 South 103rd Street, Omaha, Nebraska 68124–1000, filed in Docket No. CP91–967–002, an amendment to its currently pending application for certificate of public convenience and necessity, pursuant to section 7(c) of the Natural Gas Act and the Commission's Regulations at 18 CFR 157, *et seq.* Northern Border states that the purpose of its amendment is to downsize its original application so as to eliminate, pursuant to the Commission's orders issued June 14, 1991, and August 14, 1991, any uncertainty regarding downstream transportation arrangements, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Northern Border states that its downsized project entails no new pipeline facilities and that new construction is limited to compression and minor appurtenant facilities. As more fully set forth in the amendment, the facilities for which certificate authorization is now requested via the amended application consist of: (1) Construction and operation of a total of 80,000 compressor horsepower at four compressor stations upstream of Ventura, Iowa (2) acquisition and operation of 147 miles of 30-inch pipeline extending from the terminus of Northern Border near Ventura, Iowa to Natural Gas Pipeline Company of America's (Natural) Compressor Station No. 109 near Harper, Iowa (i.e. the Station No. 109 line) (3) operation of a side valve(s) at an existing mainline valve setting in McKenzie County, North Dakota as a firm point of receipt; and (4) construction and operation of a meter station at the point of interconnection with Natural's Amarillo pipeline (Harper delivery point). The scheduled inservice date of the facilities is November 1, 1992.

According to Northern Border, all participants in the downsized expansion/extension project have demonstrated firm, contracted downstream capacity capable of off-loading volumes at the designated delivery points, Ventura and Harper, Iowa. Northern Border further states that all such participants have submitted data sufficient to satisfy Commission requirements for certification. Northern Border has requested that certain detailed market information provided by its shippers be afforded confidential treatment, pursuant to Commission Regulations at 18 CFR 385.112.

Northern Border states that all project shippers under the original application, as well as those shippers in the "supplemental queue", were sent a letter requiring certain information to be submitted to Northern Border by July 8, 1991, in order to remain eligible to receive capacity. According to Northern Border, all prospective shippers who provided the requested information were sent pro forma service agreements. Northern Border states that every shipper who returned an executed service agreement by August 30, 1991, was granted capacity and that no requests for capacity from prospective shippers who had been sent pro forma service agreements were denied. The facilities Northern Border now proposes to acquire install, and operate are

designed to accommodate the firm transportation of 312.75 MMcf/day of additional volumes through the existing pipeline and 385.5 MMcf/day through the pipeline extension to Harper.

Northern Border is proposing to roll-in the costs of the new facilities with existing costs and to design unit charges on a cost-of-service basis. Northern Border states that the proposed rate structure is provided for by the terms of the Northern Border tariff and produces uniform, non-discriminatory charges, and effects a cost reduction for existing customers.

To mitigate any concerns regarding economic risk and the sharing of risk by existing customers, Northern Border states that it will voluntarily accept a condition, as part of any certificate authorization, which would ensure that existing customers are protected from any cost increases attributable to the proposed facilities. To this end, Northern Border has included in its application a proposed condition, similar to a condition approved by the Commission in Northern Border Pipeline Company, 53 FERC ¶ 61,138 (1990), which requires all economic risk to be shared by Northern Border and the project shippers.

The estimated cost of the facilities proposed to be acquired and constructed is approximately $158 million. The project will be financed with partner's equity and back debt.

*Comment date:* October 15, 1991, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

**4. Texas Eastern Transmission Corporation**

[Docket Nos. CP91–3120–000, CP91–3121–000, CP91–3122–000]

Take notice that Texas Eastern Transmission Corporation, P.O. Box 2521, Houston, Texas 77252–2521, (Applicant) filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate issued in Docket No. CP88–136–000, as amended, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[2]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicant and is summarized in the attached appendix.

*Comment date:* November 8, 1991, in accordance with Standard Paragraph G at the end of this notice.

[2] These prior notice requests are not consolidated.

| Docket No. (date filed) | Shipper name (type) | Peak day, average day annual MMBtu | Receipt [1] points | Delivery points | Contract date rate schedule service type | Related docket, startup date |
|---|---|---|---|---|---|---|
| CP91-3120-000 (9-17-91) | Tenngasco Corporation (marketer). | 475,000<br>475,000<br>173,375,000 | Various | Various | June 25, 1991, IT-1, Interruptible. | ST91-9629 8-1-91 |
| CP91-3121-000 (9-17-91) | Access Energy Corporation (marketer). | 20,000<br>20,000<br>7,300,000 | Various | Various | August 21, 1991, IT-1, Interruptible. | ST91-9630 8-1-91 |
| CP91-3122-000 (9-17-91) | Bethlehem Steel Corporation (end-user). | 240,000<br>240,000<br>87,600,000 | Various | Various | June 20, 1991, IT-1, Interruptible. | ST91-9924 8-10-91 |

[1] Offshore Louisiana and offshore Texas are shown as OLA and OTX.

**5. Yates Petroleum Corporation v. Transwestern Pipeline Co.**

[Docket No. GP91–15–000]

Take notice that on September 13, 1991, Yates Petroleum Corporation (Yates) filed a complaint pursuant to section 5 and 16 of the Natural Gas Act (15 U.S.C. 717d and 717o and § 385.206 of the Commission's regulations (18 CFR 385.206), which relates to certain tariffs and conduct of Transwestern Pipeline Company (Transwestern).

Yates requests the Commission to take immediate action to require Transwestern to file tariff provisions to allow for the use of Alternate Receipt Points in connection with the nomination of receipts under an FT agreement.

According to Yates, Southern California Gas Company (SoCal), which has the right to virtually all of Transwestern's firm capacity, designates a few mainline "hub" points as Primary Receipt Points. SoCal leaves it to the suppliers to arrange to get their gas to these Points. Yates states that this causes Transwestern to collect twice for transporting the same molecules: Once to have the gas backhauled from the points at which Yates interjects it into the system in New Mexico to the SoCal Primary Receipt Points, and again in the form of a forward haul commodity charge under the SoCal FT agreement.

Previously, there were substantial quantities of interruptible capacity available to shippers to move their gas to California and to therefore avoid selling gas to SoCal and incurring these Transwestern aggregations. Yates claims that SoCal's targeted Sales Program has had the effect of substantially increasing load factor use of SoCal's FT capacity, leaving little interruptible service available on Transwestern.

Yates is requesting expedited treatment of its complaint because it stands to lose $450,000 every month Transwestern delays the implementation of Alternative Receipt Points.

*Comment date:* October 24, 1991, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice. Answers to this complaint shall be due on or before October 24, 1991.

**6. Natural Gas Pipeline Co. of America**

[Docket Nos. CP91–3050–000 [3], CP91–3051–000]

Take notice that on September 11, 1991, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in the above reference dockets, prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR

[3] These prior notice requests are not consolidated.

157.205 and 284.223) for authorization to transport natural gas on behalf of various shippers under its blanket certificate issued in Docket No. CP86–582–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection and in the attached appendix.

Information applicable to each transaction including the identity of the shipper, the date of the interruptible transportation service agreement between Natural and the respective shipper, the transportation and Exchange identification number of the service agreement, function of the shipper, i.e., marketer, producer, end user, etc., the type of transportation service, the appropriate transportation rate schedule, the peak day, average day, and annual volumes, and the docket number and initiation dates of the 120-day transactions under § 284.223 of the Commission's Regulations has been provided by Natural and is included in the attached appendix.

Natural alleges that it would provide the proposed service for each shipper under an executed gas transportation agreement and would charge rates and abide by the terms and conditions of the referenced transportation rate schedules.

*Comment date:* November 8, 1991, in accordance with Standard Paragraph G at the end of this notice.

| Docket No. trans. agree. (tran. agr. No.) | Shipper's name | Shipper's function | Peak day [1] avg, annual | Points of | | Start up date rate schedule, service type | Related [2] dockets |
|---|---|---|---|---|---|---|---|
| | | | | Receipt | Delivery | | |
| CP91–3050–000 7–24–91 (IGP–2618) | Unocal Exploration Corporation. | Producer | 20,000<br>5,000<br>1,825,000 | Various existing points. | Various existing points. | 8–1–91, ITS, Interruptible. | ST91–10038–000 |
| CP91–3051–000 8–15–90 (IGP–2650) | Broad Street Oil & Gas Co. | Marketer | 75,000<br>20,000<br>7,300,000 | Various existing points. | Various existing points. | 7–23–91, ITS, Interruptible. | ST91–10037–000 |

[1] Quantities are shown in MMBtu.
[2] The ST docket indicates that 120-day transportation service was initiated under § 284.223(a) of the Commission's Regulations.

**7. El Paso Natural Gas Co.**

[Docket No. CP91–3123–000]

Take notice that on September 17, 1991, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP91–3123–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Shell Western E & P, Inc. (Shell), a producer, under the blanket certificate issued in Docket No. CP88–433–000, and to construct and operate an additional delivery point under the blanket certificate issued in Docket No. CP82–435–000, both pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

El Paso states that, pursuant to an agreement dated June 18 1991, under its Rate Schedule T–1, it proposes to transport up to 25,750 MMBtu per day equivalent of natural gas. El Paso indicate that it would transport 25,750 MMBtu equivalent on an average day and 9,398,750 MMBtu equivalent annually. El Paso further indicates that the gas would be transported from Colorado, New Mexico, Oklahoma, Texas, and Utah, and would be redelivered in Texas.

El Paso advises that service under § 284.223(a) commenced August 23, 1991, as reported in Docket No. ST91–10339.

El Paso also proposes to construct and operate a new delivery point associated with the same transportation service. It is stated that El Paso is currently delivering fuel gas to the Shell Wasson Field Plant and that Shell now seeks gas for emergency fuel at its Shell Wasson Plant Complex, located near El Paso's 30-inch line in Yoakum County, Texas. The cost of the proposed delivery point is estimated at $60,852.

*Comment date:* November 8, 1991, in accordance with Standard Paragraph G at the end of this notice.

**8. Panhandle Eastern Pipeline Co.**

[Docket No. CP91–3059–000]

Take notice that on September 11, 1991, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP91–3059–000 pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223) for authorization to transport natural gas on behalf of Entrade Corporation (Entrade), under the authorization issued in Docket No. CP86–585–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Panhandle would perform the proposed interruptible transportation service for Entrade, a marketer of natural gas, pursuant to a transportation agreement dated July 30, 1991 (Contract No l. P–PLT–3838). The term of the transportation agreement is for a primary term of one month from the initial date of service and shall continue in effect month-to-month thereafter until terminated by Panhandle or Entrade upon 30 days' prior notice to the other. Panhandle proposes to transport on a peak day up to 50,000 dekatherms (dt); on an average day up to 50,000 dt; and on an annual basis up to 18,250,000 dt of natural gas for Entrade. Panhandle states that it would receive gas at various existing receipt points in Kansas, Texas, Oklahoma, Kansas, Colorado, Michigan, Wyoming, Illinois, Ohio, Louisiana, Offshore Texas, Offshore Louisiana, and Canada, and transport and redeliver the subject gas, less fuel and unaccounted for line loss to Illinois Power, in various counties in Illinois. It is alleged that the rate to be charged Entrade for the proposed transportation service shall be in accordance with Panhandle's PT rate schedule. Panhandle avers that construction of facilities would not be required to provide the proposed service.

It is explained that the proposed service is currently being performed pursuant to the 120-day self implementing provision of § 284.233(a)(1) of the Commission's regulations. Panhandle commenced such self-implementing service on August 1, 1991, as reported in Docket No. ST91–10094–000.

*Comment date:* November 8, 1991, in accordance with Standard Paragraph G at the end of this notice.

**Standard Paragraphs**

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy

Regulatory Commission, 825 North Capital Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 91-23537 Filed 9-30-91; 8:45 am]

BILLING CODE 6717-01-M

**[Docket No. ID-2648-000]**

## Lee Liu; Notice of Filing

September 23, 1991.

Take notice that on September 3, 1991, Lee Liu (Applicant) tendered for filing an application under section 305(b) of the Federal Power Act to hold the following positions:

| | |
|---|---|
| Director and chairman of the board and chief executive officer. | Iowa Electric Light and Power Company. |
| Director | Iowa Southern Utilities Company. |
| Director | Principal Mutual Life Insurance Company. |

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before October 7, 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. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 91-23538 Filed 9-30-91; 8:45 am]

BILLING CODE 6717-01-M

## Office of Hearings and Appeals

## Implementation of Special Refund Procedures

**AGENCY:** Office of Hearings and Appeals, Department of Energy.

**ACTION:** Notice of implementation of special refund procedures.

**SUMMARY:** The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces that procedures for disbursement of $114,992.23, plus accrued interest, in alleged crude oil overcharge funds obtained from Stanco Petroleum, Inc., Case No. LEF-0031. The OHA has determined that the funds will be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges, 51 FR 27899 (August 4, 1986).

**DATES AND ADDRESS:** Applications for Refund submitted pursuant to this Decision must be filed in duplicate, postmarked no later than June 30, 1992, and should be addressed to the Office of Hearings and Appeals, U.S. Department of Energy, 100 Independence Avenue, SW., Washington, DC 20585. Any party that has previously submitted a refund application in crude oil proceedings need not file another application; that application will be deemed filed in all crude oil proceedings finalized to date.

**FOR FURTHER INFORMATION CONTACT:** Thomas O. Mann, Deputy Director, Roger Klurfeld, Assistant Director, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 586-2094 (Mann); 586-2383 (Klurfeld).

**SUPPLEMENTARY INFORMATION:** In accordance with 10 CFR 205.282(b), notice is hereby given of the issuance of the Decision and Order set out below. The Decision and Order sets forth the procedures that the DOE has formulated to distribute crude oil overcharge funds obtained from Stanco Petroleum, Inc. The funds are being held in an interest-bearing escrow account pending distribution by the DOE.

The OHA has decided to distribute these funds in accordance with the DOE's Modified Statement of Restitutionary Policy Concerning Crude Oil Cases, 51 FR 27899 (August 4, 1986) (MSRP). Under the MSRP, crude oil overcharge monies are divided among the State, the Federal Government, and injured purchasers of crude oil and refined products. Refunds to the States will be distributed in proportion to each State's consumption of petroleum products during the period of crude oil price controls. Refunds to eligible purchasers will be based on a number of gallons of petroleum products which they purchased and the event to which they can demonstrate injury.

As the Decision and Order indicates, Applications for Refund may now be filed by injured purchasers of crude oil and refined petroleum products. Applications must be filed in duplicate and postmarked no later than June 30, 1992. The specific information required in an application for refund is set forth in the Decision and Order. As we state in the Decision, any party that has previously submitted a refund application in crude oil refund proceedings need not file another application; that application will be deemed filed in all crude oil proceedings finalized to date.

Dated: September 25, 1991.

**George B. Breznay.**

*Director, Office of Hearings and Appeals.*

September 25, 1991.

Name of Firm: Stanco Petroleum, Inc.

Date of Filing: April 18, 1991.

Case Number: LEF–0031.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) of the DOE may request that the Office of Hearings and Appeals (OHA) formulate and implement special procedures to make refunds in order to remedy the effects of alleged violations of the DOE regulations. 10 CFR 205.281. These procedures are used to refund monies to those injured by actual or alleged violations of the DOE price regulations.

On April 18, 1991, the ERA filed a Petition for the Implementation of Special Refund Procedures for the distribution of funds obtained from Stanco Petroleum, Inc. (Stanco) as a result of the DOE's enforcement of the Federal petroleum price and allocation regulations concerning the resale of crude oil for the period August 19, 1973 through January 27, 1981. Stanco remitted $114,992.23 to the DOE pursuant to a June 6, 1988 Final Consent Order between the firm and the DOE. An additional $12,715.42 has accrued in interest on Stanco's escrow account as of August 30, 1991. This Decision and Order establishes the OHA's procedures for distributing these funds.

The general guidelines which the OHA may use to formulate and implement a plan to distribute refunds are set forth in 10 CFR part 205, subpart V. The subpart V process may be used in situations where the DOE cannot readily identify the persons who may have been injured as a result of actual or alleged violations of the regulations or ascertain the amount of the refund each person should receive. For a more detailed discussion of subpart V and the authority of the OHA to fashion procedures to distribute refunds, see *Office of Enforcement*, 9 DOE ¶ 82,508 (1981) and *Office of Enforcement*, 8 DOE ¶ 82,597 (1981). We have considered the ERA's request to implement subpart V procedures with respect to the monies received from Stanco, and have determined that such procedures are appropriate.

## I. Background

On July 28, 1986, the DOE issued a Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges, 51 FR 27899 (August 4, 1986) (MSRP).

The MSRP, issued as a result of a court approved Settlement Agreement in In Res: The Department of Energy Stripper Well Exemption Litigation, M.D.L. No. 378 (D. Kan. 1986) (the Stripper Well Agreement) provides that crude oil overcharge funds will be divided among the States, the Federal government, and injured purchasers of refined petroleum products. Under the MSRP, up to 20 percent of these crude oil overcharge funds will be reserved initially to satisfy valid claims by injured purchases of petroleum products. Eighty percent of these funds, and any monies remaining after all valid claims are paid, are to be disbursed equally to the States and Federal government for indirect restitution.

Shortly after the issuance of the MSRP, the OHA issued an Order that announced its intention to apply the Modified Policy in all subpart V proceedings involving alleged crude oil violations. See Order Implementing the MSRP, 51 FR 29689 (August 20, 1986). That Order provided a period of 30 days for the filing of any objections to the application of the MSRP, and solicited comments concerning the appropriate procedures to follow in processing refund applications in crude oil refund proceedings.

On April 10, 1987, the OHA issued a notice analyzing the numerous comments which it received in response to the August 1986 Order. 52 FR 11737 (April 10, 1987) (the Notice). The Notice set forth generalized procedures and provided guidance to assist claimants who wish to file refund applications for crude oil monies under the subpart V regulations. All applicants for refunds would be required to document their purchase volumes of petroleum products during the period of Federal crude oil price controls and to prove that they were injured by the alleged overcharges. The Notice indicated that end-users of petroleum products whose businesses are unrelated to the petroleum industry would be presumed to have absorbed the crude oil overcharges, and need not submit any further proof of injury to receive a refund. Finally, the OHA stated that refunds would be calculated on the basis of a per-gallon refund amount derived by dividing crude oil violation amounts by the total consumption of petroleum products in the United States during the period of price controls. The numerator would consist of crude oil overcharge monies that were in the DOE's escrow account at the time of settlement, or were subsequently deposited in the escrow account, and a portion of the escrow funds in the M.D.L. 378 escrow at the time of the settlement.

The DOE has applied these procedures in numerous cases since the April 1987 Notice, see, *e.g., Shell Oil Co.*, 17 DOE ¶ 85,204 (1988) (*Shell Oil*); *Ernest A. Allerkamp*, 17 DOE ¶ 85,079 (1988) (*Allerkamp*), and the procedures have been approved by the United States District Court for the District of Kansas. Various States had filed a Motion with that court claiming that the OHA violated the Settlement Agreement by employing presumptions of injury for end-users and by improperly calculating the refund amount to be used in those proceedings. In denying the Motion, the court concluded that the Settlement Agreement "does not bar [the] OHA from permitting claimants to employ reasonable presumptions in affirmatively demonstrating injury entitling them to a refund." In Re: The Department of Energy Stripper Well Exemption Litigation, 671 F. Supp. 1318, 1323 (D. Kan. 1987). The court also ruled that, as specified in the April 1987 Notice, the OHA could calculate refunds based on a portion of the M.D.L. 378 overcharges. *Id.* at 1323–24. The States appealed the latter ruling, but the Temporary Emergency Court of Appeals affirmed the Kansas District Court's decision. In re: The Department of Energy Stripper Well Exemption Litigation 857 F.2d 1481 (Temp. Emer. Ct. App. 1988).

## II. The Proposed Decision and Order

On May 15, 1991, the OHA issued a Proposed Decision and Order (PD&O) establishing tentative procedures to distribute the alleged crude oil violation amount obtained from Stanco. 56 FR 23291 (May 21, 1991). The OHA tentatively concluded that the funds should be distributed in accordance with the MSRP and the April Notice. Pursuant to the MSRP, the OHA proposed to reserve initially 20 percent of the crude oil violation funds for direct restitution to applicants who claim that they were injured by the alleged crude oil violations. The remaining 80 percent of the funds would be distributed to the States and the Federal government for indirect restitution. After all valid claims have been paid, any remaining funds in the claim reserve would also be divided between the States and the Federal government. The Federal government's share ultimately would be deposited into the general fund of the Treasury of the United States.

In the PD&O, the OHA proposed to require applicants for refund to document their purchase volumes of petroleum products during the period of price controls and to prove that they were injured by the alleged crude oil

overcharges. The PD&O stated that end-users of petroleum products whose businesses are unrelated to the petroleum industry are presumed to have absorbed the crude oil overcharges, and need not submit any further proof of injury to receive a refund. The OHA also proposed to calculate refunds on the basis of a volumetric refund amount, as described in the April Notice. The PD&O provided a period of 30 days from the date of its publication in the Federal Register in which comments could be filed regarding the tentative distribution process. More than 30 days have elapsed and the OHA has received comments from only two parties concerning the proposed procedures for the distribution of Stanco funds.

### III. Discussion of the Comments Received

*A. Petroleum Funds, Inc.*

In response to the PD&O, the OHA received comments from William Dan Brown, President of Petroleum Funds, Inc. (PFI), on behalf of the numerous clients that PFI has represented in the subpart V crude oil proceeding. Mr. Brown requests that the OHA include the current, cumulative volumetric in this and all future Orders establishing refund procedures for crude oil overcharges. As noted below, the cumulative volumetric is not an accurate reflection of the actual per gallon refund amount that successful claimants will receive. That amount depends on several unknown variables, such as the relationship of the number of gallons finally approved to 20 percent of the total funds. Therefore, listing the cumulative volumetric would serve no purpose other than to mislead or confuse claimants.

*B. Philip P. Kalodner*

The OHA also received comments from Philip P. Kalodner as counsel for six electric utilities, 14 foreign-flag shipping companies, and four pulp and paper manufacturers. Mr. Kalodner's clients have all field Applications for Refund in the subpart V crude oil proceeding. Mr. Kalodner's comments focus on two elements of the crude oil proceeding: The 20 percent reserve and $0.0008 per gallon volumetric refund amount. He first contends that the 20 percent reserve for claimants will be insufficient "to enable OHA to distribute the 'volumetric' which it has determined is due." Kalodner comments at 3. Kalodner asserts that the "OHA should either reverse its adoption of the 20% limitation, or if it believes it cannot do [so] without the approval of Judge Theis, it should seek such approval." *Id.* at 5.

Kalodner's second objection is based on the OHA's long-standing refusal to reserve more than 20 percent of the crude oil monies for direct restitution. In that case, Kalodner asserts, "any determination to make awards to late filing claimants . . . will reduce the amounts available for distribution to first pool claimants such as these commenters." Kalodner comments at 5. Kalodner argues that only those applicants who filed crude oil claims before October 31, 1989 should receive a volumetric refund of $0.0008 per gallon and that applicants filing after that date should receive refunds based on mere fractions of that per-gallon figure.

These exact comments were addressed at length in recent Decision and Orders issued by the OHA. See *Seneca Oil Company*, 21 DOE ¶ 85,327 (1991) (*Seneca*); *Diamond Shamrock R&M, Inc.*, 21 DOE ¶ (Case No. LEF-0030) (August 21, 1991). We will therefore refrain from repeating our analysis of those contentions in the same detail at this time. Instead, we will summarize our determinations in *Seneca*. With respect to Kalodner's argument that the 20 percent reserve would be insufficient to pay claimants, we stated that he had advanced similar arguments before the OHA and the courts and had been rebuffed at each attempt. *Seneca* at 88,970. We also noted that at no time has the DOE given assurances as to the precise level of restitution that would be ultimately paid to claimants from the 20 percent reserved from crude oil overcharge funds. *Id.*, citing *Amorient Petroleum Co.*, 18 DOE ¶ 85,595 (1989). We further reminded Kalodner that the United States District Court for the District of Delaware had rejected this same argument, deciding instead that "(a)t this late date, all parties would best be served by the equitable compromise of paying 80% of the fund out immediately while retaining 20% for individual claimants." *Id.* See *Getty Oil* v. *Department of Energy*, Civ. No. 77-434 MMS (D. Del. Dec. 28, 1988), *aff'd*, 890 F.2d 425 (Temp. Emer. Ct. App. 1989). As in *Seneca*, we agree with the courts and reject Kalodner's argument about the 20 percent reserve which seeks to inflate the level of restitution to the successful claimants that he represents in DOE's crude oil refund proceedings.

Kalodner's objection to the OHA policy of paying claimants who filed subpart V crude oil refund applications before June 30, 1992 at the rate of $0.0008 per gallon was also addressed at length, and ultimately rejected, in *Seneca*. As we stated in that Decision, we believe that all purchasers of covered products during the crude oil refund period were injured equally by the overcharges. Therefore, it would be inequitable to preclude any applicants who file before the June 30, 1992 deadline from receiving the $0.0008 per gallon volumetric. *Seneca* at 88,971. As we stated in *Seneca*, we do not with to penalize equally eligible applicants for lacking the resources that large applicants, such as Kalodner's clients, possess.

### IV. The Refund Procedures

*A. Refund Claims*

The OHA has concluded that the $114,992.23 remitted by Stanco, plus the interest that has accrued on that amount, should be distributed in accordance with the crude oil refund procedures discussed above. We have decided to reserve the full twenty percent of the alleged crude oil violation amount, or $22,998.45 plus interest, for direct refunds to claimants, in order to ensure that sufficient funds will be available for refunds to injured parties.

The process which the OHA will use to evaluate claims based on alleged crude oil violations will be modeled after the process the OHA has used in subpart V proceedings to evaluate claims based upon alleged overcharges involving refined products. *E.g.*, *Mountain Fuel Supply Co.*, 14 DOE ¶ 85,475 (1986). As in non-crude oil cases, applicants will be required to document their purchase volumes and to prove that they were injured as a result of the alleged violations. Following subpart V precedent, reasonable estimates of purchase volumes may be submitted. *E.g.*, *Greater Richmond Transit Co.*, 15 DOE ¶ 85,028 at 88,050 (1986). Generally, it is not necessary for applicants to identify their suppliers of petroleum products in order to receive a refund.

Applicants who were end-users or ultimate consumers of petroleum products, whose businesses were unrelated to the petroleum industry and who were not subject to the DOE price regulations, are presumed to have absorbed rather than passed on alleged crude oil overcharges. In order to receive a refund, end-users need not submit any further evidence of injury beyond proof of the volumes of product purchased during the period of crude oil price controls. *E.g.*, *A. Tarricone, Inc.*, 15 DOE ¶ 85,495 at 88,893-96 (1987). The end-user presumption of injury is, however, rebuttable. *e.g.*, *Berry Holding Co.*, 16 DOE ¶ 85,405, at 88,797 (1987). If an interested party submits evidence

which is of sufficient weight to cast serious doubt on whether the specific end-user in question was injured, the applicant will be required to produce further evidence of injury. *E.g., NYP,* 18 DOE at 88,701–03. The United States District Court for the District of Kansas recently upheld the OHA's position that generalized evidence does not suffice to rebut the end-user presumption. If an interested party wishes to rebut the end-user presumption, it must present evidence relevant to the specific factual situation of the applicant. In re: The Department of Energy Stripper Well Exemption Litigation, 746 F. Supp. 1446 (D. Kan. 1990).

Formerly regulated petroleum reseller and retailer claimants must submit detailed evidence of injury, and may not rely on the presumptions of injury utilized in refund cases involving refined petroleum products. *Id.* They may, however, use econometric evidence of the type employed in the Report by the Office of Hearings and Appeals to the United States District Court of the District of Columbia, In re: The Department of Energy Stripper Well Exemption Litigation, 6 Fed. Energy Guidelines ¶ 90,507 (June 19, 1985). See Petroleum Overcharge Distribution and Restitution Act § 3003(b)(2), 15 U.S.C. 4502(b)(2). Applicants who executed and submitted a valid waiver pursuant to one of the escrows established in the Settlement Agreement have waived their rights to apply for crude oil refunds under subpart V. *Mid-America Dairymen Inc.* v. *Herrington,* 878 F.2d 1448 (Temp. Emer. Ct. App. 1989); *accord, Boise Cascade Corp.,* 18 DOE ¶ 85,970 (1989).

Refunds to eligible claimants who purchased refined petroleum products will be calculated on the basis of a volumetric refund amount derived by dividing the crude oil violation amount involved in this determination ($114,992.23) by the total consumption of petroleum products in the United States during the period of price controls (2,020,997,335,000 gallons). *Mountain Fuel,* 14 DOE at 88,868. This yields a volumetric refund amount of $.0000000569 per gallon.

As we stated in previous Decisions, a crude oil refund applicant will be required to submit only one application for crude oil overcharge funds. *e.g., Allerkamp,* 17 DOE at 88,176. Any party that has previously submitted a refund in the crude oil refund proceedings need not file another application. The deadline for filing an Application for Refund for crude oil implementation orders issued since January 18, 1991 is June 30, 1992. *Quintana Energy Corporation,* 21 DOE ¶ 85,032 (1991). It is the policy of the DOE to pay all crude oil refund claims filed before June 30, 1992, at the rate of $.0008 per gallon. However, while we anticipate that applicants which filed their claims by June 30, 1988 will receive a supplemental refund payment, we will decide in the future whether claimants that filed later Applications should receive additional refunds. To apply for a refund, a claimant should submit an Application for Refund.

Although an applicant need not use any special application form to apply for a crude oil refund, a suggested form has been prepared by the OHA and may be obtained by sending a written request to: Office of Hearings and Appeals, U.S. Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585.

Each crude oil Application for Refund should contain the type of information specified by the OHA in past decisions. See *Texaco Inc.,* 19 DOE ¶ 85,200 at 88,734, corrected 19 DOE ¶ 85,236 (1989); *Hood Goldsberry,* 18 DOE ¶ 85,902 at 89,477–78 (1989); *Wickett Refining Co.,* 18 DOE ¶ 85,659 at 89,081–82 (1989).

*B. Payments to the States and Federal Government*

Under the terms of the MSRP, the remaining 80 percent of the alleged crude oil violation amounts subject to this Decision, or $91,993.78, plus interest, should be disbursed in equal shares to the States and Federal Government for indirect restitution. Accordingly, we will direct the DOE's Office of the Controller to segregate the $91,993.78, plus interest, available for disbursement to the States and the Federal Government and transfer one-half of that amount, or $45,996.89, plus interest, into an interest bearing subaccount for the States, and one-half, or $45,996.89, plus interest, into an interest bearing subaccount for the Federal Government. At the appropriate time in the future, we will issue a Decision and Order directing the DOE's Office of the Controller to make the appropriate disbursements to the individual States. Refunds to the States will be in proportion to the consumption of petroleum products in each State during the period of price controls. The share or ratio of the funds which each State will receive is contained in exhibit H of the Stripper Well Agreement. When disbursed, these funds will be subject to the same limitations and reporting requirements as all other crude oil monies received by the States under the Stripper Well Agreement.

*It is therefore Ordered That:* (1) Applications for Refund from the alleged crude oil overcharge funds remitted by Stanco Petroleum, Inc. may now be filed.

(2) All Applications submitted pursuant to paragraph (1) above must be filed in duplicate and postmarked no later than June 30, 1992.

(3) The Director of Special Accounts and Payroll, Office of Departmental Accounting and Financial Systems Development, Office of the Controller, Department of Energy, shall take all steps necessary to transfer $114,992.23 (plus interest) from the Stanco Petroleum, Inc. escrow account, Number 733C00096Z, pursuant to paragraphs (4), (5), and (6) of this decision.

(4) The Director of Special Accounts and Payroll shall transfer $45,996.89 (plus interest) of the funds obtained pursuant to paragraph (3) above, into the subaccount denominated "Crude Tracking-Federal," Number 999DOE003W.

(5) The Director of Special Accounts and Payroll shall transfer $45,996.89 (plus interest) of the funds obtained pursuant to paragraph (3) above, into the subaccount denominated "Crude Tracking-States," Number 999DOE002W.

(6) The Director of Special Accounts and Payroll shall transfer $22,998.45 (plus interest) of the funds obtained pursuant to paragraph (3) above, into the subaccount denominated "Crude Tracking-Claimants 4," Number 999DOE0010Z.

Dated: September 25, 1991.

**George B. Breznay,**

*Director, Office of Hearings and Appeals.*

[FR Doc. 91–23610 Filed 9–30–91; 8:45 am]

BILLING CODE 6450–01–M

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–4014–5]**

### 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 October 31, 1991.

**FOR FURTHER INFORMATION CONTACT:** Sandy Farmer at EPA (202) 260–2740.

**SUPPLEMENTARY INFORMATION:**

**Office of Solid Waste and Emergency Response**

*Title:* Land Disposal Restrictions (EPA ICR No.: 1442.03; OMB No: 2050–0085). This is a reinstatement of a previously approved collection.

*Abstract:* In compliance with 40 CFR 268.7, waste generators and commercial and non-commercial Treatment, Storage, and Disposal Facilities (TSDFs), must prepare, and report to the EPA, data on waste analysis, notifications and certifications. Where it applies, the respondents must provide data required to petition the Agency for statutory variances and for exemptions from treatment in surface impoundment. The respondents must also keep records of tests performed on wastes before disposal. The EPA uses these data to ensure the proper land disposal of hazardous wastes.

*Burden statement:* The burden for this collection of information is estimated to average 4,843 hours per response annually. This estimate includes the recordkeeping requirements as well as the time needed to review instructions, gather the data needed, and review the collection of information.

*Respondents:* Generators, Commercial TSDFs and Non-Commercial TSDFs.

Estimated no. of respondents: 40,567.

Estimated no. of responses per respondent: 3.866.

Estimated total annual burden on respondents: 759,442 hours.

Frequency of collection: On occasion.

Send comments regarding the burden estimate, or any other aspect of the information collection, 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

Ron Minsk, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20503.

Dated: September 25, 1991.

**Paul Lapsley,**

*Director, Regulatory Management Division.*

[FR Doc. 91–23614 Filed 9–30–91; 8:45 am]

BILLING CODE 6560–50–M

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[FRL–4014–6]

## 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 October 31, 1991.

**FOR FURTHER INFORMATION CONTACT:** Sandy Farmer at EPA (202) 260–2740.

**SUPPLEMENTARY INFORMATION:**

**Office of Administration**

*Title:* Invitation for Bids (IFBs) and Requests for Proposals (RFPs) (EPA No. 1038.07; OMB No. 2030–0006). This ICR requests approval to add information collection requirements specific to the RFPs section of the existing information collection.

*Abstract:* Under Federal Acquisition Regulations at 48 U.S.C. parts 1515 and 1552 and EPA Acquisition Regulations (EPAAR) at 48 CFR 1552.215–73, certified cost and pricing data must be supplied for negotiated contracts exceeding $100,000. This ICR, if approved, will require additional cost proposal information from offerors submitting Requests for Proposals (RFP) to the EPA. Specifically, offerors will be required to provide additional information on travel or other direct costs, the standard work year for acquisitions that require a fully dedicated staff, and management or management support costs to be charged as direct costs. Offerors will have the option of submitting this information on computer disks.

EPA contract officers will use this information to evaluate the reasonableness of individual cost elements in a proposal, and to ensure that the offerors will not bill the Government for costs that would not be allowable under contract. In the past, offerors responding to RFPs have sometimes submitted pricing and cost data that were insufficiently detailed, restricting the ability of EPA contract officers to properly analyze and evaluate the proposals.

*Burden statement:* Public reporting burden for this additional collection of information is estimated to average 10 hours per response, including the time for reviewing instructions, searching existing information sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

*Respondents:* Businesses or other for-profit organizations, non-profit institutions, small businesses or organizations.

*Estimated number of respondents:* 1275.

*Frequency of collection:* One time.

*Estimated number of responses per respondent:* 1.

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

Tim Hunt, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th St., NW., Washington, DC 20503.

Dated: September 25, 1991.

**Paul Lapsley,**

*Director, Regulatory Management Division.*

[FR Doc. 91–23615 Filed 9–30–91; 8:45 am]

BILLING CODE 6560–50–M

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[FRL–4014–2]

## Transfer of Data to Contractors

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

**ACTION:** Notice of intended transfer of confidential business information to subcontractors.

**SUMMARY:** A contractor to the Environmental Protection Agency (EPA), Radian Corporation, intends to transfer confidential business information (CBI) collected from the pulp, paper, and paperboard manufacturing industry to two new subcontractors. Transfer of the information will allow the new subcontractors to assist EPA in developing effluent limitations guidelines and standards under the Clean Water Act (CWA) and in developing or evaluating the need for regulations under the Clean Air Act (CAA) and the Resource Conservation and Recovery Act (RCRA). The information being transferred was collected or will be collected under the authorities of section 308 of the CWA, section 114 of the CAA, and section 3007 of the RCRA. Interested persons may submit comments on this intended transfer of information to the address noted below.

**DATES:** Comments on the transfer of data are due October 7, 1991.

**ADDRESSES:** Comments may be sent to George Heath, Engineering and Analysis

Division (WH–552), Office of Science and Technology, Environmental Protection Agency, 401 M Street SW, Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** George Heath at (202)–260–7165 or at the address above.

For information regarding uses of CBI under RCRA authority contact Alexander McBride, Office of Solid Waste (OS–331), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 260–4761, and James Lounsbury, Office of Solid Waste (OS–302), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 260–4807.

For information regarding uses of CBI under CAA authority contact Susan Wyatt, Office of Air Quality Planning and Standards (MD–13), Environmental Protection Agency, Research Triangle Park, NC 27711, (919) 541–5674.

**SUPPLEMENTARY INFORMATION:** A contractor to EPA, Radian Corporation, of Herndon, Virginia, intends to transfer information, including CBI, to two new subcontractors, European Environmental Research Group of Allerod, Denmark, and N. McCubbin Consultants, Inc. of Foster, Quebec, Canada. In accordance with 40 CFR part 2, subpart B, Radian Corporation was identified in the **Federal Register**, at (55 FR 45641) on October 30, 1990, pp. 45641–43 as one of a number of contractors and subcontractors receiving this information. In effect, this notice merely adds these two new subcontractors to the list of subcontractors to Radian Corporation under EPA Contract No. 68–CO–0032.

The information being transferred consists primarily of information previously collected by EPA to support the development of effluent limitations guidelines and standards under the CWA and to develop or evaluate the need for regulations under the CAA and the RCRA for the pulp, paper, and paperboard manufacturing industry.

More specifically, the information being transferred to the subcontractors includes the following information: Responses to the "1990 National Census of Pulp, Paper, and Paperboard Manufacturing Facilities" and a detailed pretest questionnaire in 1989–90; all joint EPA-industry studies; site visit reports; monitoring data; sampling episode reports involving the pulp, paper, and paperboard manufacturing industry generated in 1988–91; and analytical summaries of this information and data.

EPA also intends to transfer to Radian Corporation, European Environmental Research Group, and N. McCubbin Consultants, Inc. all information listed above (including CBI) that may be collected or developed in the future under the authorities listed above. This information is necessary to enable Radian Corporation and its subcontractors to carry out the work required by their contracts to support EPA's development of regulations for the pulp, paper, and paperboard industry.

| EPA office receiving support | Contractor (P=Prime contractor S=Subcontractor) | Contract No. | Type of support |
|---|---|---|---|
| OW/OST/EAD | Radian Corp. (P) Herndon, VA | 68–CO–0032 | Technical. |
| | European Environmental Research Group (S) Allerod, Denmark | 68–CO–0032 | Technical. |
| | N. McCubbin Consultants Inc. (S) Foster, Quebec, Canada | 68–CO–0032 | Technical. |

*Security Plan for CBI.* EPA's Office of Science and Technology (OST) has adopted a CBI Data Security plan for Radian Corporation and its subcontractors under EPA Contract No. 68–CO–0032 for information to be collected from the pulp, paper, and paperboard manufacturing industry. Personnel of Radian Corporation and its subcontractors are required to sign non-disclosure agreements and be briefed on appropriate security procedures before they are permitted access to CBI. No person is automatically granted access to CBI; a need to know must exist. All EPA contractors and subcontractors and their personnel are bound by the requirements and sanctions contained in their contracts and EPA's confidentiality regulations found at 40 CFR part 2, subpart B.

Dated: September 20, 1991.

**Martha G. Protho,**

*Acting Assistant Administrator for Water.*

[FR Doc. 91–23616 Filed 9–30–91; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4018–2]

## Class II Underground Injection Control Program Advisory Committee Meetings

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

**ACTION:** Advisory Committee meetings.

**SUMMARY:** As required by section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), we are giving notice of the next meeting of the Advisory Committee on EPA's class II (oil and gas related) underground injection control program.

The purpose of the meeting is to further discuss the issues surrounding the guidances and construction requirements for class II underground injection wells.

**DATES:** On Thursday, October 17, the meeting will begin at 9 a.m. and end at 5 p.m. On Friday, October 18, the meeting will begin at 8:30 a.m. and end at 3 p.m.

**ADDRESSES:** The meetings will take place at the Embassy Suites Hotel, 1900 Diagonal Road, Alexandria, VA. 22314. The local telephone number is 703–684–5900. The toll free number is 1–800–362–2779.

**FOR FURTHER INFORMATION CONTACT:** If you need further information on substantive issues, please contact Jeffrey Smith, EPA, Office of Water, at (202) 260–5586. If you need information on administrative matters, please contact Angela Suber, EPA, Regulatory Development Branch, at (202) 260–7205, or John Lingelbach, Committee Co-Chair, at (202) 887–1037.

Dated: September 26, 1991.

**Deborah Dalton,**

*Acting, UIC Advisory Committee Designated Federal Official.*

[FR Doc. 91–23613 Filed 9–30–91; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4018–3]

## Open Meeting on October 28, 1991: Life-Cycle Assessment Review Panel of the National Advisory Council for Environmental Policy and Technology (NACEPT)

Under Public Law 92463 (The Federal Advisory Committee Act), EPA gives notice of the first meeting of the Life-Cycle Assessment (LCA) Review Panel. The LCA Review Panel is a standing subcommittee of the National Advisory Council for Environmental Policy and

Technology (NACEPT), an advisory committee to the Administrator of the EPA. The LCA Review Panel is working to develop a standardized methodology for cradle-to-grave assessment of the environmental impacts of consumer products or services. The meeting will convene October 28, from 9 a.m. to 5 p.m. at the Washington Marriot 1221 22nd St. NW. Washington, DC 20037.

The LCA Review Panel will examine a draft EPA document outlining the first phase of life-cycle assessment; inventory analysis: The tabulation of resource inputs and emissions outputs associated with the product or service being assessed. The LCA Review Panel will review suggested guidelines for the development of an inventory analysis. In the future, the LCA Review Panel will address the second and third phases of life-cycle assessment, impact analysis and improvement analysis.

The October 28 meeting will be open to the public. Written comments will be reviewed by the Panel if received by October 7, 1991. Those interested in attending or those requiring additional information should contact Tim Ream MD–13 Research Triangle Park, NC 27711 (919) 541–0491.

Dated: September 23, 1991.

**Abby Pirnie,**

*NACEPT Designated Federal Official.*

[FR Doc. 91–23617 Filed 9–30–91; 8:45 am]

BILLING CODE 6560–50–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### Albuterol Metered Dose Inhalers; Meeting

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that it is holding a meeting on bioequivalence issues related to generic albuterol metered dose inhalers. The meeting is intended to inform interested persons of FDA's plans to document bioequivalence between generic and innovator albuterol metered dose inhaler formulations. The meeting will provide an opportunity for dialogue on this subject between FDA and industry.

**DATES:** The meeting will be held Friday, October 11, 1991, between 9 a.m. and 12:30 p.m. Registration will be held between 8 a.m. and 9 a.m. on the day of the meeting

**ADDRESSES:** The meeting will be held in Conference Rm. D, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

**FOR FURTHER INFORMATION CONTACT:** Justina Molzen, Office of Generic Drugs (HFD–630), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8365.

**SUPPLEMENTARY INFORMATION:** FDA's Division of Bioequivalence in its Office of Generic Drugs and the Office of Small Business, Scientific, and Trade Affairs are sponsoring this meeting. The Division of Bioequivalence is exploring clinical pharmacodynamic methods to assess bioequivalence between generic and innovator formulations of albuterol metered dose inhalers. To assist in this effort, the agency is working with contract investigators at Johns Hopkins University School of Medicine to design and perform small pilot studies of albuterol dose/response relationships delivered by metered dose inhalers. Clinical drug material for this study will be supplied at the request of Johns Hopkins investigators by a U.S. manufacturer with proven experience in the production of drugs delivered by metered dose inhalation. One purpose of the meeting is to discuss the design of these studies with interested persons. The meeting will also provide an opportunity for FDA and industry to share information on how to assess bioequivalence between generic and innovator formulations of albuterol metered dose inhalers.

Dated: September 25, 1991.

**Michael R. Taylor,**

*Deputy Commissioner for Policy.*

[FR Doc. 91–23563 Filed 9–30–91; 8:45 am]

BILLING CODE 4160–01–M

### The Prescription Drug Marketing Act of 1987; Meeting

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that it is holding the sixth meeting on the Prescription Drug Marketing Act of 1987 (PDMA). The meeting is intended to inform regulated industry, State officials, health professionals, and other interested persons of PDMA's requirements, the agency's enforcement policies relating to the act, and wholesaler guideline regulations.

**DATES:** The meeting will be held on Wednesday, October 16, 1991, between 9 a.m. and 5 p.m. Registration will be held between 8 a.m. and 9 a.m.

**ADDRESSES:** The meeting will be held at the Marriott Oak Brook Hotel, 1401 West 22d St., Oak Brook, IL.

**FOR FURTHER INFORMATION CONTACT:** Jeanne White, Office of Small Business, Scientific, and Trade Affairs (HF–50), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6776.

**SUPPLEMENTARY INFORMATION:** FDA has organized six educational meetings, to be held across the country in six separate meetings, to discuss the history and requirements of PDMA. The meetings were organized by FDA's Office of Small Business, Scientific, and Trade Affairs, Center for Drug Evaluation and Research's Office of Compliance, and the Office of Regulatory Affairs, encompassing the Regional offices. The agency announced the first three meetings in the **Federal Register** of May 17, 1991 (56 FR 22876), and the fourth and fifth meetings in the **Federal Register** of July 12, 1991 (56 FR 31950). This notice announces the sixth meeting.

PDMA (Pub. L. 100–293) was signed into law by the President on April 22, 1988. This act amended the Federal Food, Drug, and Cosmetic Act to:

(1) Require State licensing of wholesale drug distributors under Federal guidelines that include minimum standards for storage, handling, and recordkeeping;

(2) Ban the reimportation of prescription drugs for human use produced in the United States, except when reimported by the manufacturer or for emergency use;

(3) Ban the sale, trade, or purchase of drug samples;

(4) Ban trafficking in or counterfeiting of drug coupons;

(5) Mandate storage, handling, and recordkeeping requirements for drug samples;

(6) Require practitioners to request drug samples in writing;

(7) Prohibit with certain exceptions the resale of prescription drugs purchased by hospitals or health care entities, or donated to or acquired at reduced cost by charitable institutions; and

(8) Set forth criminal and civil penalties for violations of these provisions.

In the **Federal Register** of September 14, 1990 (55 FR 38012), FDA issued guidelines for State licensing of wholesale prescription drug distributors as a final rule. The guidelines prescribe minimum standards, terms, and conditions for the storage and handling of prescription drugs for human use and

for the establishment and maintenance of records of their distribution.

The topics for discussion at the meeting are PDMA's requirements, the agency's enforcement policies relating to the act, and wholesaler guideline regulations. There will be two question and answer sessions at the meeting, one in the morning and one in the afternoon.

Dated: September 25, 1991.

**Michael R. Taylor,**

*Deputy Commissioner for Policy.*

[FR Doc. 91–23564 Filed 9–30–91; 8:45 am]

BILLING CODE 4160–01–M

## Health Resources and Services Administration

### Final Announcement for Loans for Disadvantaged Students

The Health Resources and Services Administration (HRSA) announces the final definitions, the methodology for implementing the statutory special consideration, and the procedures for calculating loans for the new program of Loans for Disadvantaged Students (LDS). The LDS program is under the authority of new section 740(c) of the Public Health Service Act (the Act), as added by the Disadvantaged Minority Health Improvement Act of 1990, Public Law 101–527. New section 740(c) is part of the legislative authority for the Health Professions Student Loan (HPSL) program. As such, this program is governed by relevant requirements associated with the HPSL program (42 CFR part 57, subpart C), including, except as otherwise provided, school eligibility, student eligibility, institutional contributions, and terms of the loan. Additional school and student eligibility requirements for the LDS program are described below.

Approximately $2,900,000 is available in FY 1991 for competing applications for the LDS Program. It is expected that about 515 loans averaging $6,250 will be supported and the required $1 : $9 school matching funds. Each loan will be provided for one academic year.

### National Health Objectives for the Year 2000

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 setting priority areas. The Loans for Disadvantaged Students Program is related to the priority area of Educational and Community-Based Programs. Potential applicants may obtain a copy of Healthy People 2000 (Full Report; Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report; Stock No. 017–00I–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (Telephone (202) 783–3238).

### Purpose

The LDS program provides funding (new Federal Capital Contributions) to eligible health professions schools for the purpose of establishing revolving funds (LDS funds) which will be available for providing long-term, low-interest loans to eligible individuals from disadvantaged backgrounds who are enrolled (or accepted for enrollment) as full-time students at an eligible school. The new LDS fund (including one dollar in school funds for each nine dollars in Federal funds) is to be used for the purpose of (1) making loans to individuals from disadvantaged backgrounds, and (2) paying the costs of the collection of the loans and interest on the loans.

To implement the LDS program in FY 1991 in a timely manner, an existing definition of "an individual from a disadvantaged background" is being used. For purposes of the LDS program in FY 1991, "an individual from a disadvantaged background" is one who:

1. Comes from an environment that has inhibited the individual from obtaining the knowledge, skill, and abilities required to enroll in and graduate from a health professions school, or from a program providing education or training in an allied health profession; or

2. Comes from a family with an annual income below a level based on low income thresholds according to family size published by the U.S. Bureau of the Census, adjusted annually for changes in the Consumer Price Index, and adjusted by the Secretary for use in all health professions programs. The Secretary will periodically publish these income levels in the **Federal Register.**

The following income figures determine what constitutes a low income family for purposes of the Loans for Disadvantaged Students program for FY 1991.

| Size of parents' family [1] | Income level [2] |
|---|---|
| 1 | $8,800 |
| 2 | 11,400 |
| 3 | 13,500 |
| 4 | 17,300 |
| 5 | 20,400 |
| 6 or more | 23,000 |

[1] Includes only dependents listed on Federal income tax forms.

[2] Adjusted gross income for calendar year 1990, rounded to $100.

A revised definition of the term "individuals from disadvantaged backgrounds" is expected to be published for comment in a separate notice for use in implementing various training grants, cooperative agreements, and student assistance programs under the authority of titles VII and VIII of the Act in the future. Section 740(e) of the Act, as added by the Disadvantaged Minority Health Improvement Act of 1990, Public Law 101–527, dated November 6, 1990, requires the Secretary to define the term "disadvantaged" with respect to an individual for purposes of carrying out the new LDS program authorized under section 740(c) of the Act. Other new programs authorized by the Disadvantaged Minority Health Improvement Act of 1990 and making reference to individuals from disadvantaged backgrounds are:

- Scholarships for Disadvantaged Students (new section 760 of the Act); and
- Disadvantaged Health Professions Faculty Loan Repayment Program (new section 761 of the Act).

In addition, the term "an individual from a disadvantaged background" as currently used in established Titles VII and VIII programs will be revised as appropriate using the rulemaking process.

### Use of funds

As loans made from the LDS fund are repaid, the money returned to the fund will continue to be used solely for support of students from disadvantaged backgrounds through the LDS program. HPSL funds provided to schools as previous years' Federal Capital Contributions, i.e., funds already circulating in the schools' revolving HPSL loan funds, may also be utilized for loans to individuals from disadvantaged backgrounds. Any school receiving LDS funds will be required to maintain separate accountability for these funds.

### School Eligibility

As required by statute, to qualify for participation in the LDS program, a school must meet the HPSL school eligibility requirements and must be:

1. Carrying out a program for recruiting and retaining students from disadvantaged backgrounds, including racial and ethnic minorities; and

2. Carrying out a program for recruiting and retaining minority faculty.

If a school has no students from disadvantaged backgrounds, or no full-time minority faculty, or provides no data as required in the application materials. it is not eligible for

participation in the LDS program. A school that is able to provide required data will be eligible for participation in the current award cycle. However, failure to provide certain additional data may make a school ineligible for special consideration (see below) and may jeopardize future program participation.

In addition, the school must agree in its fiscal year 1991 application to carry out all of the statutory requirements listed below:

1. Ensure that adequate instruction regarding minority health issues is provided for in the curricula of the school. This does not include normal coursework, that by definition includes minority health issues (e.g., sickle cell anemia in a pathology class), but refers to coursework reflecting an institutional awareness of the special health needs of minority populations;

2. Enter into arrangements with one or more health clinics providing services to a significant number of individuals who are from disadvantaged backgrounds, including members of minority groups, for the purpose of providing students of the school with experience in providing clinical services to such individuals;

3. Enter into arrangements with one or more public or nonprofit private secondary educational institutions and undergraduate institutions of higher education for the purpose of carrying out programs regarding:

a. The educational preparation of disadvantaged students, including minority students, to enter the health professions; and

b. The recruitment of disadvantaged students, including minority students, into the health professions; and

4. Establish a mentor program for assisting disadvantaged students, including minority students, regarding the completion of the educational requirements for degrees from the school. This program may include the involvement of students, community health professionals, faculty, alumni, past recipients of Health Career Opportunity Program (HCOP) funds, faculty/staff of feeder schools, etc., in institutionally organized activity (e.g., tutoring, counseling, and summer/bridge programs).

A school will be required to carry out each of the activities specified above by not later than one year after the date on which the first Federal Capital Contribution is made to the school under section 740(c). In addition, a school will be required to continue to carry out all described activities and also the student/faculty recruitment and retention activities throughout the period during which the school is making loans from its LDS loan fund.

**Evaluation Criteria for Fiscal Year 1992**

Beginning with FY 1992 applications will be evaluated on the degree to which the schools meet the statutory requirements listed above. Guidance for presenting the information will be provided in the FY 1992 application materials.

**Student Eligibility**

As required by statute, to qualify for a loan from the LDS fund, a student must meet the definition of an individual from a disadvantaged background.

On August 14, 1991, this program was announced in the **Federal Register** (56 FR 40337). The 30-day comment period on the proposed definitions, the methodology for implementing the statutory special consideration and procedures for calculating loans ended on September 16, 1991. The Department received no comments. Therefore, the definitions, the methodology for implementing the statutory special consideration and procedures for calculating loans are finalized as proposed.

**Definitions**

"Black" means a person having origins in any of the black racial groups of Africa.

"Hispanic" means a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.

"American Indian or Alaskan Native" means a person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.

Definitions listed above are contained in Directive No. 15 of Office of Management and Budget Circular No. A–46 dated May 3, 1974.

"Native American," as defined in Public Law 101–527, means American Indians, Alaskan Natives, Aleuts, and Native Hawaiians.

"Minority," with respect to faculty, refers to Blacks, Hispanics, Native Americans, Filipinos, Koreans, Pacific Islanders, and Southeast Asians whose percentage among the total supply of practitioners in the applicable health profession is below that group's percentage in the total population.

"Health professions school" means a public or private nonprofit school of medicine, school of dentistry, school of osteopathic medicine, school of podiatric medicine, school of optometry, or school of veterinary medicine as defined in sections 701(4) of the Act, or a school of pharmacy as defined in section 747 of the Act, which is located in a State as defined in section 701(11) of the Act, and which is accredited as provided in section 701(5) of the Act.

**Methodology for Implementing the Statutory Special Consideration**

A school's funding will be enhanced based on the extent of underrepresented minority student enrollment. (Refer to the section below on the procedures for allocating funds.)

Special consideration will be given to any school of medicine, osteopathic medicine, dentistry, optometry, podiatric medicine, pharmacy, or veterinary medicine that provides information, according to instructions in the application materials, that evidences an underrepresented minority enrollment that exceeds the national average for the particular discipline.

For purposes of determining school eligibility for the special consideration, "underrepresented minorities" will be defined as Blacks, Hispanics, and Native Americans. Although certain Asian subgroups (i.e., Filipinos, Koreans, Pacific Islanders, and Southeast Asians) are considered to be underrepresented in the health professions and are included as minorities for purposes of program requirements relating to faculty recruitment and retention (see above), national data on these subgroups are not available as a basis for establishing national average enrollment of underrepresented minorities for the particular health professions discipline.

For purposes of the FY 1991 award cycle, the national average enrollments of Blacks, Hispanics, and Native Americans (in combination) are: for medicine, 12.3 percent; osteopathic medicine, 6.9 percent; dentistry, 14.1 percent; pharmacy, 10.2 percent; podiatric medicine, 12.9 percent; optometry, 9.3 percent; and veterinary medicine, 5.6 percent).

**Procedures for Calculating Loans**

Funds will be awarded on a per capita basis, by comparing the enrollment of each eligible school, weighted in accordance with any special consideration, with the total enrollment of all eligible schools. A school with an above average underrepresented minority enrollment will be given double credit (i.e., its enrollment will be doubled for awarding purposes). The basic procedure for awarding funds is in accordance with a statutory procedure which must be followed in awarding HPSL loan funds.

**Additional Information:**

Questions regarding program policy and business management aspects

should be directed to: Mr. Bruce Baggett, Chief, Student Institutional Support Branch, Division of Student Assistance, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, room 8–34, 5600 Fishers Lane, Rockville, Maryland 20857, telephone: (301) 443–4776.

The Catalog of Federal Domestic Assistance Number for the Loans for Disadvantaged Students is 93.342. It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100).

Dated: September 25, 1991.

**Robert G. Harmon,**

*Administrator.*

[FR Doc. 91–23567 Filed 9–30–91; 8:45 am]

BILLING CODE 4160–15–M

## Final Announcement for Scholarships for Disadvantaged Students

The Health Resources and Services Administration (HRSA) announces the final criteria for acceptability of undergraduate students, definitions, funding preference, methodology for implementing the statutory special consideration, nonstatutory special consideration, and the procedures for calculating grant awards for the new program of Scholarships for Disadvantaged Students (SDS). The SDS program is under the authority of the new section 760 of the Public Health Service Act (the Act), as amended by The Disadvantaged Minority Health Improvement Act of 1990, Public Law 101–527.

Approximately $8,300,000 is available in FY 1991 for the competing applications for the SDS Program from eligible health professions and nursing schools. Of the funds available, 30 percent shall be made available to schools agreeing to expend the grants only for nursing scholarships. An estimated $2.9 million will support approximately 965 scholarships averaging $3,000 for students at schools of nursing. The balance of $5.4 million will support approximately 2,400 scholarships averaging $2,250 for eligible health professions students. The period of fund availability will be for one academic year.

On August 7, 1991, this program was announced in the **Federal Register** (56 FR 37557). The 30-day public comment period on proposed elements of the program ended on September 6, 1991. The Department received comments from 4 respondents which included 3 professional associations and one school official. The comments and the Department's responses to the comments are discussed below according to the order in which the elements proposed comment appeared in the published notice. Comments on program aspects that were not specifically proposed for public comment are not addressed in this notice.

### Purpose

The SDS program is a new program of grants to health professions and nursing schools for the purpose of assisting such schools in providing scholarships to individuals from disadvantaged backgrounds who are enrolled (or accepted for enrollment) as full-time students in the schools, as well as to undergraduate students who have demonstrated a commitment to pursuing a career in health professions. For purposes of the SDS program in FY 1991, an "individual from a disadvantaged background" will be defined as in 42 CFR part 57, subpart S, as one who:

(1) Comes from an environment that has inhibited the individual from obtaining the knowledge, skill, and abilities required to enroll in and graduate from a health professions school, or from a program providing education or training in an allied health profession; or

(2) Comes from a family with an annual income below a level based on low income thresholds according to a family size published by the U.S. Bureau of the Census, adjusted annually for changes in the Consumer Price Index, and adjusted by the Secretary for use in all health professions programs. The Secretary will periodically publish these income levels in the **Federal Register.**

The following income figures determine what constitutes a low income family for purposes of the Scholarships for Disadvantaged Students program for FY 199l.

| Size of parents' family [1] | Income Level [2] |
|---|---|
| 1 | $8,800 |
| 2 | 11,400 |
| 3 | 13,500 |
| 4 | 17,300 |
| 5 | 20,400 |
| 6 or more | 23,000 |

[1] Includes only dependents listed on Federal income tax forms.

[2] Adjusted gross income for calendar year 1990, rounded to $100.

### Use of Funds

Funds awarded to a school under this program may be used as follows:

(1) To award scholarships to eligible students enrolled in the school, to be expended only for tuition expenses, other reasonable educational expenses, and reasonable living expenses (as defined by the school for all students attending the school) incurred while enrolled in a school as a full-time student. The amount of the scholarship may not, for any year of attendance, exceed the total amount required for the year for the expenses specified above.

(2) To provide financial assistance to undergraduate students who have demonstrated a commitment to pursuing a career in the health professions, in order to facilitate the completion of the educational requirements for such careers, provided that the total amount used for this purpose may not exceed 25 percent of the funds awarded to the school under this program.

Any school receiving SDS funds will be required to maintain separate accountability for these funds.

### School Eligibility

Grants under this program will be made available to accredited public or nonprofit private health professions schools. For purposes of the SDS program, the term "health professions schools" means schools of medicine, dentistry, osteopathic medicine, pharmacy, optometry, podiatric medicine, veterinary medicine, and public health, as defined in section 701(4) of the Act, and which are accredited as provided in section 701(5) of the Act, schools of allied health as defined in section 701(10) of the Act, and which are located in States as defined in section 701(11) of the Act, and schools of nursing as defined in section 853 of the Act. The term also includes a "graduate program in clinical psychology" as defined in section 701(4) of the Act.

In accordance with congressional report language, funding of allied health schools or programs will be limited to the following: Dental hygiene, medical laboratory technology, occupational therapy, physical therapy and radiologic technology.

As required by statute, to qualify for participation in the SDS program, a school must be:

(1) carrying out a program for recruiting and retaining students from disadvantaged backgrounds, including racial and ethnic minorities; and

(2) carrying out a program for recruiting and retaining minority faculty.

If a school has no students from disadvantaged backgrounds, or no full-time minority faculty, or provides no data as required in the application materials, it is not eligible for participation in the SDS program. A school that is able to provide required data will be eligible for participation in the current award cycle. However,

failure to provide certain additional data may make a school ineligible for special consideration (see below) and may jeopardize future program participation.

In addition, the school must agree in its fiscal year 1991 application to carry out all of the statutory requirements listed below:

(1) Ensure that adequate instruction regarding minority health issues is provided for in the curricula of the school. This does not include normal course work, that by definition includes minority health issues (e.g., sickle cell anemia in a pathology class), but refers to course work reflecting an institutional awareness of the special health needs of minority populations;

(2) Enter into arrangements with one or more health clinics providing services to a significant number of individuals who are from disadvantaged backgrounds, including members of minority groups, for the purpose of providing students of the school with experience in providing clinical services to such individuals;

(3) Enter into arrangements with one or more public or nonprofit private secondary educational institutions and undergraduate institutions of higher education (feeder schools), for the purpose of carrying out programs regarding:

(a) the educational preparation of disadvantaged students, including minority students, to enter the health professions; and

(b) the recruitment of disadvantaged students, including minority students, into the health professions; and

(4) Establish a mentor program for assisting disadvantaged students, including minority students, regarding the completion of the educational requirements for degrees from the school. This program may include the involvement of students, community health professionals, faculty, alumni, past recipients of Health Career Opportunity Program (HCOP) funds, faculty/staff of feeder schools, etc., in institutionally organized activity (e.g., tutoring, counseling, and summer/bridge programs).

A school will be required to carry out each of the activities specified above by not later than one year after the date on which a grant is first made to the school under section 760. Funds awarded to a school under the SDS program may not be used to carry out any of the above activities which the school must be doing, or must agree to do. In addition, a school will be required to continue to carry out all described activities, and also the student/faculty recruitment and retention activities, for as long as the SDS program is in operation in the school.

**Evaluation Criteria for Fiscal Year 1992**

Beginning with FY 1992 applications will be evaluated on the degree to which the schools meet the statutory requirements listed above. Guidance for presenting the information will be provided in the FY 1992 application materials.

**Student Eligibility**

As required by statute, to qualify for the SDS program, a student must:

(1) be a citizen, a U.S. national, an alien lawfully admitted for permanent residency in the U.S., or a citizen of the Commonwealth of the Northern Mariana Islands, a citizen of the Commonwealth of Puerto Rico, a citizen of the Trust Territory of the Pacific Islands (consisting of the Republic of Palau) or a citizen of the Republic of Marshall Islands, the Federated States of Micronesia (both formally part of the Trust Territory of the Pacific Islands);

(2) meet the definition of an "individual from a disadvantaged background" as defined above; and

(3)(a) be enrolled in or accepted by an eligible school for enrollment as a full-time student; or

(b) be an undergraduate student who has demonstrated a commitment to pursuing a career in health professions, including nursing.

**Statutory Preference**

The law requires that in providing SDS scholarships, the school give preference to students for whom the cost of attending an SDS school would constitute a severe financial hardship. Severe financial hardship will be determined by the school in accordance with standard need analysis procedures prescribed by the Department of Education for its Federal student aid programs.

The following program elements were published in the **Federal Register** on August 7, 1991 for public comment: proposed acceptability of undergraduate students, definitions, funding preference, methodology for implementing the statutory special consideration, nonstatutory special consideration, and procedures for calculating grant awards. Comments were received from 4 sources. The comments related to all of the program elements except for the proposed definitions.

In terms of proposed acceptability of undergraduate students, two commenters suggested that eligibility for scholarships be limited to students enrolled in or accepted by eligible schools rather than extended to students who "demonstrate a commitment" to pursuing a career in the health professions. The language in question is statutory and support for such students is at the option of each school, up to a limit of 25 percent of a grant. Therefore, this program element will be retained as follows:

*Acceptability of Undergraduate Students*

In the instance of (3) b) above, the undergraduate students eligible for scholarships must be at feeder schools and must have signed statements that they are interested in health professions or nursing careers.

In the absence of public comment, the following definitions will be retained as proposed:

*Definitions*

"Black" means a person having origins in any of the black racial groups of Africa.

"Hispanic" means a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.

"American Indian or Alaskan Native" means a person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.

Definitions listed above are contained in Directive No. 15 of Office of Management and Budget Circular No. A–46, dated May 3, 1974.

"Native American" as defined in Public Law 101–527, means American Indian, Alaskan Native, Aleut, or Native Hawaiian.

"Minority" with respect to faculty, refers to Blacks, Hispanics, Native Americans, Filipinos, Koreans, Pacific Islanders, and Southeast Asians whose percentage among the total supply of practitioners in the applicable health profession is below that group's percentage in the total population.

One commenter supported the proposed funding preference for funding of schools of allopathic medicine, osteopathic medicine and dentistry ahead of other eligible institutions. Two commenters objected to this funding restriction. Based on the Congressional committee report language which directs funding of these schools in the absence of full funding, the Department has retained the funding preference as proposed:

*Funding Preference*

A funding preference means funding of a specific group of approved applications ahead of other categories of applications. Because of limited funding, in fiscal year 1991, preferential funding will be accorded to schools of medicine, osteopathic medicine and dentistry. This responds to the concern expressed in Congressional committee report language regarding the need to target monies toward programs that are focused on primary care. This funding preference will not affect the statutory requirement that 30% of the SDS funds shall be made available to schools agreeing to expend the grants only for nursing scholarships.

One comment related to the exclusion of all Asian students from the

calculation of underrepresented minority enrollment in implementing the statutory special consideration. This exclusion was based on lack of national data on the Asian subgroups. The commenter urged the Department to obtain national data on these subgroups in the near future. We agree with this suggestion and will consider any future opportunity to do so. The methodology will be retained as follows:

*Methodology for Implementing the Statutory Special Consideration*

In accordance with the statute, a special consideration will be given to eligible schools with an underrepresented minority enrollment that exceeds the national average for its particular discipline.

For purposes of determining eligibility of a school of medicine, osteopathic medicine and dentistry for the special consideration, Asians will not be included in the definition of underrepresented minorities for the school. Although certain Asian subgroups (i.e, Filipinos, Koreans, Pacific Islanders, and Southeast Asians) are considered to be underrepresented in the health professions and are included as minorities for purposes of program requirements relating to faculty recruitment and retention (see above), national data on these subgroups are not available as a basis for establishing national average enrollment of underrepresented minorities for the disciplines of medicine, osteopathic medicine, and dentistry.

For purposes of determining the eligibility of nursing schools for the special consideration, Asians will be included in the definition of underrepresented minorities since Asians as a whole do continue to be underrepresented in nursing.

For purposes of the fiscal year 1991 award cycle, the national average enrollments of Blacks, Hispanics, and Native Americans (in combination) are: For medicine, 12.3 percent; osteopathic medicine, 6.9 percent; dentistry, 14.1 percent; and nursing, 16.4 percent (nursing percentage includes Asians).

One commenter strongly supported the proposed nonstatutory special consideration for baccalaureate nursing programs which will be retained as follows:

*Nonstatutory Special Consideration for Baccalaureate Nursing Programs*

Among schools of nursing, additional consideration will be given to baccalaureate programs. One of the distinguishing features of baccalaureate education is the substantial focus on preparation for community health practice. Training nurses for community health practice is an integral component of the Department's access strategy.

Two comments related to the proposed procedures for calculating scholarship awards. One commenter questioned whether the "national average" calculation for a given discipline would remain constant or change each fiscal year. The national average will be based on the most recent data available and may, therefore, fluctuate on a yearly basis. A second commenter supported the award of additional credit to baccalaureate nursing schools and to those baccalaureate schools with enrollments exceeding the national average of underrepresented minorities for such discipline. The commenter requested some examples to clarify how the additional credit would be applied. The following examples are provided:

Four different schools (A,B,C, & D) each have 10 disadvantaged students. The factor by which the award amount for each school is multiplied appears next to the description of the respective school.

| School | Factor |
|---|---|
| School A=associate degree program with underrepresented minority enrollment below the national average | 10 |
| School B=associate degree program with underrepresented minority enrollment above the national average | 20 |
| School C=baccalaureate degree program with underrepresented minority enrollment below the national average | 20 |
| School D=baccalaureate degree program with underrepresented minority enrollment above the national average | 40 |

The procedures for calculating scholarship awards will be retained as proposed:

*Procedures for Calculating Scholarship Awards*

Awards to eligible schools which have applied will be calculated by comparing the enrollment of disadvantaged students in each eligible school with the total enrollment of the disadvantaged students in all eligible schools. In the case of health professions schools, the calculation will be made first for schools of medicine, osteopathic medicine, and dentistry, with awards limited to the cost of attendance times the number of eligible disadvantaged students at the school. Any remaining funds will be made available to other eligible health professions schools.

A school with an enrollment of underrepresented minority students which is above the national average (for each discipline) will be given double credit (i.e., its enrollment of disadvantaged students would be doubled for awarding purposes). A baccalaureate nursing school will be given double credit. A baccalaureate nursing school with an underrepresented minority enrollment above the national average will be given quadruple credit (i.e., its enrollment of disadvantaged students will be multiplied by four for awarding purposes).

**National Health Objectives for the Year 2000**

The Public Health Service is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity for setting priority areas. The Scholarships for Students from Disadvantaged Backgrounds program is related to the priority area of Educational and Community-Based Programs. Potential applicants may obtain a copy of Healthy People 2000 (Full Report; Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report; Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (telephone (202) 783–3238).

**Additional Information**

Questions regarding programmatic information, policy, and technical and business management issues should be directed to: Mr. Bruce Baggett, Chief, Student Institutional Support Branch, Division of Student Assistance, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, room 8–34, 5600 Fishers Lane, Rockville, Maryland 20857, telephone: (301) 443–4776.

The Catalog of Federal Domestic Assistance Number for the Scholarships for Health Professions Students from Disadvantaged Backgrounds program is 93.925. This program is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100).

Dated: September 25, 1991.

**Robert G. Harmon,**

*Administrator.*

[FR Doc. 91–23566 Filed 9–30–91; 8:45 am]

BILLING CODE 4160–15–M

## National Institutes of Health

### National Heart, Lung, and Blood Institute; Meeting of the Clinical Trials Review Committee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Clinical Trials Review Committee, National Heart, Lung, and Blood Institute, November 3–5, 1991, Savoy Hotel, 2505 Wisconsin Avenue, NW, Washington, DC 20007.

The meeting will be open to the public on November 3, from 7 p.m. to approximately 8 p.m. to discuss administrative details and to hear a report concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public is limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C., and section 10(d) of Public Law 92–463, the meeting will be closed to the public on November 3, from approximately 8 p.m.

to 10 p.m., on November 4, from 8 a.m. to 6 p.m., and November 5, from 8 a.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.

Ms. Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, room 4A–21, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–4236, will provide a summary of the meeting and a roster of the Committee members.

Dr. David M. Monsees, Jr., Contracts, Clinical Trials and Training Review Section, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, Westwood Building, room 550B, Bethesda, Maryland 20892, (301) 496–7361, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: September 17, 1991.

**Samuel C. Rawlings,**

*Acting Committee Management Officer, NIH.*

[FR Doc. 91–23553 Filed 9–30–91; 8:45 am]

BILLING CODE 4140–01–M

## National Institute of Environmental Health Sciences; Meeting of Board of Scientific Counselors, NIEHS

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, NIEHS, October 20–21, in Building 101 Conference Room, South Campus, NIEHS, Research Triangle Park, North Carolina.

This meeting will be open to the public 9 a.m. to 12 noon on October 20, for the purpose of presenting an overview of the organization and conduct of research in the Laboratory of Cellular and Molecular Pharmacology. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6) of title 5 U.S. Code and section 10(d) of Public Law 92–463, the meeting will be closed to the public on October 20 from approximately 1 p.m. to recess and on October 21 from 9 a.m. to adjournment, for the evaluation of the programs of the Laboratory of Cellular and Molecular Pharmacology, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Executive Secretary, Dr. John McLachlan, Scientific Director, Division of Intramural Research, NIEHS, Research Triangle Park, NC 27709, telephone (919) 541–3205, FTS 629–3205 will furnish summaries of the meeting, rosters of committee members and substantive program information.

Dated: September 17, 1991.

**Samuel C. Rawlings,**

*Acting Committee Management Officer, NIH.*

[FR Doc. 91–23554 Filed 9–30–91; 8:45 am]

BILLING CODE 4140–01–M

## National Center for Research Resources; Meeting of the Comparative Medicine Review Committee

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Comparative Medicine Review Committee, National Center for Research Resources, National Institutes of Health.

The meeting will be held on October 17–18, 1991, at the Inn at the Park Hotel, 22 South Carroll Street, Madison, Wisconsin 53703. The meeting will be open to the public from 8 a.m. to 8:30 a.m. on October 18, 1991, for a brief staff presentation on the current status of the Comparative Medicine Program and the selection of future meeting dates. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public on October 17 from 4 p.m. until recess and on October 18, 1991, from 8:30 a.m. until 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.

*Name of Committee:* Comparative Medicine Review Committee.

*Dates of Meeting:* October 17–18, 1991.

*Place of Meeting:* Inn At The Park, 22 South Carroll Street, Madison, Wisconsin 53703 (The Assembly Suite).

*Open:* October 18—8 a.m.–8:30 a.m.

*Closed:* October 17—4 p.m.–Recess; October 18—8:30 a.m.–Adjournment

Mr. James J. Doherty, Information Officer, National Center for Research Resources, 5333 Westbard Avenue, room 10A15, Bethesda, Maryland 20892, (301) 496–5545, will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Arthur D. Schaerdel, Scientific Review Administrator of the Comparative Medicine Review Committee, Office of Review, National Center for Research Resources, National Institutes of Health, 5333 Westbard Avenue, room 10A16, Bethesda, Maryland 20892, (301) 496–4390, will furnish substantive program information upon request.

(Catalog of Federal Domestic Assistance Programs No. 93.306, Laboratory Animal Sciences, National Institutes of Health)

Dated: September 17, 1991.

**Samuel C. Rawlings,**

*Committee Management Officer, NIH.*

[FR Doc. 91–23551 Filed 9–30–91; 8:45 am]

BILLING CODE 4140–01–M

## National Heart, Lung, and Blood Institute; Meeting of Board of Scientific Counselors

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Heart, Lung, and Blood Institute on December 5 and 6, 1991, National Institutes of Health, 9000 Rockville Pike, Building 10, room 7N214, Bethesda, Maryland 20892.

This meeting will be open to the public from 9 a.m. to 5 p.m. on December 5 and from 9 a.m. to 1 p.m. on December 6 for discussion of the general trends in research relating to cardiovascular, pulmonary and certain hematologic diseases. Attendance by the public will be limited to space available.

In accordance with the provision set forth in section 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public from 1 p.m. to adjournment on December 6 for the review, discussion, and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Terry Bellicha, Chief, Communications and Public Information

Branch, National Heart, Lung, and Blood Institute, building 31, room 4A21, National Institutes of Health, Bethesda, Maryland 20892, phone (301) 496–4236, will provide a summary of the meeting and a roster of the Board members.

Substantive program information may be obtained from Dr. Edward D. Korn, Executive Secretary and Director, Division of Intramural Research, NHLBI, NIH, building 10, room 7N214, phone (301) 496–2116.

Dated: September 17, 1991.

**Samuel C. Rawlings,**

*Acting Committee Management Officer, NIH.*

[FR Doc. 91–23552 Filed 9–30–91; 8:45 am]

BILLING CODE 4140–01–M

## National Institute on Aging; Meetings

Pursuant to Public Law 92–463, notice is hereby given of meetings of the Biological and Clinical Aging Review Subcommittees A and B, and the Neurological, Behavior and Sociology of Aging Review Subcommittees A and B.

These meetings will be open to the public as indicated below to discuss administrative details and other issues relating to committee activities as indicated in the notice. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below 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 Public Law 92–463, for the review, discussion, and evaluation of individual research 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.

Ms. June C. McCann, Committee Management Officer, National Institute on Aging, Building 31, room 5/C02, National Institutes of Health, Bethesda, Maryland 20892 (301/496–9322), will provide summaries of the meetings and rosters of the committee members upon request.

Other information pertaining to the meetings can be obtained from the Executive Secretary indicated.

*Name of Subcommittee:* Biological and Clinical Aging Review Subcommittee B.

*Executive Secretary:* Dr. James Harwood, Building 31, room 5C12, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–9666.

*Dates of Meeting:* October 28, 29, 30, 1991.

*Place of Meeting:* Marriott Residence Inn, Bethesda, Maryland 20814.

*Open:* October 28—7 p.m. to 7:30 p.m.

*Closed:* October 29—8:30 a.m. to adjournment on October 30.

*Name of Subcommittee:* Biological and Clinical Aging Review Subcommittee A.

*Executive Secretary:* Dr. Daniel Eskinazi, Building 31, room 5C12, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–9666.

*Dates of Meeting:* October 7, 8, 1991.

*Place of Meeting:* Bethesda Ramada Inn, Bethesda, Maryland 20814.

*Open:* October 7—7 p.m. to 7:30 p.m.

*Closed:* October 8—8:30 a.m. to adjournment.

*Name of Subcommittee:* Neurological, Behavior and Sociology of Aging Review Subcommittee A.

*Executive Secretary:* Dr. Maria Mannarino, Dr. Louise Hsu, Building 31, room 5C12, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–9666.

*Dates of Meeting:* November 19, 20, 21, 22, 1991.

*Place of Meeting:* Marriott Residence Inn, Bethesda, Maryland 20814.

*Open:* November 19—7:30 p.m. to 8 p.m.

*Closed:* November 20—8:30 a.m. to adjournment on November 22

*Name of Subcommittee:* Neurological, Behavior and Sociology of Aging Review Subcommittee B.

*Executive Secretary:* Dr. Walter Spieth, Building 31, room 5C12, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–9666.

*Dates of Meeting:* November 17, 18, 19, 1991.

*Place of Meeting:* Bethesda Marriott—Pooks Hill Hotel, 5151 Pooks Hill Road, Bethesda, Maryland 20814.

*Open:* November 17—8 p.m. to 8:30 p.m.

*Closed:* November 18—8:30 a.m. to adjournment on November 19.

(Catalog of Federal Domestic Assistance Program No. 93.866, Aging Research, National Institutes of Health.)

Dated: September 17, 1991.

**Samuel C. Rawlings,**

*Acting Committee Management Officer, NIH.*

[FR Doc. 91–23555 Filed 9–30–91; 8:45 am]

BILLING CODE 4140–01–M

## National Library of Medicine; Meeting of the Board of Scientific Counselors

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Library of Medicine, on November 7 and November 8, 1991, in the Board Room of the National Library of Medicine, Building 38, 8600 Rockville Pike, Bethesda, Maryland.

The meeting will be open to the public from 8:30 a.m. to 12:45 p.m. and from 1:45 to 4:45 p.m. on November 7 and from 8:30 a.m. to approximately 12 noon on November 8 for the review of research and development programs and preparation of reports of the Lister Hill National Center for Biomedical Communications. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sec. 552b(c)(6), title 5, U.S.C., and section 10(d) of Public Law 92–463, the meeting will be closed to the public on November 7, from approximately 12:45 p.m. to 1:45 p.m. for the consideration of personnel qualifications and performance of individual investigators and similar items, the disclosure of which would constitute an unwarranted invasion of personal privacy.

The Executive Secretary, Dr. Daniel R. Masys, Director, Lister Hill National Center for Biomedical Communications, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20894, telephone (301) 496–4441, will furnish summaries of the meeting, rosters of committee members, and substantive program information.

Dated: September 17, 1991.

**Samuel C. Rawlings,**

*Acting Committee Management Officer, NIH.*

[FR Doc. 91–23356 Filed 9–30–91; 8:45 am]

BILLING CODE 4140–01–M

## National Center for Research Resources; Meeting of the General Clinical Research Centers Committee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the General Clinical Research Centers (GCRC) Committee, National Center for Research Resources (NCRR), October 22–23, 1991, Holiday Inn, Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20815.

The meeting will be open to the public on October 22, 1991, from 11 a.m. to 12:30 p.m. during which time there will be comments by the Director, NCRR; and an update on the GCRC Program by Dr. Judith L. Vaitukaitis, Acting Director, GCRC Program, NCRR. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S. Code and section 10(d) of Public Law 92–463, the meeting will be closed to the public on October 22 from 8 a.m., until 11 a.m., from 12:30 p.m. until recess, and on October 23 from 8 a.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, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James J. Doherty, Information Officer, NCRR, Westwood Building, room 10A15, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–5545, will provide a summary of the meeting, and a roster of the committee members upon request. Dr. Bela J. Gulyas, Scientific Review Administrator, GCRC Committee, NCRR, (301) 402–0627, will furnish information on the agenda upon request.

(Catalog of Federal Domestic Assistance Program No. 93.333, Clinical Research, National Institutes of Health).

Dated: September 17, 1991.

**Samuel C. Rawlings,**

*Acting Committee Management Officer, NIH.*

[FR Doc. 91–23557 Filed 9–30–91; 8:45 am]

**BILLING CODE 4140–01–M**

## Public Health Service

## Orientation to U.S. Department of Health and Human Services Grants and Contracts Activities for Applicants and Recipients of Awards; Announcement

**AGENCY:** Office of the Assistant Secretary for Health, PHS, HHS.

**ACTION:** Notice.

**SUMMARY:** The Office of the Assistant Secretary for Health is announcing a training course, "Orientation to U.S. Department of Health and Human Services Grants and Contracts Activities for Applicants and Recipients of Awards," which will be presented eight times at locations around the country during FY 1992. Complete information as to locations and dates is provided below under **SUPPLEMENTARY INFORMATION.**

**DATES:** To receive consideration for a particular course session, applications must be received by the close of business on the deadline date specified under **SUPPLEMENTARY INFORMATION** below.

**SUPPLEMENTARY INFORMATION:**

### Course Title

"Orientation to U.S. Department of Health and Human Services Grants and Contracts Activities for Applicants and Recipients of Awards."

### Course Description

This is a 2-day course which is designed to provide applicants for and recipients of HHS grants and contracts a better understanding of the procedures and expectations in applying for funding and administering an award from HHS. Day one of the course concentrates on the grants process; day two is devoted to contracting. Students will be provided with a broad overview of conducting business with HHS including: How the Department is organized; when the grant or contract mechanism is used; how the HHS contracts and grants processes are structured; how to identify grant and contract funding opportunities; how to submit effective proposals; and how to properly administer a contract or grant once it has been awarded.

### Target Population

Grant and contract staff of organizations which are presently doing business with HHS or which plan to submit applications for grants or proposals for contracts. The course is intended for staff who are inexperienced with the grant and contract mechanisms.

| Dates | Locations | Application deadlines |
|---|---|---|
| 1991 | | |
| Nov. 18–19 | Atlanta, GA | October 10. |
| Dec. 4–5 | Rockville, MD | October 10. |
| 1992 | | |
| Jan. 27–28 | San Diego, CA | October 10. |
| Mar. 18–19 | Dallas, TX | October 10. |
| May 18–19 | San Francisco, CA. | March 10. |
| Jun. 15–16 | Rockville, MD | March 10. |
| Jul. 13–14 | Boston, MA | March 10. |
| Aug. 10–11 | Chicago, IL | March 10. |

All courses will be held from 8:30 a.m. to 5 p.m. both days.

Selection will be made on a first-come, first-served basis. Early application is encouraged, as these offerings are filled rapidly.

### Course Outline

*Day 1*

Introduction to HHS Assistance (Grants/Cooperative Agreements) and Acquisition (Contracts)

HHS Mission and Organizational Structure; Assistance vs. Acquisition (The Federal Grant and Cooperative Agreement Act); HHS Grant and Contract Expenditures and Recipients; Introduction to Types and Purposes of HHS Grants; Roles of HHS Grants and Program Management Staff.

Seeking and Applying for HHS Grants/Cooperative Agreements

Sources of Information; Understanding Program Announcements; The Application Package; The Complete, Effective Application; Competition and Objective Review.

Negotiation and Award Process for Grants/Cooperative Agreements

Cost Analysis and Preaward Review; Negotiating—Clarifying and Revising Proposed Activities; Funding Outcomes; Contents of a Grant Award Document; General and Special Conditions.

Grant/Cooperative Agreement Post-Award Issues and Concerns

Monitoring; Audit; Appeals; Progress Reports; Drawdowns; Financial Status Reports; Grant Budget Control; Cost Principles and Unallowable Costs; Purchasing; Property Management.

*Day 2*

Seeking HHS Contracts

Identifying HHS Contracting Opportunities; The Legal Framework of HHS Contracting; Small Business Contracting Programs; Roles of HHS Contracting and Project Staff.

Responding to Contract Solicitations

Small Purchases—$25,000 or Less; Purchases Greater Than $25,000; Preparing the Technical Proposal; Preparing the Business Proposal.

Proposal Submission, Contract Negotiation, and Award

Proposal Submission and Evaluation; Negotiation and Award.

Contract Administration

Initial Contract Administration Steps; Significant Contract Administration Concerns.

### Class Size

Limited to 30 participants per session to maximize interaction and only one individual per institution, per session.

### Attendance

Those accepted will be expected to attend both days of the course. A Certificate of Attendance will be issued to all participants who attend for both days.

*Cost*

There will be no charge for this course. Travel and accommodations will be the responsibility of participants.

### Notification of Applications

Applicants selected will be notified of their acceptance and provided with information on the exact location of courses and suggested accommodations. Persons not selected will not be notified.

*To Apply:* Submit a letter on the

employing organization's letterhead which provides the following information: Name of applicant; Employing organization: name, address, and telephone number; Position title of applicant; Years of experience with HHS grants, contracts, or both; Principal area of interest (grants, contracts, or both); Reason for wanting to take this course (100 words or less); Course session desired.

Send Letter of Application to: Training Coordinator, Grants Policy Branch, Division of Grants and Contracts, Office of the Assistant Secretary for Health, HHS, room 17A–45, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Dated: September 20, 1991.

**Anthony L. Itteilag,**

*Deputy Assistant Secretary for Health Management Operations.*

[FR Doc. 91–23532 Filed 9–30–91; 8:45 am]

BILLING CODE 4160–17

## National Toxicology Program; Chemicals (7) Nominated for Toxicological Studies; Request for Comments

**SUMMARY:** The National Toxicology Program (NTP) is soliciting public comments on seven chemicals nominated for toxicological studies. These comments will assist the NTP in making informed decisions about whether to perform toxicological testing of these chemicals.

**FOR FURTHER INFORMATION CONTACT:** Dr. Victor A. Fung, Chemical Selection Coordinator, National Toxicology Program, room 2B55, Building 31, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–3511.

**SUPPLEMENTARY INFORMATION:** The NTP Chemical Evaluation Committee (CEC) is composed of representatives from the agencies participating in the NTP. As part of the chemical selection process of the National Toxicology Program, nominated chemicals which have been reviewed by the CEC are published in the **Federal Register** with request for comment. The purpose is to encourage active participation in the NTP chemical evaluation process, thereby helping the NTP to make more informed decisions as to whether to select, defer or reject chemicals for toxicology study. Comments and data submitted in response will be reviewed by NTP technical staff for use in the further evaluation of the nominated chemicals. The NTP chemical nomination and selection process is summarized in the **Federal Register**, April 1981 (46 FR 21828), and also in the NTP FY 1990 Annual Plan, pages 13–15.

On August 8, 1991, the CEC met to evaluate seven chemicals nominated to the NTP for toxicological studies. The following table lists the chemicals, their Chemical Abstract Service (CAS) registry numbers, and the types of toxicological studies recommended by the CEC.

| Chemical | CAS Registry No. | Committee recommendations |
|---|---|---|
| 1. Acetyl tributyl citrate | 77–90–7 | Defer. |
| 2. Benzophenone | 119–61–9 | Toxicity, Carcinogenicity, Teratogenicity. |
| 3. Benzyltrimethylammonium chloride | 56–93–9 | Toxicity (including neurotoxicity), Carcinogenicity, Teratogenicity. |
| 4. N-(3-chloroallyl)hexaminium chloride | 4080–31–3 | Defer. |
| 5. 1,2,3,4-butanetetra-carboxylic acid | 1703–58–8 | Toxicity, Reproductive and developmental effects. |
| 6. Halazone | 80–13–7 | No testing. |
| 7. Pentaerythritol triacrylate | 3524–68–3 | Chemical disposition and metabolism, Carcinogenicity. |

Four of the seven nominated chemicals were previously tested in *Salmonella* by the NTP. Three of these chemicals (benzophenone, benzyltrimethylammonium chloride, and pentaerythritol triacrylate) were found to be nonmutagenic, and the fourth chemical (halazone) was mutagenic in this assay. Another chemical, 1,2,3,4-butanetetracarboxylic acid, has been selected by NTP for testing in *Salmonella*. The NTP has performed chemical disposition studies on N-(3-chloroallyl)hexaminium chloride.

The CEC deferred two chemicals. Acetyl tributyl citrate was deferred in order to retrieve information on unpublished toxicology studies which have been conducted, are in progress, or are in the planning stages.

In their evaluation of the other deferred chemical, N-(3-chloroallyl)hexaminium chloride, the CEC expressed a strong interest in carcinogenicity testing of this chemical based on its widespread use and potential for human exposure. However, the CEC deferred recommending N-(3-chloroallyl)hexaminium chloride for NTP testing because the EPA is currently evaluating the chemical as a part of a re-registration process of pesticides. In addition, the CEC was informed that industry was planning to conduct oncogenicity studies in accordance with EPA guidelines. NTP staff will keep the CEC informed of the status of the chemical at the EPA.

The NTP is also soliciting public comments on trimethylolpropane triacrylate (CAS Number 15625–89–5). The CEC had reviewed this chemical on March 13, 1991, and recommended it for chemical disposition, carcinogenicity, and reproductive and developmental effects studies. However, in a previous notice published in the **Federal Register**, May 7, 1991 (56 FR 21169) to solicit information on the chemical, the name of this chemical was incorrectly listed as "trimethylolpropane." The correct name is trimethylolpropane triacrylate.

Interested parties are requested to submit pertinent information on all of the nominated chemicals. The following types of data are of particular relevance:

(1) Modes of production, present production levels, and occupational exposure potential;

(2) Uses and resulting exposure levels, where known;

(3) Completed, ongoing and/or planned toxicologic testing in the private sector including detailed experimental protocols and results, in the case of completed studies;

(4) Results of toxicological studies of structurally related compounds.

Please submit all information in writing by October 31, 1991, to Dr. Fung. Any submissions received after the above date will be accepted and utilized if possible.

Dated: September 24, 1991.

**Kenneth Olden,**

*Director, National Toxicology Program.*

[FR Doc. 91–23558 Filed 9–30–91; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of Administration

[Docket No. N-91-3321]

### Submission of Proposed Information Collection to OMB

**AGENCY:** Office of Administration, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Jennifer Main, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

**SUPPLEMENTARY INFORMATION:** The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the Office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

**Authority:** Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: September 16, 1991.

**John T. Murphy,**

*Director, Information Policy and Management Division.*

### Notice of Submission of Proposed Information Collection to OMB

*Proposal:* Evaluation of Fair Housing Initiative Testing Program.

*Office:* Policy Development and Research.

*Description of the need for the information and its proposed use:* The primary purpose of the evaluation is to assess the impacts of the existing guidelines on the compliant investigation activities Private Fair Housing Groups (PFHGs) and in the probating value of testing evidence. In addition, the evaluation will address the acceptability of the guidelines to PFHGs and to other interested parties.

*Form Number:* None.

*Respondents:* Federal Agencies or employees, non-profit institutions and small businesses or organizations.

*Frequency of Submission:* One-Time.

*Reporting Burden:*

| | Number of respondents | × | Frequency of response | × | Hours per response | = | Burden hours |
|---|---|---|---|---|---|---|---|
| Information collection | 367 | | 1 | | 1.62 | | 595 |

*Total Estimated Burden Hours:* 595.

*Status:* New.

*Contact:* John Goering, HUD, (202) 708–3700; Jennifer Main, OMB, (202) 395–6880.

Dated: September 16, 1991.

[FR Doc. 91–23541 Filed 9–30–91; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. N-91-3322]

### Submission of Proposed Information Collection to OMB

**AGENCY:** Office of Administration, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Jennifer Main, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

**SUPPLEMENTARY INFORMATION:** The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

**Authority:** Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: September 20, 1991.

**John T. Murphy,**

*Director, Information Policy and Management Division.*

**Notice of Submission of Proposed Information Collection to OMB**

*Proposal:* Evaluation of Resident Management in Public Housing.
*Office:* Policy Development and Research.
*Description of The Need For the Information and Its Proposed Use:* Data are being collected as part of a Congressionally mandated evaluation of Resident Management in Public Housing. Data will focus on the emerging resident management corporations (RMCs) and will include interviews with RMCs and housing authority officials, surveys of public housing residents, file reviews, property inspections, and focus groups.
*Form Number:* None.
*Respondents:* Individuals or households, State or Local Governments and non-profit institutions.
*Frequency of Submission:* One-time.
*Reporting burden:*

| | Number of respondents | x | Frequency of response | x | Hours per response | = | Burden hours |
|---|---|---|---|---|---|---|---|
| Information Collection | 218 | | 1 | | .885 | | 193 |

*Total Estimated Burden Hours:* 193.
*Status:* Reinstatement.
*Contact:* Paul Gaton, HUD, (202) 708–3700, Jennifer Main, OMB, (202) 395–6880.

Dated: September 20, 1991.

[FR Doc. 91 23542 Filed 9–30–91; 8:45 am]

BILLING CODE 4210-01-M

**[Docket No. N-91-3323]**

**Submission of Proposed Information Collection to OMB**

**AGENCY:** Office of Administration, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Jennifer Main, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

**SUPPLEMENTARY INFORMATION:** The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

**Authority:** Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: September 19, 1991.

**Kay Weaver,**

*Acting Director, Information Policy and Management Division.*

**Notice of Submission of Proposed Information Collection to OMB**

*Proposal:* Information Request to the Owners and Managers of all HUD-assisted housing in the Boston Metropolitan Statistical Area, pursuant to section II.A of the March 11, 1991, Consent Decree Entered in *NAACP, Boston Chapter* v. *Kemp.*
*Office:* General Counsel.
*Description of the Need for the Information and Its Proposed Use:* In order for HUD to implement section II.A of the March 11, 1991, consent decree entered in *NAACP, Boston Chapter* v. *Kemp,* it must require owners and managers of HUD-assisted housing to provide certain information to the Boston Opportunity Clearing Center.
*Form Number:* None.
*Respondents:* Individuals or Households, businesses or other for-profit, non-profit institutions and small businesses or organizations.
*Frequency of Submission:* On occasion.
*Reporting Burden:*

| | Number of respondents | x | Frequency of response | x | Hour per response | = | Burden hours |
|---|---|---|---|---|---|---|---|
| Information collection | 404 | | 6 | | .25 | | 606 |
| Recordkeeping | 404 | | 1 | | .08 | | 32 |

*Total Estimated Burden Hours:* 638.
*Status:* New.
*Contact:* Linda G. Katz, HUD, (617) 565–5126, Jennifer Main, OMB, (202) 395–7285.

Dated: September 19, 1991.

[FR Doc. 91–23543 Filed 9–30–91; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N-91-3324]

## Submission of Proposed Information Collection to OMB

**AGENCY:** Office of Administration, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**ADDRESS:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Jennifer Main, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 75h Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

**SUPPLEMENTARY INFORMATION:** The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

**Authority:** Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: September 23, 1991.

**John T. Murphy,**

*Director, Information Policy and Management Division.*

## Notice of Submission of Proposed Information Collection to OMB

*Proposal:* Application for Designation as Fee Personnel.
*Office:* Housing.
*Description of the Need for The Information and its Proposed Use:* This is an application for fee personnel designation to perform appraisals or inspections in connection with mortgage insurance or loan guaranty on HUD/VA properties.
*Form Number: HUD–92563*
*Respondents:* Individuals or households.
*Frequency of Submission:* On occasion.
*Reporting Burden:*

| | Number of respondents | × | Frequency of response | × | Hours per response | = | Burden hours |
|---|---|---|---|---|---|---|---|
| Form HUD–92563 | 1,700 | | 1 | | .5 | | 850 |

*Total Estimated Burden Hours:* 850.
*Status:* Extension.
*Contact:* Larry D. Toler, HUD, (202) 708–2720, Jennifer Main OMB, (202) 395–6880.

Dated: September 23, 1991.

[FR Doc. 91–23544 Filed 9–30–91; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. N–91–3325]

## Notice of Submission of Proposed Information Collection to OMB

**AGENCY:** Office of Administration, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Jennifer Main, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

**SUPPLEMENTARY INFORMATION:** The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

**Authority:** Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act. 42 U.S.C. 3535(d).

Dated: September 24, 1991.

**John T. Murphy,**

*Director, Information Policy and Management Division.*

## Notice of Submission of Proposed Information Collection to OMB

*Proposal:* Form HUD–50060, Transmittal of Form HUD–500058.
*Office:* Public and Indian Housing.
*Description of the need for the information and its proposed use:* Form HUD–50060, allows the Department to establish appropriate management control procedures to assure complete and accurate

reporting of information contained on the Form HUD–50058 submittals. The form provides a means for determining whether Public Housing Agencies/Indian Housing Authorities (PHAs/IHAs) are submitting data to HUD's Multifamily Tenant Characteristic System (MTCS) contractor. It aggregates projects (on one form) and provides a vehicle for geographically clustering projects within one PHA/IHA.

*Form Number:* HUD–50060.
*Respondents:* State or Local Governments.
*Frequency of Submission:* Monthly.
*Reporting Burden:*

| | Number of respondents | x | Frequency of response | x | Hours per response | = | Burden hours |
|---|---|---|---|---|---|---|---|
| Form HUD–50060 | 3,300 | | 7 | | .05 | | 1,155 |

*Total Estimated Burden Hours:* 1,155.
Status: Reinstatement.
*Contact:* Earl Simons, HUD, (202)–0744, Jennifer Main, OMB, (202) 395–6880.

Dated: September 24, 1991.

[FR Doc. 91–23545 Filed 9–30–91; 8:45 am]
BILLING CODE 4210–01–M

## Submission of Proposed Information Collection to OMB

**AGENCY:** Office of Administration, HUD.
**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comment should refer to the proposal by name and should be sent to: Jennifer Main, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

**SUPPLEMENTARY INFORMATION:** The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

**Authority:** Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: September 24, 1991.

**John T. Murphy,**
*Director, Information Policy and Management Division.*

### Notice of Submission of Proposed Information Collection to OMB

*Proposal:* Tenant Data Summary.
*Office:* Public and Indian Housing.
*Description of the Need for the Information and its Proposed Use:* The revised Form HUD–50058, Tenant/Homeowner Data Summary, reflects an effort to upgrade the quality of data received from Public Housing Agencies (PHAs) and Indian Housing Authorities (IHAs). Based on experience in obtaining tenant data summary information, the form has been reformatted and data elements modified to more accurately assess the demographic, ethnic and economic character of PHA/IHA residents.
*Form Number:* HUD–50058.
*Respondents:* State or Local Governments.
*Frequency of Submission:* Monthly.
*Reporting Burden:*

| | Number of respondents | x | Frequency of response | x | Hours per response | = | Burden hours |
|---|---|---|---|---|---|---|---|
| Form HUD–50058 | 3,300 | | 1 | | 484 | | 1,597,200 |

*Total Estimated Burden Hours:* 1,597,200.
*Status:* Reinstatement.
*Contact:* Earl Simons, HUD, (202) 708–0744; Jennifer Main, OMB, (202) 395–6880.

Dated: September 24, 1991.

[FR Doc. 91–23546 Filed 9–30–91; 8:45 am]
BILLING CODE 4210–01–M

**[Docket No. N–91–3327]**

## Notice of Submission of Proposed Information Collection to OMB

**AGENCY:** Office of Administration, HUD.
**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**ADDRESS:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Jennifer Main, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

**SUPPLEMENTARY INFORMATION:** The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

**Authority:** Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: September 25, 1991.

**John T. Murphy,**

*Director, Information Policy and Management Division.*

**Notice of Submission of Proposed Information Collection to OMB**

*Proposal:* Environmental Review Procedures for Community Development Block Grant Programs and Related Housing Assistance Programs.

*Office:* Community Planning and Development.

*Description of the Need for the Information and Its Proposed Use:* HUD legislation required grantees to submit requests for release of funds and certify full compliance with the National Environmental Policy Act and related environmental laws using the procedures of 24 CFR part 58. Grantees must also maintain public records for each project's compliance with 24 CFR part 58.

*Form Number:* HUD 7015.15.

*Respondents:* State or Local Governments.

*Frequency of Submission:* On occasion.

*Reporting Burden:*

| | Number of respondents | x | Frequency of response | x | Hours per response | = | Burden hours |
|---|---|---|---|---|---|---|---|
| Information collection | 3,000 | | .70 | | .60 | | 1,260 |
| Recordkeeping | 6,000 | | 1 | | .40 | | 2,400 |

*Total Estimated Burden Hours:* 3,660.

*Status:* Reinstatement.

*Contact:* Charles E. Thomsen, HUD (202) 708–2810, Jennifer Main, OMB, (202) 395–6880.

Dated: September 25, 1991.

[FR Doc. 91–23547 Filed 9–30–91; 8:45 am]

BILLING CODE 4210–01–M

## Office of the Assistant Secretary for Housing—Federal Housing Commissioner

**[Docket No. N–91–3320; FR–3164–N–01]**

## Special Purposes Grants: Announcement of Funding Awards

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

**ACTION:** Announcement of funding awards.

**SUMMARY:** Under the Departments of Veterans Affairs and Housing and Urban Developments and Independent Agencies Appropriations Act ("the Act"), (Pub. L. 101–570), $54.25 million was appropriated for 62 Special Purpose Grants to fund various activities. The purpose of this document is to announce the names and addresses of award recipients and the amount of the awards to be used for activities as specified in the Act.

**FOR FURTHER INFORMATION CONTACT:** Michael Levine, Acting Director, Development Grants Division, Department of Housing and Urban Development, 470 L'Enfant Plaza, room 3201, Washington, DC. 20024. Telephones: Voice, (202) 755–4961; TDD, (202) 708–4594. (These are not toll-free numbers).

**SUPPLEMENTARY INFORMATION:** Under the 1991 Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, (Pub. L. 101–570), $54.25 million was appropriated for 62 Special Purpose Grants to fund various activities as specified in the Act. Grantees include States, units of general local government, and nonprofit corporations.

The Office of the Assistant Secretary for Housing—Federal Housing Commissioner in the Department of Housing and Urban Development was given responsibility for administering the grants. In February, the Department transmitted an invitation for application to each designated recipient of a Special Purpose Grant. In response, the Department has received applications for 60 of the 62 grants to date. The Department has reviewed incoming applications for conformance with Appropriations Act instructions and other applicable federal restrictions including, but not limited to, requirements related to equal opportunity, environment, and grant administration. For 48 applications approved to date, the Department has transmitted notification letters to the Grantees, along with HUD executed Grant Agreements for Grantee execution. The remaining 14 awards will occur upon HUD completion of application review and approval.

The awards listed below for Bay City, Michigan and Peoria, Illinois are subject to increase up to their appropriated levels of $769,000 and $3,000,000, respectively, upon additional documentation and HUD approval for the unfunded portions of grants. The Department is publishing details concerning the recipients of the 48 approved awards below:

| Funding recipients | Program | Amount |
|---|---|---|
| City of Lawrence, Lawrence, MA 01840 | Public Safety Equipment | $585,000 |
| City of Barre, Barre, VT 05641 | Rehabilitation and Acquisition of Highgate apartments | 500,000 |
| Bedford Stuyvesant Restoration Corporation, 1368 Fulton Street, Brooklyn, NY 11216. | Capital repair, development of wholly-owned housing management company, community planning and program review. | 1,000,000 |
| Borough of Windber, Windber, PA 15963 | Windber Recreation Park | 600,000 |
| Borough of Barnesboro, Barnesboro, PA 15714 | Barnes Memorial Park | 71,000 |
| Philadelphia Development Partnership, Philadelphia, PA 19107 | Capacity building work with community development corporations | 975,000 |
| Town of New Haven, New Haven, WV 25265 | Youth and community center | 250,000 |
| City of Clinton, Clinton, TN 37716 | Infrastructure improvements | 700,000 |
| City of East Cleveland, East Cleveland, OH 44112 | Helen Brown Senior Center | 195,000 |
| City of Cleveland, Cleveland, OH 44114 | Murtis Taylor Center substance abuse program | 197,000 |
| Clinton Township, Clinton, MI 48044 | Newport Apartments drug elimination | 50,000 |
| Village of Ford Heights, Ford Heights, IL 60411 | Water system study | 30,000 |
| City of Omaha, Omaha, NE 68183 | Charles Drew health care expansion | 1,110,000 |
| City of Omaha, Omaha, NE | Completion of paralyzed veterans center | 200,000 |
| City of Tulsa, Tulsa, OK 74103 | Vernon Manor and Morning Star housing projects | 500,000 |
| City of Ottumwa, Ottumwa, IA 52501 | Demolition of old Morrell site | 2,000,000 |
| City of Ogden, Ogden, UT | Housing rehabilitation | 500,000 |
| State of Utah, Salt Lake City, UT 84114 | Utah revolving loan fund | 250,000 |
| Stevens County, Colville, WA 99114 | Tri-County health district handicapped access | 120,000 |
| Paulter Senior Center, Clarkston, WA 99403 | Paulter Senior Center expansion | 175,000 |
| City of Spokane, Spokane, WA 99201 | Infrastructure and non-profit capacity building program to address low-income building crisis. | 640,000 |
| City of Seattle, Seattle, WA 98104 | Central area neighborhood, low-income housing and economic development. | 750,000 |
| City of Newark, Newark, NJ 07012 | Krueger-Scott mansion senior citizen employment and social services center. | 1,500,000 |
| City of Tacoma, Tacoma, WA 98402 | Hilltop neighborhood, low-income housing and economic development | 750,000 |
| City of Cleveland, Cleveland, OH 44114 | Karamu Theater project | 205,000 |
| West Valley City, West Valley City, UT 84119 | Infrastructure development | 500,000 |
| City of Sioux City, Sioux City, IA 51102 | Site work related to economic development | 2,000,000 |
| City of Fort Myers, Fort Myers, FL 33902 | Success Through Academic and Recreational Support | 500,000 |
| City of Lynn, Lynn, MA 01901 | Rehabilitation of Old Post Office | 795,000 |
| City of Waterloo, Waterloo, IA 50703 | Rath packing plant asbestos removal and site clearing activities | 2,500,000 |
| City of Fairmont, Marion Cty, WV 26554 | Refurbish and renovate community humanities and cultural center | 500,000 |
| City of North Miami Beach, North Miami Beach, FL 33162 | Performing arts and cultural center | 995,000 |
| State of Louisiana, Department of Health and Hospitals, Office of Public Health, New Orleans, LA 70160. | Infrastructure development | 300,000 |
| Borough of Conshohocken, Conshohocken, PA 19428 | Conshohocken urban renewal project | 500,000 |
| City of Philadelphia, Philadelphia, PA 19107 | Ground subsidence in Roxborough | 1,500,000 |
| University of Arkansas, Fayetteville, AR 72701 | Community preventive health care insurance | 1,000,000 |
| City of New Orleans, New Orleans, LA 70112 | Neighborhood economic improvements | 3,150,000 |
| City of New Orleans, New Orleans, LA 70112 | Mirabeau apartments and learning center | 660,000 |
| City of Community of Kohala, County of Hawaii, HI 96720 | Environmental impact statement | 500,000 |
| City of Bay City, Bay City, MI 48706 | Improvements to a Community Center | 209,000 |
| City of Peoria, Peoria Co, IL 60604 | Relocation of residents of Southtown area | 2,270,000 |
| Riverside County, Probation Departments, Riverside, CA 92502 | Twin Pines Ranch residential treatment program expansion for high risk juvenile offenders. | 275,000 |
| City of New Orleans, New Orleans, LA 70112 | Elderly housing rehabilitation | 600,000 |
| University of New Orleans, New Orleans, LA 70418 | Development of the National Center for the Revitalization of Central Cities | 500,000 |
| New Freedom Theater, Inc., Philadelphia, PA 19121 | New Freedom Theatre revitalization | 1,950,000 |
| Marshall County, Marshall County, TN 37902 | Conversion of existing school building | 200,000 |
| Ark-Tex Council of Governments, Texarkana, TX 75505 | Housing, community and economic development | 950,000 |
| City of Chicago, Chicago, IL 60604 | Bickerdike Redevelopment Corporation for the Rehabilitation of Housing for Rental to Low-Income Tenants. | 1,350,000 |
| Total | | 37,557,000 |

Dated: September 23, 1991.

**Arthur J. Hill,**

*Assistant Secretary for Housing—Federal Housing Commissioner.*

[FR Doc. 91–23548 Filed 9–30–91; 8:45 am]

BILLING CODE 4210–27–M

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

### Advisory Council Meeting

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

**ACTION:** Notice of meeting, Ukiah, California, District Advisory Council.

**SUMMARY:** Pursuant to Public Law 94–579 and 43 CFR part 1780, the Ukiah District Advisory Council will meet in Clearlake, California, October 23–24, 1991. Agenda items will include a tour and briefing on a draft management plan for public lands in the Knoxville Recreation Area and briefings on a partial record of decision for the Arcata Resource Management Plan and a final visitor services plan and visitor survey for the King Range National Conservation Area, as well as miscellaneous items of interest. A complete agenda is available from the Ukiah BLM Office.

**DATES:** October 23, 10 a.m. to 5 p.m., and October 24, 8 a.m. to 3:30 p.m.

**ADDRESSES:** October 23, Field Tour, Knoxville Recreation area. October 24, Best Western El Grande Inn, 15135 Lakeshore Drive, Clearlake, CA.

**FOR FURTHER INFORMATION CONTACT:** Barbara Taglio, Ukiah District Office, Bureau of Land Management, 555 Leslie Street, Ukiah, California 95482, (707) 462–3873.

**SUPPLEMENTARY INFORMATION:** All meetings of the Ukiah District Advisory Council are open to the public. Individuals may submit oral or written comments for the Council's consideration. Opportunity for oral comments will be provided at 1 p.m., Thursday, October 24. Summary minutes of the meeting will be maintained by the

Ukiah District Office and will be available for inspection and reproduction within 30 days of the meeting.

Dated: September 20, 1991.

**Alfred W. Wright,**

*District Manager.*

[FR Doc. 91-23577 Filed 9-30-91; 8:45 am]

**BILLING CODE 4310-40-M**

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**[ID-010-01-4351-07-ADVB]**

## Boise District Advisory Council; Meeting

**AGENCY:** Boise District, Idaho, Bureau of Land Management.

**ACTION:** Notice of meeting.

**SUMMARY:** The Boise District Advisory Council will meet November 7, 1991, to discuss the proposed State of Idaho/U.S. Air Force Big Springs Training Range, the Boise Foothills Recreation Trail System proposal, and other issues. The meeting is open to the public and a comment period will be held at 1 p.m.

**DATES:** The meeting will begin at 8:30 a.m. on Thursday, November 7.

**ADDRESSES:** The meeting will be held in the conference room of the Boise District Office, 3948 Development Avenue, Boise, ID.

**FOR FURTHER INFORMATION CONTACT:** Barry Rose, Boise District, BLM, (208)384-3393.

**R.E. Schmitt,**

*Associate District Manager.*

[FR Doc. 91-23388 Filed 9-30-91; 8:45 am]

**BILLING CODE 4310-GG-M**

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**[CA-060-343-7122-10-D063; CACA 28709]**

## Proposed Withdrawal and Opportunity for Public Meeting; California

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

**ACTION:** Notice.

**SUMMARY:** The United States Department of the Army, Los Angeles District, Corps of Engineers, has filed an application to withdraw approximately 265,400 acres of public lands to expand the Army's National Training Center at Fort Irwin. The U.S. Department of the Army has requested a temporary withdrawal in aid of legislation. The withdrawal is requested for a period of 5 years pending Congressional action. This notice closes the lands for up to 2 years from surface entry and mining. The lands will remain open to mineral leasing.

**DATES:** Comments and requests for a meeting should be received on or before December 30, 1991.

**ADDRESSES:** Comments and meeting requests should be sent to the California State Director, BLM, 2800 Cottage Way, room E-2845, Sacramento, California 95825.

**FOR FURTHER INFORMATION CONTACT:** Viola Andrade, BLM California State Office, 916-978-4820.

**SUPPLEMENTARY INFORMATION:** On September 11, 1991, the United States Department of the Army filed 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:

**Mount Diablo Meridian**

T. 31 S., R. 46 E.,
- Sec. 1, lots 1 and 2 of NE¼, and SE¼;
- Sec. 2, lots 1 and 2 of NE¼;
- Sec. 3, W½ lot 1 of NW¼ and W½, lot 2 of NW¼;
- Sec. 4;
- Sec. 5, lot 1 of NE¼, lot 2 of NE¼, lot 1 of NW¼, lot 2 of NW¼, and SW¼;
- Sec. 8;
- Sec. 9, S½;
- Secs. 10, SE¼;
- Sec. 11;
- Sec. 12, N½ and SW¼;
- Sec. 13, NW¼ and SE¼;
- Sec. 14, N½ and S½SE¼;
- Secs. 15 and 17;
- Secs. 20, W½E½;
- Sec. 21, NE¼;
- Sec. 22, SW¼ and W½SE¼;
- Sec. 23, SW¼;
- Sec. 25, N½ and N½S½;
- Sec. 26, NE¼ and S½;
- Sec. 27, NE¼ and N½SE¼;
- Sec. 28, S½;
- Sec. 29, N½;
- Secs. 32 and 34.

T. 32 S., R. 46 E.,
- Secs. 2, 4, 8, 10, 12, 14, 20, and 22, secs. 24 to 28, inclusive, and secs. 32 to 35, inclusive.

T. 31 S., R. 47 E.,
- Sec. 3;
- Sec. 4, lots 1 to 4, inclusive, S½N½, and SE¼;
- Sec. 5, lots 1 to 4, inclusive, S½N½, and N½S½;
- Sec. 6, lots 1 to 5, inclusive, SE¼NW¼, and S½NE¼;
- Sec. 7, SE¼SW¼ and SE¼;
- Sec. 8, NW¼ and S½;
- Sec. 9, NE¼ and S½;
- Sec. 10, secs. 15 to 22, inclusive, secs. 27 to 30, inclusive, and secs. 32 and 34.

T. 32 S., R. 47 E.,
- Sec. 3, lot 7 and SE¼NW¼;
- Secs. 4, 6, and 8;
- Sec. 9, SW¼SW¼;
- Sec. 10;
- Sec. 15, lots 3 and 4, and SW¼;
- Secs. 18, 20, 21, 22, 27, and 28;
- Sec. 29, N½NE¼, NE¼NW¼, SW¼NE¼ SW¼, SE¼NW¼SW¼, NE¼SW¼ SW¼, and NW¼SE¼SW¼;
- Secs. 30, 31, and 32;
- Secs. 33, SE¼;
- Sec. 34.

**San Bernardino Meridian**

T. 11 N., R. 1 E.,
- Secs. 2, 3, 4, 6, 7, 8, 10, 11, 12, 14, 15, 22, 23, and 24;

T. 12 N., R. 1 E.,
- Sec. 1, lots 1 to 4, inclusive, S½N½, and SE¼;
- Secs. 2, 4, 6, 8, 10, and 12;
- Secs. 13, NE¼NW¼NE¼, NW¼NE¼ NE¼, and S½SW¼SE¼;
- Secs. 14, 18, 19, 20, and 22;
- Sec. 23, lot 2;
- Secs. 24, 26, 27, and 28;
- Secs. 29, SW¼;
- Secs. 30, 31, 32, 34, and 35.

T. 13 N., R. 1 E.,
- Sec. 1;
- Sec. 2, excluding patented land;
- Sec. 3, excluding patented land;
- Secs. 4 to 9, inclusive;
- Sec. 10, excluding patented land;
- Sec. 11, excluding patented land;
- Secs. 12 to 15, inclusive;
- Secs. 17 to 30, inclusive, partly unsurveyed;
- Sec. 32;
- Sec. 33, N½ and N½S½;
- Secs. 34, 35, and 36, partly unsurveyed.

T. 14 N., R. 1 E.,
- Sec. 15, secs. 17 to 22, inclusive, and secs. 25 to 35, inclusive.

T. 11 N., R. 2 E.,
- Secs. 2, 3, 4, 6, and 7;
- Sec. 8, N½;
- Secs. 10, 11, 12, 14, 15, 18, 19, 20, 22, 23, 24, 26, 27, 28, 32, and 34;
- Sec. 35, W½.

T. 12 N., R. 2 E.,
- Sec. 6, unsurveyed;
- Sec. 7, lots 1, 2, and 3, and W½NE¼;
- Secs. 9 and 10;
- Sec. 13, N½;
- Sec. 14;
- Sec. 15, N½NE¼;
- Secs. 18, 20, 22, 24, and 26;
- Sec. 28, N½ and N½S½;
- Secs. 32, SW¼;
- Secs. 34.

T. 11 N., R. 3 E.,
- Sec. 1, S½SW¼, excluding patented land;
- Sec. 2, excluding patented land;
- Secs. 4, 6, 7, 8, and 10;
- Sec. 11, excluding patented land;
- Sec. 12, excluding patented land;
- Secs. 14, 15, 18, and 19;
- Sec. 20, N½;
- Secs. 22, 23, 24, 26, 27, and 28;
- Sec. 30, lot 1 of SW¼ and lot 2 of SW¼;
- Sec. 31.

T. 12 N., R. 3 E.,
- Secs. 20 and 22;
- Sec. 23, N½;
- Secs. 24 and 26;
- Sec. 27, lots 7 and 9, and NW¼SW¼;
- Secs. 28, 30, 32, and 34.

T. 11 N., R. 4 E.,
- Secs. 2, 4, 6, 8, 10, 12, 14, 18, 19, 20, and 22;
- Sec. 24, N½NE¼NE¼, SW¼NE¼NE¼, NW¼NE¼, NW¼SW¼NE¼, N½ NW¼, SW¼NW¼, N½SE¼NW¼, SW¼SE¼NW¼, and NW¼NW¼SW¼;
- Sec. 27, N½NE¼NE¼, SW¼NE¼NE¼, NW¼NE¼, NW¼SW¼NE¼, N½

NW¼, SW¼NW¼, N½SE¼NW¼, and SW¼SE¼NW¼;
Sec. 28, N½, N½SW¼, SW¼SW¼, N½SE¼SW¼, NW¼SE¼, and N½NE¼SE¼;
Sec. 30.
T. 12 N., R. 4 E.,
Sec. 19, lots 1 to 5, inclusive, SE¼NW¼, S½NE¼, and SE¼;
Secs. 20 to 24, inclusive, partly unsurveyed;
Sec. 25, N½ and SE¼;
Sec. 26;
Sec. 27, lots 1 and 2, W½NE¼, and NW¼;
Secs. 28, 30, 32, and 34.
T. 11 N., R. 5 E.,
Sec. 2, lot 2 of NW¼ and W½, lot 1 of NW¼;
Secs. 4, 6, and 8;
Sec. 10, N½NW¼NW¼ and SW¼NW¼NW¼;
Sec. 18, lot 1 of NW¼, lot 2 of NW¼, lot 1 of SW¼, lot 2 of SW¼, NE¼, NW¼SE¼, NW¼SW¼SE¼, N½NE¼SE¼, and SW¼NE¼SE¼.
T. 12 N., R. 5 E.,
Secs. 1 to 4, inclusive, secs. 9 to 15, inclusive, sec. 17, Secs. 19 to 30, inclusive, and secs. 32 and 34;
Sec. 35, N½;
T. 13 N., R. 5 E.,
Secs. 13, 24, 25, 26, 34, and 35.
T. 12 N., R. 6 E.,
Secs. 5 to 8, inclusive, and secs. 18 and 20;
Sec. 30, lot 1 of NW¼, lot 2 of NW¼, lot 1 of SW¼, lot 2 of SW¼, NE¼, N½SE¼, and N½SW¼SE¼.
T. 13 N., R. 6 E.,
Secs. 1 to 5, inclusive;
Secs. 7 to 15, inclusive, partly unsurveyed;
Secs. 17 to 24, inclusive, partly unsurveyed;
Secs. 27 to 32, inclusive;
Sec. 33, N½ and NW¼SW¼;
Sec. 34, N½, N½SW¼, and SE¼.
T. 14 N., R. 6 E.,
Secs. 1, 2, and 11, partly unsurveyed;
Sec. 12, excluding patented land, partly unsurveyed;
Sec. 13, excluding patented land, partly unsurveyed;
Sec. 14, secs. 23 to 26, inclusive, and secs. 33, 34, and 35, partly unsurveyed.
T. 15 N., R. 6 E.,
Secs. 1 and 2;
Sec. 11, lots 1, 2, and 3, NE¼NE¼, W½NE¼, W½, and W½SE¼;
Sec. 12, lots 1, 3, 4, 5, and 6, E½, and N½NW¼;
Sec. 13, lots 3, 4, and 5, E½, SW¼SW¼, and E½SW¼;
Sec. 14, lots 1, 2, and 3, W½NE¼, W½, W½SE¼, and SE¼SE¼;
Secs. 23 to 26, inclusive, and sec. 35.
T. 13 N., R. 7 E.,
Secs. 5 to 8, inclusive, partly unsurveyed.
T. 14 N., R. 7 E.,
Secs. 1 to 9, inclusive, secs. 17 to 21, inclusive, and secs. 28 to 33, inclusive.
T. 15 N., R. 7 E.,
Secs. 1 to 15, inclusive;
Sec. 17;
Sec. 18, excluding patented land;
Sec. 19, excluding patented land;
Secs. 20 to 35, inclusive.
T. 11 N., R. 1 W.,
Secs. 2, 3, 4, 6, 7, 8, 10, 11, and 12.
T. 12 N., R. 1 W.,
Secs. 31, 32, 34, and 35.
T. 11 N., R. 2 W.,
Secs. 2 and 3;
Sec. 10, N½, NE¼SW¼, N½SE¼, and N½S½SE¼;
Sec. 11, E½, NW¼, N½SW¼, and N½S½SW¼;
Sec. 12.
T. 12 N., R. 2 W.,
Secs. 34 and 35.

The areas described aggregate approximately 265,400 acres in San Bernardino County.

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 California State Director of the Bureau of Land Management.

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 California State Director 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 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 canceled or the withdrawal is approved prior to that date. The temporary uses which will be permitted during this segregative period are leases, licenses, permits, rights-of-way, cooperative agreements, or discretionary land use authorizations.

The temporary segregation of the lands in connection with this withdrawal application shall not affect the administrative jurisdiction over the lands, and the segregation shall not have the effect of authorizing any use of the lands by the Department of the Army.

Dated: September 20, 1991.

**Nancy J. Alex,**

*Chief, Lands Section.*

[FR Doc. 91–23184 Filed 9–30–91; 8:45 am]

BILLING CODE 4310–40–M

## Fish and Wildlife Service

### Garrison Diversion Unit Federal Advisory Council; Meeting

**AGENCY:** Department of the Interior.

**ACTION:** Notice of meeting.

**SUMMARY:** Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. app. I), this notice announces a meeting of the Garrison Diversion Unit Federal Advisory Council established under the authority of the Garrison Diversion Unit Reformulation Act of 1986 (Pub. L. 99–294, May 12, 1986). The meeting is open to the public. Interested persons may make oral statements to the Council or may file written statements for consideration.

**DATES:** The Garrison Diversion Unit Federal Advisory Council will meet from 8 a.m. to 4 p.m. on Tuesday, October 22, 1991.

**PLACE:** The meeting will be held at the Garrison City Hall, Senior Citizens' Room, One Central Avenue West, Garrison, North Dakota.

**AGENDA:** The Council will consider and discuss subjects such as the Fiscal Year 1992 budget, Mitigation and Enhancement Plan status, Lonetree Area Interim Management Agreement, Lonetree Area tax issue, mitigation program for Audubon and Arrowwood National Wildlife Refuges, Kraft Slough, Corps of Engineers' Devils Lake study, and future aspects of Garrison.

On Wednesday, October 23, 1991, the Council will make site visits to review some of the mitigation work on refuge lands.

For further information, individuals may contact Dr. Grady Towns, Fish and Wildlife Enhancement, at (303) 236–8186.

Dated: September 24, 1991.

**Galen L. Buterbaugh,**

*Regional Director, Region 6.*

[FR Doc. 91–23562 Filed 9–30–91; 8:45 am]

BILLING CODE 4310–55–M

## National Park Service

### National Register of Historic Places Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before September 21, 1991. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC

20013–7127. Written comments should be submitted by October 16, 1991.

**Carol D. Shull,**

*Chief of Registration, National Register.*

**ARIZONA**

**Coconino County**

*First Baptist Church,* 123 S. Beaver St., Flagstaff, 91001576

**CALIFORNIA**

**Alameda County**

*Heathcote—Mackenzie House,* 4501 Pleasanton Ave., Pleasanton, 91001538

**Sacramento County**

*Firehouse No. 3,* 1215 19th St., Sacramento, 91001537

**San Bernandino County**

*Redlands Santa Fe Depot District,* Roughly bounded by Stuart Ave., N. 5th St., Redlands Blvd., Eureka St. and the SFRR tracks, Redlands, 91001535

**FLORIDA**

**Alachua County**

*High Springs Historic District,* Roughly bounded by NW. 14th St., NW. 6th Ave., SE. 7th St. and SW. 5th Ave., High Springs, 91001540

**Brevard County**

*Aladdin Theater,* 300 Brevard Ave., Cocoa, 91001541

**KANSAS**

**Wilson County**

*Gold Dust Hotel,* 402 N. Seventh St., Fredonia, 91001542

**MICHIGAN**

*Allegan County*

*DeLefebvre, Cherry, House [Plainwell MPS],* 115 W. Chart St., Plainwell, 91001548

*Eesley, J. F., Milling Co. Flour Mill—Elevator [Plainwell MPS],* 717 E. Bridge St., Plainwell 91001547

*Island Historic District [Plainwell MPS],* Roughly bounded by Hill St., Anderson St., the mill race, Park St., Bannister St. and the Kalamazoo R., Plainwell 91001546

*West Bridge Street Historic District [Plainwell MPS],* 320, 414—550 and 321—563 W. Bridge St., Plainwell, 91001549

**OREGON**

**Clatsop County**

*Fullam, William and Nellie, House [Seaside MPS],* 781 S. Prom, Seaside, 91001570

*Haller—Black House [Seaside MPS],* 841 South Prom. Seaside, 91001568

*Preston, Charles, House [Seaside MPS],* 141 Ave I. Seaside, 91001569

**Gilliam County**

*Rice, Silas A., Log House,* OR 19 at Burns Park, Condon, 91001556

**Lane County**

*Alpha Phi Sorority House [Eugene West University Neighborhood MPS],,* 1050 Hilyard St., Eugene 91001564

*Christian—Patterson Rental Property [Eugene West University Neighborhood MPS],* 244 E. 16th Ave., Eugene, 91001567

*Cochran—Rice Farm Complex,* 993 N. Lane St., Cottage Grove, 91001558

*Dorris Apartments [Eugene West University Neighborhood MPS],* 963 Ferry Ln., Eugene, 91001565

*Gamma Phi Beta Sorority House [Eugene West University Neighborhood MPS],* 1021 Hilyard St., Eugue, 91001566

*Lane's County Farmers' Union Cooperative Wholesalers' Association Building,* 532 Olive St., Eugene, 91001560

*Methodist Episcopal Church of Goshen,* 85896 First St., Goshen, 91001559

**Lincoln County**

*TRADEWINDS KINGFISHER [Cruiser],* Depoe Bay Boat Basin, Depoe Bay, 91001562

**Marion County**

*Despard, Joseph, Cabin Site [Early French-Canadian Settlement MPS],* Address Restricted, Newberg vicinity, 91001573

*Hudson's Bay Company Granary and Clerk's House Site [Early French-Canadian Settlement MPS],* Address Restricted, Newberg vicinity, 91001574

**Multnomah County**

*Brown Apartments,* 807 SW. Fourteenth Ave., Portland, 91001553

*Haseltine, William A., House,* 3231 NE. U.S. Grant Pl., Portland, 91001551

*Rocky Butte Scenic Drive Historic District,* Rocky Butte Rd. and parts of NE. Fremont St. and 92nd Ave., Portland, 91001550

*Selling Building,* 610 SW Alder St., Portland, 91001554

*Terminal Sales Building,* 1220 SW. Morrison St., Portland, 91001555

*White, Isam, House,* 311 NW. Twentieth Ave., Portland, 91001557

**Wasco County**

*Sharp, Edward F., Residential Ensemble,* 400 and 404 E. Fourth St. and 504 Federal St., The Dalles, 91001561

**Washington County**

*Michos, Thomas, House,* 4400 SW. Scholls Ferry Rd., Portland vicinity, 91001552

**RHODE ISLAND**

**Providence County**

*Blackstone Canal,* From Smith St., Providence, N to Massachusetts state line, Providence, 91001536

**TEXAS**

**Taylor County**

*State Epileptic Colony Historic District,* Roughly bounded by S. 24th, Lakeside and Plum, also area roughly bounded by SH 322, FM 1750 and Industrial Blvd., Abilene, 91001539

**UTAH**

**Box Elder County**

*Elberta Theatre [Brigham City MPS],* 53 S. Main St., Brigham City, 91001544

*Hotel Brigham [Brigham City MPS],* 13 and 17 W. Foreswt St., Brigham City, 91001543

*Union Block [Brigham City MPS],* 57 S. Main St., Brigham City, 91001545

The commenting period for the following properties was not waived, as stated in a previous pending list:

**NEVADA**

**Clark County**

*Desert Valley Museum,* 31 W. Mesquite Blvd., Mesquite, 91001527

**Pershing County**

*Vocational—Agriculture Building,* 1170 Elmhurst St., Lovelock, 91001528.

[FR Doc. 91–23565 Filed 9–30–91; 8:45 am]

BILLING CODE 4310–70–M

## INTERSTATE COMMERCE COMMISSION

### Release of Waybill Data for Use by ALK Associates, Inc. for an Unnamed Class I Railroad System

The Commission has received a request from ALK Associates, Inc. for permission to use certain data from the Commission's 1990 ICC Waybill Samples.

A copy of the request (WB653–9/17/91) may be obtained from the ICC Office of Economics.

The Waybill Sample contains confidential railroad and shipper data; therefore, if any parties object to this request, they should file their objections (an original and 2 copies) with the Director of the Commission's Office of Economics within 14 calendar days of the date of this notice. The rules for release of waybill data [Ex Parte 385 (Sub-No. 2)] are codified at 49 CFR 1244.8.

Contact: James A. Nash, (202) 275–6864.

**Sidney L. Strickland, Jr.,**

*Secretary.*

[FR Doc. 91–23571 Filed 9–30–91; 8:45 am]

BILLING CODE 7035–01–M

### Release of Waybill Data for Use By L.E. Peabody & Associates for Omaha Public Power District

The Commission has received a request from Donelan, Cleary, Wood & Maser, P.C., for permission for L.E. Peabody & Associates to use certain data from the Commission's 1979 through 1987 ICC costed Waybill Sample, and the 1986 through 1990 ICC Waybill Samples.

A copy of the request (WB655—9/13/91) may be obtained from the ICC Office of Economics.

The Waybill Sample contains confidential railroad and shipper data; therefore, if any parties object to this request, they should file their objections (an original and 2 copies) with the Director of the Commission's Office of Economics within 14 calendar days of the date of this notice. The rules for release of waybill data (EX Parte 385 (Sub-No. 2)) are codified at 49 CFR 1244.8.

Contact: James A. Nash, (202) 275–6864.

**Sidney L. Strickland, Jr.,**

*Secretary.*

[FR Doc. 91–23572 Filed 9–30–91; 8:45 am]

BILLING CODE 7035–01–M

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### Release of Waybill Data for Use By Reebie Associates

The Commission has received a requests from Reebie Associates for permission to use certain data from the Commission's 1990 ICC Waybill Sample.

A copy of the of the request (WB655—7/22/91) may be obtained from the ICC Office of Economics.

The Waybill Sample contains confidential railroad and shipper data; therefore, if any parties object to this request, they should file their objections (an original and 2 copies) with the Director of the Commission's Office of Economics within 14 calendar days of the date of this notice. The rules for release of waybill data (Ex Parte 385 (Sub-No. 2)) are codified at 49 CFR 1244.8.

Contact: James A. Nash, (202) 275–6864.

**Sidney L. Strickland, Jr.,**

*Secretary.*

[FR Doc. 91–23573 Filed 9–30–91; 8:45 am]

BILLING CODE 7035–01–M

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**[Finance Docket No. 31940]**

### Consolidated Rail Corp.—Trackage Rights Exemption—Norfolk and Western Railway Co.

Norfolk and Western Railway Company (NW) has agreed to grant local trackage rights to Consolidated Rail Corporation (Conrail) over a line at Frankfort, Clinton County, IA, so that Conrail may access Archer Daniels Midland's (ADM) Frankfort facility. The trackage rights involve: (1) NW's main line from a point at or near the crossing with Conrail to the easternmost lead track between the mainline and Track 2, and both lead tracks between the mainline and Track 2; (2) NW's Track 2 between a point at or near the connection with Conrail and the connection to the lead track between Tracks 2 and 11; (3) the lead track between the connections to Tracks 2 and 11, and Tracks 10 and 11 in their entirety; and (4) the lead track between the connections to Tracks 11 and 6, and Track 6 between the connection to the lead track and the end of NW's ownership at the ADM facility. The trackage rights were to become effective on or after September 19, 1991.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: John J. Paylor, Consolidated Rail Corporation, 1138 Six Penn Center Plaza, Philadelphia, PA 19103.

As a condition to the use of this exemption, any employees affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights— BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980).

Dated: September 24, 1991.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

**Sidney L. Strickland, Jr.,**

*Secretary.*

[FR Doc. 91–23570 Filed 09–30–91; 8:45 am]

BILLING CODE 7035–01–M

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**[Docket No. AB–1 (Sub-No. 222X)]**

### Chicago & North Western Transportation Co.; Abandonment Exemption in Boone and Winnebago Counties, IL

**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 Chicago and North Western Transportation Company of 13.7 miles of rail line between milepost 74.0, in Poplar Grove, and milepost 87.7, near South Beloit, in Boone and Winnebago Counties, IL, subject to environmental, historic preservation, public use, trail use/rail banking, and standard labor protective conditions.

**DATES:** Provided no formal expression of intent to file an offer [1] of financial assistance under 49 CFR 1152.27(c)(2) must be filed by October 11, 1991, petitions to stay must be filed by October 16, 1991, and petitions for reconsideration must be filed by October 28, 1991. Requests for a public use condition must be filed by October 11, 1991.

**ADDRESSES:** Send pleadings, referring to Docket No. AB–1 (Sub-No. 222X), to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

and

(2) Petitioner's representative: Myles L. Tobin, Chicago and North Western Transportation Company, One North Western Center, Chicago, IL 60606.

**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: September 24, 1991.

By the Commission, Chairman Philbin, Vice Chairman Emmett, Commissioners Simmons, Phillips, and McDonald.

**Sidney L. Strickland, Jr.**

*Secretary.*

[FR Doc. 91–23569 Filed 9–30–91; 8:45 am]

BILLING CODE 7035–01–M

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## DEPARTMENT OF LABOR

### Pension and Welfare Benefits Administration

### Advisory Council on Employee Welfare and Pension Benefit Plans; Meeting

Pursuant to the authority contained in section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting of the Working Group on Enforcement of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held at 12:30 p.m., Friday, October 18, 1991, in room S–4215 ABC, U.S. Department of Labor Building, Third and Constitution Avenue NW., Washington, DC 20210.

This Enforcement Working Group was formed by the Advisory Council to study

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[1] See *Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C. 2d 164 (1987).

issues relating to Enforcement for employee benefit plans covered by ERISA.

The purpose of the October 18, meeting is to continue discussion of Alternative Dispute Resolution issues and public testimony received during a meeting of the work group on September 12, 1991, and receive additional comments from invited witnesses. The Working Group will also take testimony and or submissions from employee representatives, employer representatives and other interested individuals and groups regarding the subject matter.

Individuals, or representatives of organizations, wishing to address the Working Group should submit written requests on or before October 15, 1991, to William E. Morrow, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, suite N–5677, 200 Constitution Avenue NW, Washington, DC 20210. Oral presentations will be limited to ten minutes, but witnesses may submit an extended statement for the record.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statement should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before October 15, 1991.

Signed at Washington, DC, this 26th day of September 1991.

**David George Ball,**

*Assistant Secretary for Pension and Welfare Benefits Administration.*

[FR Doc. 91–23588 Filed 9–30–91; 8:45 am]

BILLING CODE 4510–29–M

## MERIT SYSTEMS PROTECTION BOARD

### Advisory Committee on Federal Workforce Quality Assessment Meeting

**AGENCY:** Merit Systems Protection Board.

**ACTION:** Notice of advisory committee meeting.

**SUMMARY:** The Merit Systems Protection Board and Office of Personnel Management are holding an open meeting of the jointly sponsored advisory committee. According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L 92–463), notice is hereby given that a meeting of the Advisory Committee on Federal Workforce Quality Assessment will be held on November 14, 1991, from 8:30 a.m. to 4 p.m. at the U.S. Merit Systems Protection Board, room 950, Frances Perkins Hearing Room, 1120 Vermont Avenue, NW., Washington, DC. The committee will discuss the contents of its final report.

**FOR FURTHER INFORMATION CONTACT:** Karen Robinson, Office of Policy and Evaluation, Merit Systems Protection Board, 1120 Vermont Avenue, NW., Washington, DC 20419, (202) 653–5812.

Dated: September 25, 1991.

**Robert E. Taylor,**

*Clerk of the Board.*

[FR Doc. 91–23618 Filed 9–30–91; 8:45 am]

BILLING CODE 7400–01–M

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[Notice 91–82]**

### NASA Advisory Council (NAC), Space Science and Applications Advisory Committee (SSAAC), Life Sciences Subcommittee; 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 NASA Advisory Council, Space Science and Applications Advisory Committee, Life Sciences Subcommittee.

**DATES:** October 22, 1991, 8:30 a.m. to 5 p.m.; and October 23, 1991, 8:30 a.m. to 12:30 p.m.

**ADDRESSES:** National Aeronautics and Space Administration, room 226, 600 Independence Avenue, SW., Washington, DC 20546.

**FOR FURTHER INFORMATION CONTACT:** Dr. Ronald J. White, Code SB, National Aeronautics and Space Administration, Washington, DC 20546 (202/453–2128).

**SUPPLEMENTARY INFORMATION:** The Space Science and Applications Advisory Committee consults with and advises the NASA Office of Space Science and Applications (OSSA) on long-range plans for, work in progress on, and accomplishments of NASA's Space Science and Applications programs. The Life Sciences Subcommittee provides advice to the Life Sciences Division concerning all of its programs in the space life sciences. The Subcommittee will meet to discuss the status of OSSA and life sciences, new space activities, and future subcommittee activities. The Subcommittee is chaired by Dr. Francis J. Haddy and is composed of 23 members. The meeting will be closed on Tuesday, October 22, 1991, from 8:45 a.m. to 10:45 a.m. to allow for a discussion on qualifications of individuals being considered for membership to the Subcommittee. Such a discussion would invade the privacy of the individuals involved. Since this session will be concerned with matters listed in 5 U.S.C. 552b (c) (6), it has been determined that the meeting will be closed to the public for this period of time. The remainder of the meeting will be open to the public up to the seating capacity of the room (approximately 50 people including members of the Subcommittee).

*Type of Meeting:* Open—except for a closed session as noted in the agenda below.

*Agenda:* Tuesday, October 22.

8:30 a.m.—Introduction and Chairman's Remarks.
8:45 a.m.—Closed Session.
10:45 a.m.—Life Sciences Status.
11:45 a.m.—Report on Other Advisory Committees.
1:15 p.m.—Office of Space Science and Applications Status.
2:15 p.m.—Review of Short Version of "A Rationale for the Life Sciences."
3:15 p.m.—NASA Specialized Centers of Research and Training Update.
3:45 p.m.—Overview of Radiation Health Program.
5 p.m.—Adjourn.

Wednesday, October 23

8:30 a.m.—Update on Gravitational Biology Enhancement.
9:15 a.m.—Possible New Space Activities.
10:30 a.m.—Subcommittee Discussion on Strategy and Actions.
12:30 p.m.—Adjourn.

Dated: September 25, 1991.

**John W. Gaff,**

*Advisory Committee Management Officer, National Aeronautics and Space Administration.*

[FR Doc. 91–23585 Filed 9–30–91; 8:45 am]

BILLING CODE 7510–01–M

## NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

### Records Schedules; Availability and Request for Comments

**AGENCY:** National Archives and Records Administration, Office of Records Administration.

**ACTION:** Notice of availability of proposed records schedules; request for comments.

**SUMMARY:** The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that: (1) Proposes the destruction of records not previously authorized for disposal, or (2) reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 USC 3303a(a).

**DATES:** Request for copies must be received in writing on or before November 15, 1991. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

**ADDRESSES:** Address requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, Washington, DC 20408. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in parentheses immediately after the name of the requesting agency.

**SUPPLEMENTARY INFORMATION:** Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights and interests of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

### Schedules Pending

1. Department of the Army (NC1–AU–85–3). Working papers related to post action reports.

2. Department of the Army (NC1–AU–85–6). Working papers related to investigational projects.

3. Defense Logistics Agency (N1–361–91–17). Routine and facilitative personnel records.

4. Department of Agriculture, Agricultural Research Service (N1–310–91–3). Records pertaining to samples in the National Insect Collection.

5. Department of Agriculture, Assistant Secretary for Administration (N1–16–91–1). Office of General Counsel's case files.

6. Department of Agriculture, Assistant Secretary for Administration (N1–16–91–2). Rulemaking dockets.

7. Department of Agriculture, Agricultural Research Service (N1–310–91–2). Photographs of cotton and photographs of research plots for the measurement of soil and water losses.

8. Farm Credit System Assistance Board (N1–220–91–7). Routine administrative records.

9. Department of Health and Human Services, Public Health Service (N1–90–91–3). Posters not warranting permanent retention.

10. Department of Health and Human Services, Office of the Secretary (N1–468–91–2). Posters not warranting permanent retention.

11. The National Aeronautics and Space Administration (N1–225–91–14). General administrative research and development correspondence files.

12. President's Commission on Executive Exchange (N1–220–91–6). Comprehensive records schedule.

13. Department of the Treasury, Office of Foreign Assets Control (N1–265–91–1). Cost statement quarterly reports for hair product companies in Hong Kong, 1969–1970.

4. National Archives and Records Administration (N2–39–91–1). Surety bonds, 1916–1925, and certificates of deposit, 1832–1894, accessioned from the Department of the Treasury, Bureau of Accounts.

Dated: September 24, 1991.

**Don W. Wilson,**

*Archivist of the United States.*

[FR Doc. 91–23534 Filed 9–30–91; 8:45 am]

BILLING CODE 7515–01–M

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### Agency Information Collection Activities Under OMB Review

**AGENCY:** National Endowment for the Arts.

**ACTION:** Notice.

**SUMMARY:** The National Endowment for the Arts (NEA) has sent to the Office of Management and Budget (OMB) the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

**DATES:** Comments on this information collection must be submitted by October 31, 1991.

**ADDRESSES:** Send comments to Mr. Dan Chenok, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., room 3002, Washington, DC 20503; (202–395–7316). In addition, copies of such comments may be sent to Mr. Murray R. Welsh, National Endowment for the Arts, Administrative Services Division, room 203, 1100 Pennsylvania Avenue, NW., Washington, DC 20506; (202–682–5401).

**FOR FURTHER INFORMATION CONTACT:** Mr. Murray R. Welsh, National Endowment for the Arts, Administrative Services Division, room 203, 1100 Pennsylvania Avenue, NW., Washington, DC 20506; (202–682–5401) from whom copies of the document are available.

**SUPPLEMENTARY INFORMATION:** The Endowment requests the review of a revision of a currently approved collection of information. This entry is issued by the Endowment and contains the following information:

(1)The title of the form; (2) how often the required information must be reported; (3) who will be required or asked to report; (4) what the form will be used for; (5) an estimate of the number of responses; (6) the average burden hours per response; (7) an estimate of the total number of hours needed to prepare the form. This entry is not subject to 44 U.S.C. 3504(h).

*Title:* FY 93 Presenting and Commissioning Program Application Guidelines Presenting and Touring.

*Frequency of Collection:* One time.

*Respondents:* State or local governments; non-profit institutions.

*Use:* "educational grants, federal aid, grant administration, non-profit organizations, arts" Guideline instructions and applications elicit relevant information from individual artists, non-profit organizations, and state or local arts agencies that apply for funding under specific Program categories. This information is necessary for the accurate, fair and thorough consideration of competing proposals in the peer review process.

*Estimated Number of Respondents:* 425.

*Average Burden Hours per Response:* 28.92.

*Total Estimated Burden:* 12, 291.

**Murray R. Welsh,**

*Director, Administrative Services Division, National Endowment for the Arts.*

[FR Doc. 91-23607 Filed 9-30-91; 8:45 am]

BILLING CODE 7537-01-M

## Institute of Museum Services; Grant Availability

**AGENCY:** Institute of Museum Services, NFAH.

**ACTION:** Grant application availability notice for Fiscal Year 1992

This grant application announcement applies to the General Operating Support (GOS), Conservation Project Support (CP), Conservation Assessment Program (CAP), Museum Assessment Program (MAP), Museum Assessment Program II (MAP II), Museum Assessment Program III (MAP III) and Professional Services Program (PSP) awards under 45 CFR part 1180 for Fiscal Year 1992.

### Nature of Program

Museums meeting the definitions in 45 CFR 1180.3 may apply for these programs. The definition of "Museum" includes (but is not limited to) the following institutions if they satisfy the other provisions of this section: Aquariums and zoological parks; botanical gardens and arboretums; nature centers; museums relating to art, history (including historic buildings), natural history, science and technology; and planetariums. The purpose of these awards is to ease the financial burden borne by museums as a result of their increased use by the public and to help them carry out their educational role, as well as other functions.

*GOS*

IMS makes awards under the GOS program to museums to maintain, increase, or improve museum services through support for basic general operating expenses.

*CP*

Awards are made through the Conservation Project Support Program (CP) to assist with the conservation of museum collections, both living and non-living.

*CAP*

Awards are made through CAP to provide an overall assessment of the condition of a museum's environment and collections to identify conservation needs and priorities. CAP is a non-competitive, one-time funding opportunity, offered on a first-come, first-served basis. It is administered in cooperation with the National Institute for Conservation. See 45 CFR part 1180, subpart D.

*MAP*

The Museum Assessment Program funds an overall assessment of a museum's operations. The Museum Assessment Program II funds an assessment of the museum's collection-related policies. The Museum Assessment Program III provides an assessment of the public dimension of museum operations. All of the Museum Assessment Programs are non-competitive, one-time funding opportunities, offered on a first come, first-served basis. The Museum Assessment Programs are administered in cooperation with the American Association of Museums through a memorandum of understanding. See 45 CFR part 1180, subpart D.

*PSP*

This program provides matching funds to professional museums associations for projects that serve the museum community.

Section 206 of the Museum Services Act, title II of Public Law 94-462, as amended, contains authority for these programs. (20 U.S.C. 965)

### Deadline Date for Transmittal of Applications

Applications must be mailed or hand-delivered by the deadline date:

| Program | Deadline |
|---|---|
| GOS | November 8, 1991. |
| CP | January 24, 1992. |
| CAP | December 6, 1991. |
| MAP I | October 25, 1991.<br>April 24, 1992. |
| MAP II | January 31, 1992.<br>July 31, 1992. |
| MAP III | November 15, 1991.<br>August 14, 1992. |
| PSP | April 3, 1992. |

*For GOS, CP and PSP*

Applications that are sent by mail must be addressed to the Institute of Museum Services, 1100 Pennsylvania Avenue, NW., room 609, Washington, DC 20506.

An applicant must be prepared to show one of the following as proof of timely 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 dated proof of mailing acceptable to the Director of IMS.

If any application is mailed through the U.S. Postal Service, the Director does not accept either of the following as proof of mailing: (1) A private metered postmark; or (2) a mail receipt that is not date-cancelled by the U.S. Postal Service.

Applications that are hand-delivered must be taken to the Institute of Museum Services, 1100 Pennsylvania Avenue, NW., room 609, Washington, DC 20506. Hand-delivered applications will be accepted between 9 a.m. and 4:30 p.m. (Washington, DC time) daily, except Saturdays, Sundays, and Federal holidays. An application that is hand-delivered will not be accepted after 4:30 p.m. on the deadline date.

*For MAP, MAP II and MAP III*

Applicants must apply to IMS through the American Association of Museums. IMS supplies the AAM with application forms and instructions. These are forwarded by AAM to applicant museums. The Director of IMS approves applications meeting the MAP, MAP II, and MAP III requirements on a first-come, first-served basis (i.e., in the order in which an application is received and has been determined to have met applicable requirements). Applications will be approved for awards, subject to the availability of funds. If a museum's MAP, MAP II or MAP III application is received on or before the indicated dates, it will be processed together with other MAP, MAP II, or MAP III applications received during that period. Applications received after the indicated dates will be processed during the subsequent MAP, MAP II or MAP III periods. In no event will MAP applications received after April 24,

1992, MAP II applications received after July 31, 1992, or MAP III applications received after August 14, 1992 be processed for Fiscal Year 1992 awards. Applicants should contact the American Association of Museums, 1225 Eye St., NW., Washington, DC 20005, for application packets.

*For CAP*

Applicants must apply to IMS through the National Institute for Conservation (NIC). IMS supplies the NIC with applications forms and instructions. These are forwarded by NIC to applicant museums. The Director of IMS approves applications meeting the CAP requirements on a first-come, first-served basis (i.e., in the order in which an application is received and has been determined to have met applicable requirements). Applications will be approved for awards, subject to the availability of funds. Applications must be received by December 6, 1991. Applications for FY 1992 awards which cannot be funded will not be carried over to the next fiscal year. All unfunded applicants who wish to receive an award in the subsequent year, must reapply. Interested parties should contact the National Institute for Conservation, 3299 K St. NW., suite 403, Washington, DC 20007 for applications.

**Program Information**

GOS program regulations are contained in 45 CFR XI 1180.7 (1988) and related provisions.

CP program regulations are contained in 45 CFR 1180.20 (1988) and related provisions.

CAP and MAP program regulations are contained in 45 CFR 1180, subpart D (1988).

PSP program regulations are contained in 45 CFR 1180, subpart E (1988).

Further program information may be found in the Application forms and accompanying instructions in the Application. See paragraph on Application Forms.

**Available Funds**

As of publication time, funds for fiscal year 1992 have not been appropriated. Figures given in this section pertain to available funds for the 1991 fiscal year.

*GOS*

For FY 1991, $20,161,000 was available for this program. The maximum grant was $75,000 in FY 91 and is determined each year by the National Museum Services Board. Most museums that are funded will receive a smaller amount. (45 CFR 1180.9) IMS normally does not make grants for more than 10 percent of a museums' most recently completed fiscal year's non-federal operating income (See 45 CFR 1180.16(b)).

*CP*

For FY 1991, $2,990,000 was available for this program. Normally, IMS makes matching conservation grants of no more than $25,000 in Federal funds. Unless otherwise provided by law, if the Director determines that exceptional circumstances warrant, the Director, with the advice of the Board, may award a Conservation Project Support grant which obligates in excess of $25,000 in Federal funds to a maximum of $75,000. The Director may make such a determination with respect to a category of Conservation grants by notice published in the **Federal Register**. IMS awards Conservation Project Support grants only on a matching basis. At least 50% of the costs of a project must be met with non-federal funds. (See 45 CFR 1180.20 (f)).

*CAP*

For FY 1991, $680,000 was available for this program.

*MAP, MAP II, MAP III*

For FY 1991, $400,000 was available for this program.

*PSP*

For FY 1991, $250,000 was available for this program. This program provides matching funds for cooperative agreements that generally do not exceed $50,000. For FY 92 IMS invites proposals that will assist museums in enhancing their educational activities. For example, proposals might include projects to help museums identify and replicate outstanding educational programs; train staff in developing, implementing, marketing and evaluating educational programs; or establish partnerships or mentoring relationships between museums to improve educational programs. This emphasis on the educational role of museums in the Museum Services Act coincides with efforts being made throughout the government to "transform America's schools" through the America 2000 Strategy presented by the President in April of 1991. In the fulfillment of that strategy, IMS believes that America's museums have a vital contribution to make.

Although IMS invites proposals to assist museums in enhancing their educational activities, such proposals will be reviewed on their merits according to established criteria along with all other proposals received. IMS has not established priorities for funding for the 1992 Professional Services Program.

**Funding Priorities for Conservation Project Support Program**

The National Museum Services Board, by notice published in the **Federal Register**, may establish priorities among the types of projects. IMS Conservation Project Support guidelines identify four broad categories of museum collections: Non-living; systematics/natural history collections; living collections/animals; and living collections/plants.

For each of the categories, with the exception of living collections/animals, the funding priority is a general conservation survey of collections and environmental conditions including, development of institutional long-range conservation plans. For living collections/animals the funding priority is research for improved conservation techniques.

**Application Forms**

IMS mails application forms and program information in a General Operating Support, Conservation Project Support and Professional Services Program application packets to museums and other institutions on its mailing list. Applicants may obtain application packets by writing or telephoning the Institute of Museum Services, 1100 Pennsylvania Avenue, NW., room 609, Washington, DC 20506, (202/786–0539).

To receive an application for the Conservation Assessment Program contact the National Institute for Conservation, 3299 K Street, NW., suite 403, Washington, DC 20007, (202/625–1495).

To receive an application for the Museum Assessment Programs contact the American Association of Museums, 1225 Eye St., NW., Washington, DC 20005, (202/289–1818).

**Further Information**

For further information contact Mamie Bittner, Public Information Officer, Institute of Museum Services, 1100 Pennsylvania Avenue, NW., Washington, DC 20506. Telephone: (202) 786–0536.

(Catalogue of Federal Domestic Assistance No. 45.301 Institute of Museum Services)

Dated: September 25, 1991.

**Susannah Simpson Kent,**

*Director, Institute of Museum Services.*

[FR Doc. 91–23592 Filed 9–30–91; 8:45 am]

BILLING CODE 7036–01–M

### Cancellation of Meeting for Humanities Panel

The meeting of the Humanities Panel scheduled for October 28–29, 1991, and published in the **Federal Register** on September 16, 1991, at page 46808, has been cancelled. The panel was to review applications in Public Humanities Projects, submitted to the Division of Public Programs.

**David C. Fisher, Jr.,**

*Advisory Committee, Management Officer.*

[FR Doc. 91–23600 Filed 9–30–91; 8:45 am]

BILLING CODE 7536–01–M

## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Reactor Safeguards, Procedures for Meetings

#### Background

Procedures to be followed with respect to meetings conducted pursuant to the Federal Advisory Committee Act by the Nuclear Regulatory Commission's (NRC's) Advisory Committee on Reactor Safeguards (ACRS), that were published October 2, 1990 (55 FR 40249), are renewed by this notice. These procedures are set forth in order that they may be incorporated by reference in future individual meeting notices.

The ACRS is a statutory group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a nuclear power reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements from members of the public to be considered as a part of the Committee's information gathering procedure, they are not adjudicatory hearings such as those conducted by the NRC's Atomic Safety and Licensing Board as part of the Commission's licensing process. ACRS reviews do not normally encompass matters pertaining to environmental impacts other than those pertaining to radiological safety. ACRS full Committee meetings are conducted in accordance with the Federal Advisory Committee Act.

#### General Rules Regarding ACRS Meetings

An agenda is published in the **Federal Register** for each full Committee meeting. Practical considerations may dictate some alterations in the agenda. The Chairman of the Committee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incomplete session from one day to the next.

With respect to public participation in ACRS meetings, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda items may do so by providing a readily reproducible copy at the beginning of the meeting. Comments should be limited to safety-related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy addressed to the Designated Federal Official specified in the **Federal Register** notice for the individual meeting in care of the ACRS, NRC, Washington, DC 20555. Comments postmarked no later than one calendar week prior to a meeting will normally be received in time for reproduction, distribution, and consideration at the meeting.

(b) Persons desiring to make oral statements at the meeting should make a request prior to the beginning of the meeting. If possible the request should be made two days before the meeting and the topics to be discussed and the presentation time identified so that appropriate arrangements can be made. The Committee will hear oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether a meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call, on the working day prior to the meeting, to the Office of the Executive Director of the Committee (telephone: 301/492–4516, ATTN: the Designated Federal Official specified in the **Federal Register** Notice for the meeting) between 7:30 am. and 4:15 p.m., Washington, DC time.

(d) During the ACRS meeting presentations and discussions, questions may be asked only by ACRS members, Committee consultants and staff.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will be allowed while the meeting is in session at the discretion of the Chairman to a degree that is not disruptive to the meeting. When use of such equipment is permitted, appropriate measures will be taken to protect proprietary or privileged information that may be in documents, folders, etc., being used during the meeting. Recordings will be permitted only during those open sessions of the meeting when a transcript is being kept.

(f) A transcript is normally kept for certain open portions of the meeting and it will be available in the NRC Public Document Room, 2120 L Street, NW., Washington, DC 20555, for inspection within one week following the meeting. A copy of the minutes of the meeting will be available at the same location on or before three months following the meeting. Copies may be obtained upon payment of appropriate charges.

ACRS subcommittee meetings will also be conducted in accordance with these procedures, as appropriate. When subcommittee meetings are held at locations other than Bethesda, Maryland, reproduction facilities are usually not available. Accordingly, 25 additional copies of the materials to be used during the meeting should be provided for distribution at such meetings.

#### Special Provisions When Proprietary Sessions are To Be Held

If it is necessary to hold closed sessions for the purpose of discussing matters involving proprietary information, persons with agreements permitting access to such information may attend those portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and related to the material being discussed.

The Executive Director of the ACRS should be informed of such an agreement at least three working days prior to the meeting so that it can be confirmed and a determination made regarding the applicability of the agreement to the material that will be discussed during the meeting. The minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to the Designated Federal Official prior to the beginning of the meeting.

Dated: September 25, 1991.

**John C. Hoyle,**

*Advisory Committee Management Officer.*

[FR Doc. 91-23597 Filed 9-30-91; 8:45 am]

BILLING CODE 7590-01-M

**[Docket Nos. 50-424 and 50-425]**

## Georgia Power Co., et al.; Vogtle Electric Generating Plant, Units 1 and 2; Environmental Assessment and Finding No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from the provisions of 10 CFR 50.46, appendix K to 10 CFR 50, 10 CFR 50.44, and 10 CFR 51.52 to Georgia Power Company, et al. (the licensee or GPC), for Vogtle Electric Generating Plant (Vogtle), Units 1 and 2, located in Burke County, Georgia.

**Environmental Assessment**

*Identification of Proposed Action*

By letter dated June 3, 1991, the licensee requested amendments to Vogtle Units 1 and 2 Technical Specifications (TSs) to allow use of two fuel assemblies, each containing up to 12 fuel rods clad with ZIRLO™ instead of Zircaloy. The chemical composition of ZIRLO™ cladding is somewhat different from the composition of Zircaloy. Based on tests in foreign reactors, fuel rods clad with ZIRLO™ exhibit improved corrosion and hydriding properties. The proposed action would allow the licensee to use ZIRLO™ cladding in addition to Zircaloy to determine the behavior of ZIRLO™ cladding in the Vogtle core.

*The Need for Proposed Action*

Exemptions to 10 CFR 50.46, appendix K to 10 CFR 50, 10 CFR 50.44, and 10 CFR 51.52 are needed because these regulations include specific references to fuel pellets enclosed in Zircaloy tubes. Zircaloy is a zirconium based alloy and is currently in use as cladding for fuel pellets. The licensee plans to use some ZIRLO™ cladding which is similar to Zircaloy except for slight reductions in the content of tin, iron, chromium, and zirconium, and the addition of a nominal one percent niobium to improve corrosion resistance. Since the regulations 10 CFR 50.46, 10 CFR 50 appendix K, 10 CFR 50.44, and 10 CFR 51.52 include specific references to fuel pellets enclosed in Zircaloy tubes, exemptions to the subject regulations are required to allow use of ZIRLO™ cladding. The NRC staff has reviewed the chemical compositions of ZIRLO™ and Zircaloy claddings and found no significant difference between them. Therefore, a special circumstance exists in which application of the subject regulations is not necessary to achieve their underlying purposes and thus, an exemption is authorized by 10 CFR 50.12.

The underlying purpose of 10 CFR 50.46 and appendix K to 10 CFR 50 is to establish requirements for design calculations of emergency core cooling systems. The licensee, as part of its proposal for TS changes to allow use of two fuel assemblies with ZIRLO™ cladding, addressed ECCS performance. The NRC staff, based on its review, has concluded that the licensee's evaluation of two fuel assemblies with ZIRLO™ cladding meets 10 CFR 50.46 and appendix K to 10 CFR 50 requirements for ECCs performance.

The purpose of 10 CFR 50.44 is to ensure that a means is provided to control hydrogen gas that may be generated following a postulated loss-of-coolant accident (LOCA). The licensee has previously addressed hydrogen generation following a LOCA. The licensee's proposed use of ZIRLO™ cladding has no significant effect on the previous assessment of hydrogen gas production.

10 CFR 51.52 addresses environmental effects of transportation of fuel and waste. Specifically, 10 CFR 51.52(a) requires a statement of compliance in a licensee's environmental report to indicate, among other things, that the fuel pellets are encapsulated in Zircaloy rods. Alternatively, detailed analysis of the environmental effects of the transportation of the fuel to and from the site must be provided in accordance with 10 CFR 51.52(b). Since the chemical composition of the ZIRLO™ cladding is not significantly different from Zircaloy, such a detailed analysis is not necessary.

*Environmental Impact of the Proposed Action*

The proposed exemption involves features located entirely within the restricted area as defined in 10 CFR part 20. It does not affect the potential for radiological accidents and does not involve a significant increase in the amounts, or change in the types of any effluent that may be released offsite. There is no significant increase in individual or cumulative occupational exposure. The ZIRLO™ clad fuel assemblies meet the same design bases as the existing fuel with Zircaloy cladding. No safety limits have been changed or setpoints altered as a result of the use of these new fuel assemblies. The Final Safety Analysis Report (FSAR) analyses are bounding for the ZIRLO™ clad fuel assemblies as well as for the remainder of the core. The fuel system design with the ZIRLO™ cladding has been previously reviewed by the Commission's staff and found to perform satisfactorily under conditions representative of a reactor environment. Even in the unlikely case of gross fuel failure, the number of rods involved (a maximum of 24 rods will use the ZIRLO™ cladding) is less than 0.05% of the core and therefore, does not represent a prohibitively large inventory of radioactive material which could be released into the reactor coolant. Thus, the fuel failure would have an insignificant environmental impact and is bounded by previous assessments. The small number of fuel rods involved in conjunction with the chemical similarity of the ZIRLO™ cladding to Zircaloy cladding ensures that hydrogen production would not be significantly different from previous assessments. As a result, the proposed exemption does not affect the consequences of radiological accidents. Consequently, the Commission concludes that there are no significant radiological impacts associated with the proposed exemption.

With regard to potential nonradiological impacts, the proposed exemption does not affect nonradiological effluent and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological impacts associated with the proposed exemption.

With regard to the potential environmental impacts associated with the transportation of the ZIRLO™ clad fuel assemblies, there is no impact on previous assessments determined in accordance with 10 CFR 51.52.

*Alternative to the Proposed Action*

Because the Commission's staff has concluded that there is no significant environmental impact associated with the proposed exemption, any alternative to this exemption will have either no significantly different environmental impact or greater environmental impact. The principal alternative would be to deny the requested use of ZIRLO™ cladding. This would not reduce environmental impacts as a result of plant operations.

*Alternative Use of Resources*

This action does not involve the use of resources not previously considered in connection with the "Applicants Environmental Report, Operating License Stage of Vogtle Electric Generating Plant, Units 1 and 2."

*Agencies and Persons Consulted*

The Commission's staff did not consult other agencies or persons.

**Finding of No Significant Impact**

The Commission has determined not to prepare an environmental impact statement for the proposed exemption. Based upon the above environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for amendments dated June 3, 1991, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC and at the Burke County Public Library, 412 Fourth Street, Waynesboro, Georgia 30830.

Dated at Rockville, Maryland, this 25th day of September 1991.

For the Nuclear Regulatory Commission.

**David B. Matthews,**

*Director, Project Directorate II–3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.*

[FR Doc. 91–23604 Filed 9–30–91; 8:45 am]

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[Docket No. 50–382]

## Entergy Operations, Inc.; Consideration of 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. NPF–38, issued to Entergy Operation, Inc. (the licensee), for operation of the Waterford Steam Electric Station, Unit No. 3, located in St. Charles Parish, Louisiana.

The proposed amendment would modify the technical specifications to allow a one-time change to the requirements for adjusting the frequency of emergency diesel generator (EDG) starts. The change would allow the valid failure on August 20, 1991, not to be counted for the frequency determination.

The failure on August 20, 1991, has been corrected and the failure mechanism removed; however, this failure and another unrelated failure in April 1991, places the emergency diesel generator on an accelerated start frequency of one each week for fourteen additional starts. The technical specifications requirements are to assure reliable diesels; however, the problem has been removed and the additional starts would not further the intent of the technical specifications by improving reliability. The issuance of the amendment would return the frequency to once every 31 days and limit the unnecessary starts and wear on the diesel.

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.

Previously analyzed accidents that are potentially affected by this change are those that postulate a loss of offsite power to occur coincidentally with the accident (e.g., a loss of coolant accident with a loss of offsite power). To significantly increase the probability or consequence of such an accident, this change would have to negatively impact the reliability or performance of the EDGs. As indicated in the discussion above, accelerating the test schedule for the "A" Train EDG following the August 20, 1991, failure does not represent an enhancement of reliability. However, excessive testing may harm the hardware adversely affecting reliability and performance. Since this change represents a reduction in the number of challenges to the system, if anything, there will be an increase in reliability of the EDG and potential improvement in performance.

Based on the above information, this addition to Table 4.8–1 will not adversely affect the reliability or performance of the EDGs. Consequently, operation of Waterford 3 in accordance with the proposed changes does not involve a significant increase in the probability or consequences of any accident previously evaluated.

To create a new or different kind of accident, these changes must introduce a new failure path. This change addresses an isolated incident. Although a hardware change is being made to the EDGs, it represents the removal of a failure path rather than the introduction of one. Operation of the EDGs (and the rest of the plant) will remain unaltered. Consequently, a new failure path cannot exist as a result of the proposed amendment and the current plant safety analyses remain complete and accurate in addressing licensing basis events and analyzing plant response. Therefore, the proposed amendment cannot create the possibility of a new and different kind of accident than previously evaluated.

This change does not alter the operation of any equipment installed at Waterford 3. Therefore, existing margins of safety are retained, and the operation of Waterford 3 in accordance with this proposed change will not involve a significant reduction in a 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 Publication 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 St, NW., Washington, DC 20555. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By October 31, 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 a hearing and a petition for leave to

intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at the University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122.

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 petition 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 immediately 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 Theodore R. Quay: 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 N.S. Reynolds, Esq., Winston & Strawn, 1400 L Street NW., Washington, DC 20005-3502, 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).

For further details with respect to this action, see the application for amendment dated September 25, 1991, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room, located at the University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122.

Dated at Rockville, Maryland, this 25th day of September, 1991.

For the Nuclear Regulatory Commission.

**David L. Wigginton, Sr.,**

*Project Manager, Project Directorate IV–1, Division of Reactor Projects III, IV, and V, Office of Nuclear Reactor Regulation.*

[FR Doc. 91–23605 Filed 9–30–91; 8:45 am]

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**[Docket No. 72–2 (50–280/381)]**

## Virginia Electric and Power Co., Issuance of Amendment to Materials License No. SNM–2501

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 5 to Materials License No. SNM–2501 held by the Virginia Electric and Power Company for the receipt and storage of spent fuel at the Surry Independent Spent Fuel Storage Installation, located on the Surry Power Station site, Surry County, Virginia. The amendment is effective as of the date of issuance.

The amendment revises the Technical Specifications in Appendix B to reflect Revision 15A to the Surry Power Station Dry Cask Independent Spent Fuel Storage Installation (ISFSI) Security Personnel Training and Qualification Program.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment. Prior public notice of the amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that, pursuant to 10 CFR 51.22(c), an environmental assessment need not be prepared in connection with the issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated February 11, 1991, and (2) Amendment No. 5 to Materials License No. SNM–2501, and (3) the Commission's letter to the licensee dated September 24, 1991. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the Local Public Document Room at the Swem Library, College of William and Mary, Williamsburg, Virginia, 23185.

Dated at Rockville, Maryland, this 24th day of September 1991.

For the U.S. Nuclear Regulatory Commission.

**Charles J. Haughney,**

*Chief, Fuel Cycle Safety Branch, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. 91–23606 Filed 9–30–91; 8:45 am]

BILLING CODE 7590–01–M

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**[Docket No. 50–322–OLA–3; ASLBP No. 91–642–10–OLA–3]**

## Long Island Lighting Co.; Reconstitution of Board

Pursuant to the authority contained in 10 CFR 2.721 (1980), the Atomic Safety and Licensing Board for Long Island Lighting Company (Shoreham Nuclear Power Station, Unit 1) (License Transfer), Docket No. 50–322–OLA–3, is hereby reconstituted by appointing Administrative Judge Thomas S. Moore (presently Alternate Chairman on the Board) in place of Administrative Judge Morton B. Margulies, who is unable to serve because of a schedule conflict.

As reconstituted the Board is comprised of the following Administrative Judges:

Thomas S. Moore, Chairman
George A. Ferguson
Jerry R. Kline

All correspondence, documents and other materials shall be filed with the Board in accordance with 10 CFR 2.701 (1980). The address of the new Board member is: Thomas S. Moore, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Issued at Bethesda, Maryland, this 24th day of September 1991.

**B. Paul Cotter, Jr.,**

*Chief Administrative Judge, Atomic Safety and Licensing Board Panel.*

[FR Doc. 91–23598 Filed 9–30–91; 8:45 am]

BILLING CODE 7590–01–M

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**[Docket No. 50–322–OLA–2 ASLBP No. 91–631–03–OLA–2]**

## Long Island Lighting Co.; Reconstitution of Board

Pursuant to the authority contained in 10 CFR 2.721 (1980), the Atomic Safety and Licensing Board for Long Island Lighting Company (Shoreham Nuclear Power Station, Unit 1) (Possession Only License), Docket No. 50–322–OLA–2, is hereby reconstituted by appointing Administrative Judge Thomas S. Moore (presently Alternate Chairman on the Board) is place of Administrative Judge Morton B. Margulies, who is unable to serve because of a schedule conflict.

As reconstituted the Board is comprised of the following Administrative Judges:

Thomas S. Moore, Chairman
George A. Ferguson
Jerry R. Kline

All correspondence, documents and other materials shall be filed with the Board in accordance with 10 CFR 2.701 (1980). The address of the new Board member is: Thomas S. Moore, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Issued at Bethesda, Maryland, this 24th day of September 1991.

[FR Doc. 91–23599 Filed 9–30–91; 8:45am]

BILLING CODE 7590–01–M

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# PENSION BENEFIT GUARANTY CORPORATION

## Approval of Special Withdrawal Liability Rules: Sheet Metal Workers Local Union No. 80 Pension Plan

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Notice of approval.

**SUMMARY:** This notice advises interested persons that the Pension Benefit Guaranty Corporation ("PBGC") has conditionally granted a request from the Sheet Metal Workers Local Union No. 80 Pension Plan for approval of plan amendments providing for special withdrawal liability rules. Under the PBGC's regulation on Extension of Special Withdrawal Liability Rules (29 CFR part 2645), plans in industries other than the construction or entertainment industries may be amended to provide for special withdrawal liability rules if the PBGC finds that the rules apply to an industry in which the characteristics that make use of the special rules appropriate are clearly shown and that, in each instance, the rule would not pose a significant risk to the PBGC. A notice of pendency of the request for approval in this case was published in the **Federal Register** on July 30, 1990 (at 55 FR 31008), containing a summary of the request and inviting interested persons to submit written comments. This notice advises interested persons of the PBGC's decision on the request.

**ADDRESSES:** The request for approval and the PBGC's response to the request are available for public inspection at the PBGC Communications and Public Affairs Department, Suite 7100, 2020 K Street NW., Washington, DC 20006, between the hours of 9 a.m. and 4 p.m. Copies of these documents may be obtained by mail from the PBGC

Disclosure Officer (38000) at the above address.

**FOR FURTHER INFORMATION CONTACT:** Deborah C. Murphy, Attorney, Office of the General Counsel (22500), Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, DC 20006; 202–778–8820 (202–778–8859 for TTY and TDD). (These are not toll-free numbers.)

**SUPPLEMENTARY INFORMATION:**

### Background

Sections 4203(a) and 4205 of the Employee Retirement Income Security Act of 1974 ("ERISA") generally define when a complete or partial withdrawal from a multiemployer plan occurs. However, ERISA sections 4203 (b) and (c) provides special complete withdrawal liability rules for the construction and entertainment industries, and section 4208(d) provides special partial withdrawal liability rules for those industries.

Section 4203(f) provides that the PBGC may prescribe regulations under which plans in industries other than construction and entertainment may be amended to provide for special withdrawal liability rules similar to the rules prescribed in sections 4203 (b) and (c) for the construction and entertainment industries. Section 4208(e)(3) provides that the PBGC shall prescribe by regulation a procedure by which a plan may by amendment adopt rules for the reduction or elimination of partial withdrawal liability under conditions other than those described in sections 4208(e) (1) and (2), subject to the approval of the PBGC based on its determination that the adoption of such rules is consistent with the purposes of title IV of ERISA. Pursuant to those sections, the PBGC's regulation on Extension of Special Withdrawal Liability Rules (29 CFR part 2645) prescribes procedures whereby a multiemployer plan may request the PBGC to approve a plan amendment that establishes special complete or partial withdrawal liability rules. Under the regulation, a special complete withdrawal liability rule must be similar to the rules for the construction and entertainment industries set forth in ERISA sections 4203 (b) and (c), and a special partial withdrawal liability rule must be consistent with the complete withdrawal liability rule adopted by the plan.

The regulation provides that the PBGC shall approve a plan amendment providing for the application of special withdrawal liability rules upon a determination by the PBGC that the amendment—

(A) Will apply only to an industry that has characteristics that would make use of the special withdrawal liability rules appropriate, and

(B) Will not pose a significant risk to the insurance system.

### The Request

On July 30, 1990 (at 55 FR 31008), the PBGC published in the **Federal Register** a notice of pendency of a request from the Sheet Metal Workers Local Union No. 80 Pension Plan ("Plan") for approval of a Plan amendment providing for special withdrawal liability rules. No comments were received in response to the notice. The information set forth in the request for approval, which was discussed at length in the notice of pendency, is summarized in this notice. The notice of pendency also discussed at length the statutory and regulatory background that is summarized above.

### The Plan

The Plan is maintained pursuant to collective bargaining agreements between Sheet Metal Workers Local Union No. 80 and employers engaged in the sheet metal industry in the Greater Detroit area. The sheet metal industry covers the fabrication of sheet metal and related products in shops, and the installation of sheet metal and related products on construction job sites.

Approximately 120 employers contribute to the Plan. Almost all of the contributing employers perform only installation work and are accordingly considered to be construction employers, as defined in ERISA section 4203(b)(1)(A), and thus covered by the construction industry withdrawal rules in section 4203(b). About 10 contributing employers, however, are wholly or partly engaged in the fabrication of sheet metal products that are installed at construction sites by their own employees or by the employees of other employers. Only 3 of these employers employ fabrication workers only; the rest employ both fabrication and installation workers. The employers that perform fabrication work only are considered not to be construction employers as defined in section 4203(b)(1)(A) and are therefore subject to the general withdrawal liability rules of ERISA sections 4203(a) and 4205. The employers that perform both fabrication and installation work may or may not be considered construction employers, depending on the proportion of fabrication and installation employees employed. Currently, about 87 percent of the Plan's active employees are installation workers and about 13 percent are fabrication workers. The request stresses, however, that approval of the Plan's special withdrawal rule is expected to lead to the unionization and consequent inclusion in the Plan of a number of currently non-union production shops.

### Industry Characteristics [1]

Since the installation of sheet metal and related products is considered to be part of the construction industry, and thus covered by the construction industry withdrawal rule in ERISA section 4203(b), the Plan's request for approval of its special withdrawal rule focuses on the production segment of the sheet metal industry in the Greater Detroit area. The production segment generally covers the fabrication of sheet metal and related products in shops not located at construction sites. Historically, the production shops covered by the Plan are an outgrowth of the sheet metal contracting industry in the Detroit area, and many employers with production facilities also do installation work.

The collective bargaining agreement covering sheet metal construction work in Local 80's geographic jurisdiction requires that all sheet metal products fabricated outside of the geographic jurisdiction, for installation within the jurisdiction, must be produced by workers whose wage scale (including fringe benefits) is not less than the higher of the wage scales applicable to the area in which the production occurs and the Local 80 area.

The products manufactured by the production segment of the sheet metal industry that would be covered by the special rule are extremely bulky in relation to their weight. It is thus far more expensive to transport such products than to transport the sheet metal and other materials from which such products are manufactured. This transportation cost differential for out-of-area manufacturers would be a serious competitive disadvantage. Non-local production shops would also have higher costs in competing with local shops for work in the Detroit area because their salesmen would incur greater expenses in traveling between the out-of-area shops and the Detroit area offices and construction sites of their contractor customers.

### Actuarial Data

The Plan's funded ratio (that is, the ratio of the value of plan assets (at market) plus accrued contributions to

[1] The PBGC has made no independent investigation of industry characteristics, and the following description is based on information supplied by the Plan.

the value of vested benefits) was about 95 percent in 1985 and about 90 percent in 1986. It rose to about 100 percent in 1987 and then dropped to about 76 percent in 1988 due to benefit improvements, unfavorable investment performance, and lower-than-expected turnover. In 1989 it was about 85 percent. The number of active Plan participants rose from 1,738 in 1985 to 1,911 in 1988 and was 1,892 in 1989.[2]

**Special Withdrawal Liability Rules**

The Plan has adopted an amendment prescribing special withdrawal liability rules. The proposed amendment, if approved by the PBGC, is to be effective January 1, 1989. The proposed amendment reads as follows:

5.16 Withdrawal Liability. This section shall apply to all contributing employers engaged in but not limited to the (a) manufacture, fabrication, assembling, handling, erection, installation, dismantling, conditioning, adjustment, alteration, repairing and servicing of all ferrous or nonferrous metal work and all other materials used in lieu thereof and of all airveyor systems and ai[r] handling systems regardless of material used including the setting of all equipment and all reinforcements in connection therewith; (b) all lagging over insulation and all duct lining; (c) testing and balancing of all air handling equipment and duct work; (d) the preparation of all shop and field sketches used in fabrication and erection including those taken from original architectural and engineering drawings or sketches, within the geographic jurisdiction of the Union. For purposes of determining whether an Employer who is engaged in the sheet metal industry, as herein defined, has incurred a complete withdrawal, as defined in ERISA, section 4203(a), as amended, or a partial withdrawal, as defined in ERISA section 4205(a), as amended, the construction industry provisions of ERISA section 4203(b), as amended, shall be applied without regard to the proportion of construction industry employees to non-construction industry employees employed by such withdrawing employer. The foregoing notwithstanding, this section shall not apply to any Employer which withdraws from the Fund as a result of the sale of its assets, as defined in ERISA section 4204(a), as amended, or in case of a mass withdrawal, as defined in ERISA section 4041A, as amended.

[2] For 1990, the number of active Plan participants and the Plan's funded ratio were practically the same as for 1989; other Plan data were generally consistent with those shown in the notice of pendency.

**Decision**

Subject to certain qualifications discussed below, the PBGC has concluded that the plan amendment providing for special withdrawal liability rules in this case (a) applies to an industry that has characteristics that would make use of the special rules appropriate, and (b) will not pose a significant risk to the insurance system. Pursuant to ERISA section 4203(f)(2) and 29 CFR 2645.4(a), therefore, the PBGC approves the plan amendment subject to the conditions stated below.

The legislative history of the Multiemployer Pension Plan Amendments Act of 1980 (which added sections 4203 and 4208 to ERISA) shows that the special statutory withdrawal liability rules for the construction and entertainment industries reflect the view of Congress that the cessation of an employer's contributions in those industries typically does not reduce a plan's contribution base. Similarly, the legislative history indicates that the basic consideration in determining the appropriateness of special withdrawal liability rules for a plan in any other industry is the effect of cessations of contributions by employers in that industry on the plan's contribution base.

In this connection, the degree to which work in the industry is local in nature is a significant factor. To the extent that the work can be performed only within the jurisdiction of the plan or the collective bargaining agreement, the plan's contribution base cannot be reduced by the movement of operations outside that jurisdiction. The contribution base will be reduced only if an employer continues (or resumes) operations in the jurisdiction without an obligation to contribute to the plan, or if the total work available in the jurisdiction declines.

The PBGC believes that the Plan has clearly shown that the production segment of the sheet metal industry in the Greater Detroit area—at which the special withdrawal liability rules in this case are aimed—is one in which it is reasonable to expect that the cessation of an employer's work in the jurisdiction of the collective bargaining agreement will not typically reduce the Plan's contribution base. Although production segment work is not strictly local in the same sense as construction work, it appears that fabrication of sheet metal products outside the jurisdiction of the collective bargaining agreement for installation within the jurisdiction would be uncompetitive with fabrication done within the jurisdiction. In this sense, such fabrication work is local to the jurisdiction.

In particular, two circumstances adduced by the request support this conclusion. One is the higher transportation and administrative costs that an out-of-area employer would incur to sell sheet metal products in the Local 80 area. The other is the requirement in Local 80's collective bargaining agreement that sheet metal products manufactured outside the jurisdiction for installation within the jurisdiction be produced by workers whose wage scale and fringe benefits are not below those of Local 80 production workers. These circumstances would impose significant cost disadvantages on out-of-area production in competing for sales in the Local 80 area. Accordingly, it would appear economically improbable for production work to leave the jurisdiction and still be competitive with work within the jurisdiction. Instead, it seems likely that new or existing in-area employers would pick up any production work that another employer might seek to transfer outside the area.

Furthermore, the fabrication and installation segments of the sheet metal industry in the Greater Detroit area are closely related. Historically, production work is an outgrowth of the sheet metal contracting industry, and it is the construction workers who install the products that the fabrication employees make. Employers who do fabrication work often do installation work as well, and workers in both parts of the industry are represented by the same union. These relationships contribute to the likelihood that an employer's cessation of production work would not impair the Plan's contribution base.

Based on all of the industry characteristics in this case, the PBGC has concluded that the use of the special withdrawal liability rules is appropriate. However, this conclusion must be qualified to the extent that it is based on provisions of the collective bargaining agreement under which the Plan is maintained (dealing with the compensation of out-of-area workers who make products installed in the jurisdiction), since those provisions clearly are subject to renegotiation. This qualification forms one basis for the conditions on our approval of the special rules in this case, as set forth more fully below.

The PBGC has also determined that the use of these special rules will not pose a significant risk to the insurance system. Risk to the insurance program is basically a function of a plan's financial and actuarial health, and of its future

prospects, which are largely dependent on its contribution base.

As alluded to under "Actuarial Data," above, the actuarial and financial condition of the Plan has been quite strong and stable since 1985. Indeed, the number of active participants, a measure of the Plan's contribution base, increased by nearly 10 percent over the 1985–1989 period. The vested benefit funded ratio ranged from 76 percent to 100 percent over the same period, and ended the period at 85 percent. Furthermore, the special withdrawal liability rules in this case will affect relatively few employers and a relatively small percentage of the Plan's contribution base. Only about 10 of the 120 contributing employers do production work, and only about 13 percent of the Plan's active participants are production employees.

Under the facts of this case, the PBGC has determined' that the use of the special rules in this case will not pose a significant risk to the insurance system. However, as the request points out, the number of production employers and participants may increase when the special rules become effective. Thus, our determination that the use of the special rules will not pose a significant risk to the insurance system must be qualified to the extent that it is based on the relative insignificance of the production segment of the industry that is covered under the Plan. This qualification is another basis for the conditions on our approval of the special rules in this case, as set forth more fully below.

In conclusion, based on the facts of this case as represented by the Plan in connection with the request for approval, the PBGC has determined, subject to the qualifications discussed above, that the Plan amendment in this case (1) will apply to an industry that has characteristics that make the use of special withdrawal liability rules appropriate and (2) will not pose a significant risk to the insurance system. The PBGC also finds that the partial withdrawal liability rule included in the amendment is consistent with the complete withdrawal liability rule in the amendment. Accordingly, the PBGC hereby grants the Plan's request for approval of the special withdrawal liability rules set forth above, subject to the following conditions:

(1) The Plan shall promptly notify the PBGC if any change is made to the collective bargaining provisions dealing with the compensation of out-of-area workers who make products that are installed in the jurisdiction, or if the contributions or contribution base units attributable to manufacturing operations for any plan year exceed 25 percent of total contributions or total contribution base units.

(2) The Plan shall promptly submit to the PBGC such information as the PBGC may from time to time request in order to determine whether the industry continues to be one for which the special rules are appropriate and whether the special rules continue not to pose a significant risk to the insurance system.

The Plan shall immediately discontinue application of the special rules if at any time it fails to submit promptly to the PBGC any notice or information required under either of these conditions or if it is notified that PBGC approval of the special rules has been withdrawn. In addition, should the Plan wish to amend the special rules at any time, PBGC approval of the amendment will be required.

Issued at Washington, DC, on this 24th day of September, 1991.

**James B. Lockhart III,**

*Executive Director, Pension Benefit Guaranty Corporation.*

[FR Doc. 91–23568 Filed 9–30–91; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–29722; International Series No. 317; File No. SR–CBOE–91–07]**

## Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to the Listing of Reduced Value Index Options on the Financial Times-Stock Exchange 100 Index

September 23, 1991.

### I. Introduction

On March 11, 1991, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act"),[1] and rule 19b–4 thereunder,[2] a proposed rule change to list and trade cash-settled, European-style index options on a reduced value Financial Times-Stock Exchange 100 Index ("FT–SE 100" or "Index"). Each reduced value Index point will be valued at one U.S. dollar.[3]

The proposed rule change was published for comment in Securities Exchange Act Release No. 29004 (March 25, 1991), 56 FR 13348. No comments were received on the proposed rule change.

### II. Description of the Proposal

The proposed options will be cash-settled, European-style options (exercisable only on the last business day prior to the option's expiration date) based on the Index. The FT–SE 100 is an internationally recognized, capitalization-weighted stock index based on the prices of 100 of the most highly capitalized British stocks traded on the London Stock Exchange ("LSE"), an investment exchange recognized by the Securities and Investments Board ("SIB") of the U.K. All of the Index's component stocks are traded on the LSE by means of the LSE's Stock Exchange Automated Quotation System ("SEAQ"), an electronic information and communications system which provides competing market maker prices for securities traded over the system. SEAQ's quotations of the stocks traded on the LSE are available to all exchanges listing those stocks. Currently, the London International Financial Futures Exchange ("LIFFE") trades futures on the Index, the London Traded Options Market trades options on the Index, and the American Stock Exchange, the Chicago Board Options Exchange, the Midwest Stock Exchange, the New York Stock Exchange, and the Pacific Stock Exchange trade warrants on the Index.

#### *A. Index Construction and Calculation*

The FT–SE 100 was created at the end of 1983 by the International Stock

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b–4 (1990).

[3] The Exchange amended its proposal by amendment No. 1, which was submitted to the Commission on June 12, 1991. Amendment No. 1 modifies Exchange Rule 8.7, Interpretation .02(b), to provide that the Exchange's continuity rules may be waived by two floor officials when the primary underlying securities market for an index option is not trading. See File No. SR–CBOE–91–07, amendment No. 1. In addition, the CBOE modified its proposal in three letters: (1) A letter from Robert P. Ackermann, Vice President, Legal Services, CBOE, to Yvonne Fraticelli, Staff Attorney, SEC, dated June 24, 1991, which states that the CBOE intends to use a multiplier of 100 for the reduced value FT–SE 100 Index options; (2) a letter from Robert P. Ackermann to Thomas Gira, Branch Chief, Options Regulation, SEC, dated May 8, 1991, which provides that the CBOE will notify the Commission through a rule filing filed pursuant to section 19(b)(3)(A) of the Act if the Exchange modifies the days and trading hours for the reduced value options beyond the Exchange's normal trading hours of 8:30 a.m. to 3:15 p.m. (Chicago time) ("May 8 Letter"); and (3) a letter from Robert P. Ackermann to Yvonne Fraticelli, dated August 16, 1991, which explains that (i) the CBOE will use a divisor of ten to calculate the reduced value FT–SE options; (ii) the current index value ("CIV") for index settlement will be based on an average of fifteen (15) values; and (iii) the CBOE anticipates a March quarterly cycle of expiration months for the options, but may provide additional series pursuant to the provisions of Exchange Rule 24.9 ("August 16 Letter").

Exchange of the United Kingdom and the Republic of Ireland (the predecessor to the LSE) in conjunction with the Financial Times and a committee of U.K. financial institutions, including LIFFE. The Index is administered by a FT–SE 100 Steering Committee.[4] To qualify for inclusion in the Index, a company must satisfy the following conditions: (1) It must not be regarded as an overseas resident company for U.K. tax purposes; (2) it must not be a subsidiary of another Index constituent; (3) it must pay a dividend (except for existing constituents); and (4) it must have at least 25% of its shares publicly held. The FT–SE 100 Steering Committee conducts a quarterly review of the Index to ensure that its component stocks are representative of the state of the equity market for the largest U.K. companies. The Index is calculated by taking the summation of the multiple of the market price for each stock in the Index times the number of shares of that stock outstanding. This sum total is then divided by another number, termed the "divisor," to produce the Index value.[5] The Index is updated on a minute-by-minute basis from 9 a.m. to 5:30 p.m. (London time), which corresponds to 3 a.m. to 11:30 a.m. (Chicago time). The market price for each constituent stock is calculated by taking the mid-point between the highest bid and lowest offer for each stock.[6] As discussed more fully below, the current index value ("CIV") for exercise of the Index options will be calculated based on SEAQ prices between 11 and 11:20 a.m. London time (5 a.m. and 5:20 a.m. Chicago time) on the first U.K. trading day succeeding the last trading day in the expiring contracts. Therefore, because trading in the expiring contract months will cease, normally, on a Thursday at 3:15 Chicago time, the CIV for exercise will be determined several hours after trading has ceased, *i.e.*, during the Friday morning LSE trading session, between 5 a.m. and 5:20 a.m. Chicago time on Friday morning. The CBOE will use the LSE's calculation of the CIV for full value Index options in determining the CIV for the reduced value Index options.[7]

*B. Index Options Trading*

On August 8, 1991, the Index closed at 2600.6. Because the CBOE believes that this level is too high for successful options trading in the U.S. market, the CBOE will base trading in Index options on a fraction of the value calculated by the LSE. In particular, the CBOE will establish a U.S. Index level at one tenth the value of the FT–SE 100 by dividing the full Index value by a divisor of ten.[8] After dividing the Index by the divisor, the CBOE will disseminate the reduced value of the Index to vendors through the Options Price Reporting Authority system.

Each reduced value Index point will be valued at one U.S. dollar, so that the value of options premiums will change in U.S. dollar terms. This will allow options premiums to be quoted in U.S. dollars and trading accounts to be denominated in U.S. dollars. Accordingly, all exchange, Options Clearing Corporation and CBOE clearing member systems will be able to accommodate trading and clearance and settlement of the Index options without alteration.

*C. Exercise*

The Exchange proposes to trade FT–SE 100 options on Exchange business days in the same way that it trades European-style options on the Standard & Poor's 500 Stock Index. The Index options will expire on the Saturday following the third Friday of the expiration months. The CIV for exercise will be calculated based on SEAQ prices between 11 and 11:20 a.m. London time (5 a.m. and 5:20 a.m. Chicago time) on the first U.K. trading day following the last day of trading in the expiring contracts. Because trading in the expiring contract month will cease, normally, on a Thursday at 3:15 Chicago time, the CIV for exercise of the Index options will be determined during the Friday morning LSE trading session, *i.e.*, between 5 a.m. and 5:20 a.m. Chicago time on Friday morning. If a stock does not trade during this interval, or if it fails to open for trading, the last available price for the stock will be used in the calculation of the Index. When expirations are moved due to Exchange holidays, the last trading day for expiring Index options will be Wednesday and the CIV for exercise will be calculated during the Thursday morning trading session on the LSE, even if the LSE is open on Friday. If the LSE is closed on the Friday before expiration but the CBOE remains open, then the last trading day for expiring Index options will be moved up to Wednesday as if the CBOE had had a Friday holiday.

The LSE will calculate and disseminate a separate CIV for exercise based on the average (excluding the three highest and three lowest) of the Index values for each minute in the interval from 11 a.m. and 11:20 a.m. London time.[9] Therefore, the LSE's Index settlement value will be the average of fifteen separate prices taken over a twenty-one minute period. The CBOE's CIV will represent an amount in U.S. dollars equal to 1/10 the value of the LSE's CIV. The CBOE will use the calculation provided by the LSE in determining the CIV for exercise.

*D. Exchange Rules Applicable to Stock Index Options*

The reduced value Index option will have the same position and exercise limits, expiration months, strike price intervals and multiplier as the broad-based Standard & Poor's Index options presently listed for trading on the CBOE. Accordingly, the position limit for the Index options will be 25,000 contracts on each side of the market, provided that no more than 15,000 of the contracts are in series in the nearest expiration month.[10] The Exchange will list a March quarterly cycle of expiration months, and may list additional options series, including long-term options at two and three year intervals pursuant to the provisions of Exchange Rule 24.9.[11]

To accommodate trading of the Index options, the CBOE proposes several rule changes. First, the CBOE proposes to amend Exchange Rule 24.6 (Days and Hours of Business) to authorize the CBOE Board's designee to determine the days and hours of trading in foreign index options.[12] Second, Exchange Rule

[4] The FT–SE 100 Steering Committee is comprised of representatives from various U.K. financial institutions including, among others, the Financial Times, LIFFE, and the Society of Investment Analysts. The Committee is responsible for, among other things, establishing rules to determine, review and modify the composition of the Index, as well as how the Index is calculated.

[5] The divisor of the Index is continuously adjusted to reflect changes in market capitalization.

[6] The Index is published daily in the Financial Times and is available real-time on Reuters, Telerate and other market information systems which disseminate information on a minute-by-minute basis.

[7] See infra notes 9–10 and accompanying text for a more complete discussion of the determination of the Index settlement value for expiring Index options.

[8] See August 16 Letter, *supra* note 3.

[9] See August 16 Letter, *supra* note 3.

[10] On August 8, 1991, the Index's closing value was 26.6; therefore, the value of one contract was $26,006. Accordingly, the dollar value of the largest position obtainable in Index options was $650,150,000 ($26,006 x 25,000), with no more than $390,090,000 ($26,006 x 15,000) in series in the nearest expiration month.

[11] See August 16 Letter, *supra* note 3.

[12] The CBOE has stated that the trading hours for the Index options initially will coincide with the Exchange's normal trading hours of 8:30 a.m. to 3:15 p.m. (Chicago time), and that, if the CBOE decides to modify these trading hours, it will notify the SEC through a rule filing submitted pursuant to section 19(b)(3)(A) of the Act. See May 8 Letter, *supra* note 3.

24.7 (Trading Halts or Suspensions) will be modified to provide that when the trading hours of the primary securities market for an index's component stocks do not coincide with the CBOE's trading hours, the only applicable provision of Exchange Rule 24.7 shall be paragraph (a)(iii), which authorizes Exchange officials to halt trading in an index option when unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Because the LSE's trading hours will only overlap the Exchange's trading hours from 8:30 a.m. to 11:30 a.m. (Chicago time), the Exchange believes it would be inappropriate to apply only provisions of Exchange Rule 24.7 to FT-SE 100 Index options during the remainder of the trading day (11:30 a.m. to 3:15 p.m.). Specifically, Exchange Rule 24.7 provides that the Exchange should consider halting trading in an index option when: (1) Trading has been halted or suspended in underlying stocks whose weighted value represents 20% or more of the index value; and (2) the current calculation of the index derived from the current market prices of the stocks is not available. Third, Exchange Rule 24.9 (Terms of Option Contracts) will be amended to provide for the European exercise of FT-SE 100 Index options. Finally, the CBOE proposes to amend Exchange Rule 8.7 (Obligations of Market Makers), Interpretation .02, which prohibits market makers, except in unusual market conditions, from purchasing an option at more than $.25 below parity and from making bids $1 less than or offers $1 greater than the preceding transaction price, to provide that its provisions may be waived by two floor officials for an index option when the primary underlying securities market for that index is not trading.[13]

*E. Surveillance Agreements*

The Exchange will apply its existing index options surveillance procedures to the reduced value Index option. The CBOE has market surveillance agreements with both The Securities Association ("TSA") in the U.K. and with the LSE which should enable the CBOE to fulfill its regulatory responsibilities regarding the surveillance of trading in securities related to the Index.[14] In particular, by virtue of the CBOE's surveillance agreements, the Exchange represents that it will be able to obtain information from the records of TSA and the LSE which will allow the CBOE to monitor the trading of the Index's component stocks on SEAQ.

**III. Discussion**

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirmenets of section 6(b)(5).[15] Specifically, the Commission believes that the reduced value Index options will benefit U.S. investors by providing them with a valuable hedging vehicle that should reflect accurately the overall movement of the U.K. equity market. The Index options also will act as a performance measure and evaluation guide for stock portfolios with exposure to the U.K. market and will provide a surrogate instrument for trading in the U.K. equities market.[16] In addition, they will offer investors a relatively low-cost means of altering the composition of an international portfolio of stocks without incurring substantial transaction costs.

Because the FT–SE 100 is a broad–based index of actively–traded, well–capitalized stocks, the trading of reduced value Index options on the CBOE does not raise unique regulatory concerns.[17] Accordingly, the Commission believes that trading in the Index options will not have an adverse impact on U.S. financial markets. In addition, because the Index options will be trading under the CBOE's existing regulatory regime for index options, which includes position and exercise limits, position reporting requirements, margin requirements, market maker obligations, and disclosure requirements, the Commission believes that the market for Index options will be fair and orderly.

The Commission also believes that any departure from the CBOE's established regulatory regime for stock index options will be consistent with the Act. In particular, the Commission believes that the amendment to CBOE Rule 8.7, which allows two floor officials to waive the Exchange's price continuity rules applicable to market makers when the primary market(s) underlying a foreign stock index option is not trading, strikes a reasonable balance between: (1) The Exchange's desire to maintain price continuity; and (2) the needs of market makers to adjust their quotations to reflect fundamental economic information that, but for the closure of foreign markets, would otherwise impact the value of the foreign stock index.

The delay between the cessation of trading in Index options and the determination of the CIV for settlement, although not the current method of settlement for market index options does not raise novel issues. The Commission previously has approved stock index options for trading where the CIV for expiring options is determined on the day after trading in the option ceases. For example, the settlement value for expiring options on the Japan Index is determined at the close of the Friday afternoon Tokyo Stock Exchange trading session (1 a.m. eastern standard time), although trading in the expiring contracts ceases on Thursday at 4:15 eastern standard time, 8 hours and 15 minutes earlier. Similarly, the Exchange lists a version of the Standard & Poor's ("S&P") 500 Index Option (NSX) whose settlement is based on the opening prices of stocks on the

[13] Originally, the CBOE proposed that Exchange Rule 8.7, Interpretation .02, would apply only when the trading hours of the primary market for an index's component securities coincided with the trading hours of the CBOE. The CBOE revised that component of its proposal in Amendment No. 1. See Amendment No. 1, *supra* note 3.

[14] See Memorandum of Understanding Concerning the Provision of Information for the Purpose of Regulation and Enforcement between the CBOE and TSA dated August 1, 1990 ("Memorandum"). The Memorandum provides for the exchange of information concerning any security traded through the facilities of the CBOE, any security underlying a derivative instrument traded through the facilities of the CBOE, and any derivative instrument based upon or including a security traded through the facilities of the CBOE. Accordingly, the Memorandum allows for the provision of information relating to the FT-SE 100 options or any securities underlying the FT-SE 100 options.

[15] 15 U.S.C. 78f(b)(5) (1984).

[16] Pursuant to section 6(b)(5) of the Act, the Commission must predicate approval of any new securities product upon a finding that the introduction of such product is in the public interest. Such a finding would be difficult with respect to an option that served no hedging or other economic function, because any benefits that might be derived by market participants likely would be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns.

[17] The Commission previously examined the FT–SE 100 in the context of an application by LIFFE for certification that its futures contracts meet the Commodity Futures Trading Commission ("CFTC") requirements to permit the contract's offer and sale to U.S. citizens. The Commission found that the FT–SE 100 was not readily susceptible to manipulation because of the representative nature of the various industry segments included in the Index, the weighted value of the Index's component stocks, and the substantial capitalization and trading volume of the component stocks. See letter from Richard G. Ketchum, Director, Division of Market Regulation, SEC, to Joanne T. Medero, General Counsel, CFTC, dated January 8, 1990. The Commission also has approved the trading of FT–SE 100 warrants on the CBOE, and on the American, Midwest, New York, and Pacific Stock Exchanges. See *e.g.*, Securities Exchange Act Release No. 28627 (November 19, 1990), 55 FR 49357 (order approving File No. SR–CBOE–90–17).

day after trading in the options ceases.[18] The Commission is aware of no investor complaints or adverse market impacts stemming from the delayed CIV determination for these options.

Finally, the Commission believes that the Memorandum between the CBOE and TSA [19] is adequate to provide an oversight framework regarding potential manipulation or other trading abuses between the markets with respect to the trading of the Index options.

*It is therefore ordered,* Pursuant to section 19(b)(2) of the Act [20] that the proposed rule change (SR–CBOE–91–07) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[21]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 91–23590 Filed 9–30–91; 8:45 am]

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**[Release No. 34–29733; File No. SR–CBOE–91–32]**

## Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Filing of Proposed Rule Change Relating to Listing Options on the MidMarket 200 Index.

September 25, 1991.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on September 12, 1991, the Chicago Board Options Exchange, Inc. ("CBOE" 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 CBOE. 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 Exchange hereby requests approval to list and trade index options on the MidMarket 200 Index ("Midmarket Index" or "Index"). The text of the proposed rule change is attached as exhibit A. The Index represents a segment of the U.S. equity market that is not currently represented in the derivative markets. The Index will provide a performance measure and evaluation guide for stock portfolios with exposure to the midcapitalization range of the equity market.

**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 CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE 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 the Statutory Basis for, the Proposed Rule Change*

(1) Purpose

Pursuant to Exchange Rule 24.2, the CBOE proposes to list and trade cash-settled, European-style stock index options on the Index. As mentioned earlier, the Index will provide a performance measure and evaluation guide for stock portfolios with exposure to the mid-capitalization range of the equity market. Additionally, Index options could provide an effective means for hedging the risks associated with the ownership of middle capitalization stocks, and a lower cost means of altering the composition of an equity portfolio.

a. *Index Design.* The Index was designed by the CBOE and the Chicago Mercantile Exchange ("CME") to reflect the performance of companies that represent the middle range in terms of market capitalization of the U.S. equities market. The market segment represented by the Index consists of about 1000 issues, approximately 28.6 percent of the stocks publicly traded in the U.S. The Index will be capitalization weighted (*i.e.,* the market price of each component stock is multiplied by the number of shares outstanding) and will be composed of 200 domestic stocks that trade on the New York Stock Exchange ("NYSE"), the American Stock Exchange ("AMEX"), and the National Association of Securities Dealers Automated Quotation System ("NASDAQ"). Currently, 111 of the stocks in the Index are listed on the NYSE, 10 stocks are listed on the AMEX, and 79 stocks are listed on the NASDAQ. As of July 31, 1991, no stock represented more than 2.27 percent of the Index.

Securities underlying the Index are chosen to be representative of the market capitalization, liquidity and industry group composition of the middle market group of securities. For example, in order to be considered for inclusion in the Index, a stock's market capitalizations must fall between $150 million and $7 billion. As of July 31, 1991, the capitalization of Index stocks ranged from $201 million to $5.7 billion, with a median capitalization of $1 billion. The total capitalization of the Index on that date was $253 billion.

Component securities also reflect the industry breakdown of equities in the middle market capitalization range. Currently 46 industry groups are represented.

b. *Index Calculation and Maintenance.* The Index will be calculated by an agent of the CBOE and the CME and disseminated to Options Price Reporting Authority four times per minute. The Index will reflect changes in the market value of the component securities relative to the market value of the securities in a base year. The current Index value will be calculated by adding the market values of the component stocks, which are derived by multiplying the price of the stock by its shares outstanding, to arrive at the total market capitalization of the 200 stocks. The total market capitalization will then be divided by a divisor that represents the market capitalization of the Index on the base date of January 2, 1991. The Index multiplier will be 100.

The Index level at any point in time is equal to the ratio of the current market capitalization to the base-date capitalization, multiplied by 100. Thus, the Index was equal to 100 on the base date. The Index value was 130.01 on July 31, 1991. Current and closing Index values will be calculated using the last sale prices of the component securities.

To maintain the continuity of the Index, the divisor will be adjusted to reflect changes in the composition of the Index and changes in the capitalization of the component stocks, such as the issuance of new shares. These adjustments are generally designed to

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[18] See Securities Exchange Act Release No. 28475 (September 25, 1990), 55 FR 40492 (order approving File No. SR–AMEX–89–16). Likewise, the settlement value of expiring options on the New York Stock Exchange Composite Index is calculated based on the opening prices of the index's component stocks on expiration Fridays, although trading in the options ceases on the Thursday before an expiration Friday. See Securities Exchange Act Release No. 25804 (June 15, 1988), 53 FR 23474. See also Securities Exchange Act Release No. 24367 (April 17, 1987), 52 FR 13890 (order approving CBOE proposal to list an S&P 500 Index option that settles based on opening prices on Expiration Fridays).

[19] See Memorandum, *supra* note 14.

[20] 15 U.S.C. § 78s(b)(2) (1982).

[21] 17 CFR 200.30–3(a)(12) (1990).

insure that the Index level will change only as a result of price changes during trading. If an increase or decrease to the number of shares outstanding of a component security is equal to or greater than 10 percent, the adjustment will be made at the time of the action. All other changes regarding the shares outstanding of a particular stock will be made at the quarterly review as discussed below.

On a quarterly basis, the securities underlying the Index will be reviewed by the CBOE to determine if they continue to meet the criteria for inclusion in the Index. Stocks may be replaced because of events such as mergers and liquidations or because a particular stock is no longer thought to be representative of the Index group. If the capitalization of a stock increases above $8 billion or decreases below $100 million, the security will be replaced by a stock that meets the initial inclusion criteria. The replacement will be chosen from the list of all eligible AMEX, NYSE, and NASDAQ NMS stocks and, whenever possible, will be from the same industry group as the security being replaced.

c. *Appliable Exchange Rules.* The proposed Index options are intended to be traded in substantially the same manner as the two broad-based index options presently listed on the CBOE. Therefore, Chapter XXIV of the Exchange Rules will apply to the Index.

Since the level of the Index was 130.1 on July 31, 1991, approximately one-third the level of the other broad-based indices currently traded on the CBOE, the proposed amendment to rule 24.4 sets a position limit level twice the limit for existing market index option contracts.

The proposed modification to Exchange Rule 24.9, Terms of Options Contracts, reflects the European exercise provision of the Index option. Additionally, Interpretation .01 to Rule 24.9 is amended to provide for 2 ½ point strike price intervals. Interpretation .02 is proposed to be deleted because the language is included in proposed paragraph (a) of Interpretation .01.

The Exchange proposes to list a March quarterly cycle of expiration months, plus two near-term series, and, pursuant to Exchange Rule 5.8, long-term options series at two and three year intervals.

(2) Basis

The proposed rule changes are consistent with section 6(b) of the Act, in general, and section 6(b)(5), in particular, in that they are designed to promote just and equitable principles of trade, to protect investors and the public interest, and to remove impediments to and perfect the mechanism of a free and open market.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The CBOE does not believe that the proposed rule change will impose any inappropriate burden on competition.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR-CBOE-91-32 and should be submitted by October 22, 1991.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

Proposed Rule Change

*Chicago Board Options Exchange, Incorporated*

Additions are italicized, deletions are bracketed.

**Rule 24.4—Position Limits**

(a) In determining compliance with Rule 4.11, option contracts on a market index shall be subject to a contract limitation fixed by the Board, which shall not be larger than *(i)* 25,000 contracts on the same side of the market, with no more than 15,0000 of such contracts in the series of such market index with the nearest expiration data *for options based on the S&P 100 and 500 Indices, and (ii) 50,000 contracts on the same side of the market, with no more than 30,000 of such contracts in the series of such market index with the nearest expiration date for options based on the MidMarket 200 Index.*

(b) and (c) No Change.

**Rule 24.9 Terms of Option Contracts** [1]

(a) *Exercise Prices.* The Exchange shall determine fixed-point intervals of exercise prices for call and put options.

(b) *Expiration Months.* Index option contracts may expire at three-month intervals or in consecutive months; there may be up to six expiration months, none further out then twelve months.

(c) *European Exercise.* Options on [the Standard & Poor's 500 Stock Index] *an index which* can be exercised only on the last business day prior to the option's expiration. *Such index options traded on the Exchange include:*

*(i) Standard & Poor's 500 Stock Index.*

*(ii) MidMarket 200 Index.*

(d) *Long Term Option Series.* The Exchange may list long term index options series pursuant to Exchange Rule 5.6

*** * * Interpretations and Policies:**

.01 The procedures for adding and deleting strike prices for index options are provided in Rule 5.5 and Interpretations and Policies related thereto, as otherwise generally provided by Rule 24.9, and included the following:

*(a)* [Regardless of the price of an index, t] *T*he interval between strike prices will be no less than $5.00*:*

[1] The proposed amendments to Rule 24.9(c) are also proposed in Rule Filing No. SR-CBOE-91-07, SR-CBOE-91-08, and SR-CBOE-91-09.

*provided that in the case of the following classes of index options the interval between strike prices will be no less than $2.50:*

*(i) reduced value index options, and*

*(ii) MidMarket 200 Index.*

(b) through (e) No Change.

(.02 For reduced value index options, the interval between strike prices will be no less than $2.50)

[FR Doc. 91-23591 Filed 9-30-91; 8:45 am]

BILLING CODE 8010-01-M

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**[Release No. 34-29721; File No. SR-MSRB-91-4]**

## Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Municipal Securities Rulemaking Board; Relating to the Arbitration Code and Arbitration Fees and Deposits

September 23, 1991.

### I. Introduction

On June 17, 1991, the Municipal Securities Rulemaking Board ("Board" or "MSRB") submitted a proposed rule change to the Securities and Exchange Commission ("Commission") pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), and Rule 19b-4 thereunder. The proposed rule change amends the Board's Arbitration Code, and rule A-16, on arbitration fees and deposits. The Board also requested that the Commission delay the effectiveness of the proposed rule change for a period of 30 days following the date of approval to allow the MSRB time to alert dealers and the public of the rule change. The rule change conforms the provisions of the MSRB's Arbitration Code and arbitration fees to recent amendments to the Uniform Code approved by the Securities Industry Conference on Arbitration.

Notice of the proposed rule change was given in Securities Exchange Act Release No. 29420 (July 18, 1991), 56 FR 32457. The Commission has received no comments on the proposal. This order approves the rule change and delays its effectiveness for a period of 30 days following the date of this realease.

### II. Description of the Proposal and MSRB Rationale

A Uniform Code of Arbitration ("Uniform Code") has been developed by the Securities Industry Conference on Arbitration ("SICA"), which is composed of representatives of the Board, nine other self-regulatory organizations ("SROs"), four public members and the Securities Industry Association. The Uniform Code, as implemented by the various SROs, has established a uniform system of arbitration procedures throughout the securities industry. The proposed rule change is intended to conform the provision of the Board's arbitration code, contained in rule G-35, and arbitration fees and deposits, contained in rule A-16, to recent amendments to the Uniform Code approved by SICA. The amendments to the Board's arbitration code and the Board's rationale are as follows:

(1) *Party Service to Pleadings*—Currently, when a claim is filed, the Board's arbitration staff distributes copies of such claims, as well as responsive pleadings, to the parties and the arbitrators. Section 5, 34, and 35 have been amended to require that, after the claim has been filed with the Director of Arbitration, the parties shall deliver directly to each other all responsive pleadings. The Board believes that such amendments will result in more efficient case administration.

(2) *Adjournments*—Section 20 currently limits arbitrators to adjourn any hearing, and any person requesting an adjournment after arbitrators have been appointed is required to pay a fee, equal to the deposit of costs, which shall not exceed $100. The proposed rule change requires that the amount of the adjournment fee equal the initial deposit of hearing session fees for the first adjournment request, and twice the initial deposit of hearing session fees, not to exceed $1,000, for a second or subsequent adjournment request. In addition, upon receiving a third request for adjournment, the proposed rule change permits the arbitrators to dismiss the arbitration without prejudice to the claimant. These amendments are intended to discourage frivolous requests for adjournment, thereby reducing delays and encouraging more efficient use of the arbitration process.

(3) *Fees and Deposits*—Rule A-16 sets forth the Board's schedule of arbitration fees and deposits. The proposed rule change provides for two new fee schedules—one for customer claims, and a higher fee schedule for dealer claims. Any party filing a claim (including any counterclaim, third-party claim or cross-claim) now would be required to pay a non-refundable filing fee, as well as a hearing session deposit that varies with the amount of the dispute. For claims initiated by a customer, the filing fee would range from $15 for claims of $1,000 or less, to $300 for claims over $5,000,000. The customers' hearing session deposit would range from $15 for claims of $1,000 or less (whether simplified, *i.e.*, decided without a hearing, or involving a hearing before one arbitrator), to $1,500 for claims over $5,000,000 involving a hearing before three arbitrators. for claims initiated by an industry member, the filing fee would be $500 for all claims, and the hearing session deposit would range from $75 for simplified claims under $1,000 to $1,500 for claims over $5,000,000 involving a hearing before three arbitrators. Consistent with the current rule, the proposed rule change would permit the arbitrators to decide how much to charge the parties for forum fees. The proposed rule change also provides that the arbitrators, in their awards, may direct a party to reimburse another party for any non-refundable filing fee it has paid to the Board. The amendments are intended to recoup a greater portion of the Board's administrative costs relating to claim processing and actual hearing costs, and allocate the costs of arbitration more equitably among the users of the forum.

(4) *Technical Changes*—The proposed rule change also includes several technical changes involving word changes or clarification, and correction of typographical and grammatical errors.

### III. Discussion

The Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the MSRB. Specifically the proposal is consistent with section 15(b)(1)(D), which gives the Board authority to provide for the arbitration of claims, disputes, and controversies relating to transactions in municipal securities. The Commission believes that the proposal addresses the MSRB's legitimate desire to implement arbitration procedures that promote efficiency and recoup some of the administrative costs of arbitration to the Board.

*It is therefore ordered,* Pursuant to section 19(b)(2) of the Act, that File No. SR-MSRB-91-4 be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority. 17 CFR 200.30-3(a)(12).

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 91-23535 Filed 9-30-91; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-18334; 812-7641]

## CBC Cornerstone Funds, et al.; Application

September 26, 1991.

**AGENCY:** Securities and Exchange Commission ("SEC" or "Commission").

**ACTION:** Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

**APPLICANTS:** CBC Cornerstone Funds (the "Trust"); Furman Selz Incorporated ("Furman Selz"); certain investment companies for which Furman Selz or affiliates of Furman Selz will in the future act as principal underwriter, adviser or administrator (together with the Trust, the "Covered Companies"); Texas Commerce Investment Management Company ("TCIMCo"); and The Portfolio Group, Inc. ("The Portfolio Group").

**RELEVANT 1940 ACT SECTIONS:** Exemption requested under Section 6(c) from sections 18(f), 18(g) and 18(i).

**SUMMARY OF APPLICATION:** Applicants seek an order to permit each Covered Company to issue and sell separate classes of securities representing interests in the same investment portfolio. Each class will be identical in all respects except for class designation, voting rights, exchange privileges, and the allocation of certain expenses.

**FILING DATES:** The application was filed on November 23, 1990, and amendments to the application were filed on February 14 and July 29, 1991. By letter dated September 25, 1991, counsel, on behalf of Applicants, agreed to (1) file a further amendment to supplement and clarify certain of the matters set forth in the application and (2) submit a revised report of an expert with certain additional technical information and other modifications to the initial report submitted with amendment no. 2 to the application. This notice reflects the changes to be made to the application by the further amendment Applicants have agreed to file.

**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 the Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on October 16, 1991, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. The Trust and Furman Selz, 230 Park Avenue, New York, New York, 10169. TCIMCo, 600 Travis, Houston, Texas 77002. The Portfolio Group, 30 Rockefeller Plaza, New York, New York 10112.

**FOR FURTHER INFORMATION CONTACT:** H.R. Hallock, Jr., Special Counsel, at (202) 272-3030 (Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

### Applications' Representations

1. The Trust, a Massachusetts business trust, is registered under the 1940 Act as an open-end management investment company. The Trust currently offers four series of shares representing interests in four money market investment portfolios—the New York Tax-Free Money Market Fund, the Prime Money Market Fund, the U.S. Treasury Money Market Fund and the National Tax-Free Money Market Fund. The currently authorized shares of the Trust and the initial class of securities representing interests in an investment portfolio of a Covered Company are referred to herein as the "Existing Classes." The four existing series and all series that may be created in the future under the Trust and the investment portfolios of any other Covered Company, whether or not organized as a series company, may hereinafter collectively be referred to as the "Funds".

2. The four existing series of the Trust are sold primarily to institutional investors, such as bank trust departments, acting on behalf of their respective customers. Shares of each series are sold and redeemed daily at net asset value without a sales or redemption charge imposed by the Trust. The net asset value per share of each series is calculated using the amortized cost method of valuation. Dividends of net investment income of a series are declared daily and paid monthly to shareholders.

3. Furman Selz acts as the Trust's principal underwriter and administrator. TCIMCo, a subsidiary of Texas Commerce Bancshares, Inc. (which in turn is a subsidiary of Chemical Banking Corporation, a bank holding company) acts as the investment adviser for the Prime Money Market Fund and National Tax-Free Money Market Fund. The investment adviser for the U.S. Treasury Money Market Fund and New York Tax-Free Money Market Fund is The Portfolio Group, a wholly-owned subsidiary of Chemical Banking Corporation. Chemical Bank, a subsidiary of Chemical Banking Corporation, acts as Custodian, Fund Accountant and Transfer Agent.

4. The Trust, on behalf of each of its series, has adopted a Distribution Plan and Agreement pursuant to rule 12b-1 under the 1940 Act (the "12b-1 Plan") pursuant to which it reimburses Furman Selz for certain out-of-pocket expenses. The 12b-1 Plan also provides that each series may make payments to third parties who provide shareholder support services to assist in distribution activities. Currently no payments under this provision have been authorized, nor does the Trust intend to authorize such payments without thirty days prior written notice to shareholders. Shares have been and will continue to be distributed by Furman Selz pursuant to a Distribution Agreement between the Trust and Furman Selz.

5. Each series of the Trust is offered in connection with a shareholder servicing plan (the "Shareholder Servicing Plan"). Under the Shareholder Servicing Plan, the series enters into shareholder servicing agreements ("Shareholder Servicing Agreements") with banks or other institutions ("Shareholder Servicing Agents") concerning the provision of certain account administration services to the customers ("Customers") of the Shareholder Servicing Agents who from time to time beneficially own shares of a series which are offered in connection with the Shareholder Servicing Plan. The Shareholder Servicing Plan has been adopted and operated in accordance with the procedures set forth in rule 12b-1 (b) through (f), other than the requirements for shareholder approval in rule 12b-1. Similar Shareholder Servicing Plans may be adopted in the future by any other Fund. The services provided under a Shareholder Servicing Plan augment (and are not duplicative of) the Services to be provided to the Trust by Furman Selz and Chemical Bank.

6. Under the Shareholder Servicing Plan the Trust pays a Shareholder Servicing Agent for its services and assistance to the Trust in accordance with the terms of the Plan and its particular Shareholder Servicing Agreement (the "Service Payments"). The expense of such payments will be borne entirely by the beneficial owners

of the shares of Existing Classes of the Fund to which the shareholder Servicing Agreement relates. Service Payments will not exceed .35% per annum of the average daily net asset value of those shares of Existing Classes beneficially owned by Customers of the Shareholder Servicing Agent unless approved by a vote of the Board of Trustees of the Trust, including a majority of Trustees (or Directors in the event any Fund is organized as a corporation) who are not interested persons of the Trust. Shareholder Servicing Agents may charge other fees to their Customers who are the beneficial owners of shares of a series in connection with their Customer accounts.

7. The Trust is contemplating the creation of a new class of shares of each series within the Trust and, in the future, of any other Fund or Covered Company (the "New Classes"). Under the proposed arrangement, each New and Existing Class would be identical in all respects except for (a) certain expenses specifically attributable to a particular class listed in condition 1 below ("Class Expenses"); (b) the fact that the classes will vote separately with respect to a Covered Company's Shareholder Servicing Plan and 12b–1 Plan, if applicable; (c) expenses assessed to shares of an Existing Class as a result of Service Payments made under the Shareholder Servicing Plan; (d) the different exchange privileges of each class of shares; and (e) different class designation of each class of shares.

8. If a New Class of shares is created as described above, the Trust will be able to cause the expenses associated with the Existing Classes of shares to be borne by investors in the Existing Classes only. The Applicants believe that it would be inefficient, and probably economically or operationally unfeasible, to organize a separate investment portfolio for each New Class of shares to be created. Not only would the Trust incur unnecessary accounting and bookkeeping costs in organizing and operating such new investment portfolios, but management of the new portfolios, as well as any existing portfolios, might be hampered.

9. The net asset value of all outstanding shares representing interests in the same Fund would be computed on the same days and at the same times by adding the value of all portfolio securities and other assets belonging to the Fund involved, subtracting the liabilities charged to the Fund and dividing the result by the number of such outstanding shares. Further, the gross income of a Fund would be allocated pro rata to each class on the basis of the relative net asset value of the respective classes.

10. Expenses of a Covered Company that cannot be attributed directly to any particular Fund (the "Trust Expenses"), such as Trustees' (or Directors') fees and expenses, will be allocated to each class based on the relative net assets of such class. Expenses attributable to a particular Fund, but not to a particular class ("Fund Expenses") would be borne pro rata by each class on the basis of the relative net asset value of the respective classes. Class Expenses would consist of those expenses that can only be directly attributable to a particular class of shares. The determination of which Class Expenses will be allocated to a particular class and any subsequent changes thereto will be determined by the Trustees/Directors of a Fund in the manner described in condition 3 below.

11. Certain expenses may be allocated differently if their method of imposition changes. Thus, if a Class Expense can no longer be attributed to a class, it will be charged as a Trust Expense, or a Fund Expense, as may be appropriate. Similarly, if a Trust Expense becomes attributable to a Fund, it will become a Fund Expense. Any additional class expenses not specifically identified in condition 1 below which are subsequently identified and determined to be properly allocated to one class of shares shall not be so allocated until approved by the SEC pursuant to an amended order.

12. Because of the Service Payments and Class Expenses that may be borne by an Existing Class of shares, the net income of (and dividends payable to) such class may be different from the net income of the New Class of shares in the same Fund. With regard to Funds which do not declare dividends daily, the net asset value per share attributable to each class in the same Fund would differ between dividend declaration dates.

13. To ensure that the net asset value per share of all shares of a Fund which declares dividends on a daily basis remains the same regardless of variations in daily net income, neither class will bear any Service Payment or Class Expense that would cause the accrued expenses of such class to exceed allocated gross income on any given day. See condition 18 below.

**Applicants' Legal Analysis**

1. Applicants request an order under section 6(c) of the 1940 Act to the extent that the proposed issuance and sale of New Classes of shares might be deemed: (1) To result in a "senior security" within the meaning of section 18(g) of the 1940 Act and to be prohibited by section 18(f)(1) of the 1940 Act; and (2) to violate the equal voting provisions of section 18(i) of the 1940 Act. Section 6(c) permits the SEC to exempt persons and transactions from the provisions of the 1940 Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

2. In support of the relief requested, Applicants state that the proposed allocation of expenses is equitable and would not discriminate against any group of shareholders. Investors purchasing shares of the Existing Classes and receiving the services provided under a Fund's Shareholder Servicing Plan would bear the costs associated with such services. Conversely, investors purchasing shares of the New Classes would not bear those expenses. Moreover, because, with respect to any Fund, the rights and privileges of all shares would be substantially identical, the possibility that their interests would ever conflict would be remote.

3. The proposed arrangement does not involve borrowings and does not affect the Funds' existing assets or reserves. Nor will the proposed arrangement increase the speculative character of the shares of a Fund, since all such shares will participate pro rata in all of the Fund's income and all of the Fund's expenses (with the exception of the Service Payments and Class Expenses).

**Applicants' Conditions**

Applicants agree that the following conditions may be imposed in any order of the SEC granting the requested relief:

1. Each class of shares of a Fund will represent interests in the same portfolio of investments, and be identical in all respects, except as set forth below. The only differences between the classes of shares will relate solely to: (a) The different Class Expenses, which are limited to transfer agent fees as identified by the transfer agent as being attributable to a specific class; fees payable pursuant to any 12b–1 Plan; printing and postage expenses related to preparing and distributing materials such as shareholder reports, prospectuses and proxies to current shareholders; blue sky registration fees; SEC registration fees; the expense of administrative personnel and services as required to support the shareholders of a specific class; litigation or other legal expenses relating solely to one class of shares and trustees' fees incurred as a result of issues relating to

one class of shares; (b) the fact that the classes will vote separately with respect to a Covered Company's Shareholder Servicing Plan and any 12b–1 Plan; (c) expenses assessed to shares of an Existing Class as a result of Service Payments made under the Shareholder Servicing Plan; (d) the different exchange privileges of each class of shares; and (e) the different class designation of each class of shares. Any additional incremental expenses not specifically identified above which are subsequently identified and determined to be properly allocated to one class of shares shall not be so allocated unless approved by the SEC pursuant to an amended order.

2. The Trustees/Directors of a Covered Company, including a majority of the independent Trustees/Directors, will approve the offering of different classes of shares (the "Multi-Class System"). The minutes of the meetings of the Trustees/Directors of the Covered Company regarding the deliberations of the Trustees/Directors with respect to the approvals necessary to implement the Multi-Class System will reflect in detail the reasons for the Trustees'/Directors' determination that the proposed Multi-Class System is in the best interests of both the Covered Company and its shareholders.

3. The initial determination of the Class Expenses that will be allocated to a particular class and any subsequent changes thereto will be reviewed and approved by a vote of the Board of Trustees/Directors of a Covered Company, including a majority of the Trustees/Directors who are not interested persons of such Covered Company. Any person authorized to direct the allocation and disposition of monies paid or payable by a Covered Company to meet Class Expenses shall provide to the Board of Trustees/Directors, and the Trustees/Directors shall review, at least quarterly, a written report of the amounts so expended and the purposes for which such expenditures were made.

4. On an ongoing basis, the Trustees/Directors, pursuant to their fiduciary responsibilities under the 1940 Act and otherwise, will monitor he Covered Company for the existence of any material conflicts between the interests of the two classes of shares. The Trustees/Directors, including a majority of the independent Trustees/Directors, shall take such action as is reasonably necessary to eliminate any such conflicts that may develop. Furman Selz, TCIMCo, The Portfolio Group and any other investment advisers or distributors of a Fund will be responsible for reporting any potential or existing conflicts to the Trustees/Directors. In addition, Furman Selz, TCIMCo, The Portfolio Group and any other investment advisers or distributors of a Fund will take the actions necessary to ensure that the Shareholder Servicing Agents will report any potential or existing conflicts to the Trustees/Directors. If a conflict arises, Furman Selz, TCIMCo, The Portfolio Group and any other investment advisers or distributors of a Fund, at their own cost, will remedy such conflict with an appropriate remedy, up to and including establishing a new registered management investment company.

5. Any rule 12b–1 Plan adopted or amended to permit the assessment of a Rule 12b–1 fee on any class of shares which has not had its rule 12b–1 plan approved by the public shareholders of that class will be submitted to the public shareholders of such class for approval at the next meeting of shareholders after the initial issuance of the class of shares. Such meeting is to be held within 16 months of the date that the registration statement relating to such class first becomes effective or, if applicable, the date that the amendment to the registration statement necessary to offer such class first becomes effective.

6. The Shareholder Servicing Plans will be adopted and operated in accordance with the procedures set forth in rule 12b–1 (b) through (f) as if the expenditures made thereunder were subject to rule 12b–1, except that shareholders will not enjoy the voting rights specified in rule 12b–1. The Trustees/Directors will evaluate the Shareholder Servicing Plans based upon whether (a) such Plans are in the best interest of the applicable class and its respective shareholders, (b) the services to be performed pursuant to the Plans are required for the operation of the applicable class, (c) the Shareholder Servicing Agents can provide services at least equal, in nature and quality, to those provided by others, including a Covered Company, providing similar services, and (d) the fees for such services are fair and reasonable in the light of the usual and customary charges made by other entities, especially non-affiliated entities, for services of the same nature and quality.

7. Each Shareholder Servicing Agreement entered into pursuant to a Shareholder Servicing Plan will contain a representation by the Shareholder Servicing Agent involved that any compensation payable to the Shareholder Servicing Agent in connection with the investment of its Customers' assets in a Covered Company (i) will be disclosed by it to its Customers, (ii) will be authorized by its Customers, and (iii) will not result in an excessive fee to the Shareholder Servicing Agent.

8. Each Shareholder Servicing Agreement entered into pursuant to a Shareholder Servicing Plan will provide that, in the event an issue pertaining to the Shareholder Servicing Plan is submitted for shareholder approval, the Shareholder Servicing Agent will vote any shares held for its own account in the same proportion as the vote of those shares held for its Customers' accounts.

9. The Trustees/Directors will receive quarterly and annual statements concerning the amounts expended for distribution under any 12b–1 Plan and under any Shareholder Servicing Plans and the related Shareholder Servicing Agreements complying with paragraph (b)(3)(ii) of rule 12b–1, as it may be amended from time to time. In the statements, only expenditures properly attributable to the sale or servicing of an Existing Class of shares will be used to justify any sale or servicing fee charged to that class. Expenditures not related to the sale or servicing of an Existing Class of shares will not be presented to the Trustees/Directors to justify any fee attributable to that class. The statements, including the allocations upon which they are based, will be subject to the review and approval of the independent Trustees/Directors in the exercise of their fiduciary duties.

10. Dividends paid by a Covered Company with respect to a class of shares of a Fund, to the extent any dividends are paid, will be calculated in the same manner, at the same time, on the same day, and will be in the same per share amount as dividends paid by the Covered Company with respect to each other class of shares in the same Fund, except that Service Payments made by a class under its Shareholder Servicing Plan and Class Expenses relating to each respective class of shares will be borne exclusively by that class.

11. The methodology and procedures for calculating the net asset value and dividends and distributions of the two classes of shares and the proper allocation of expenses between the classes has been reviewed by an expert (the "Expert") who has rendered a report to the Applicants, which has been provided to the staff of the SEC, that such methodology and procedures are adequate to ensure that such calculations and allocations would be made in an appropriate manner. As noted above, Applicants have agreed to

submit a revised report of the Expert to the SEC staff. On an ongoing basis, the Expert, or an appropriate substitute Expert, will monitor the manner in which the calculations and allocations are being made and, based upon such review, will render at least annually a report to the Covered Company that the calculations and allocations are being made properly. The reports of the Expert will be filed as part of the periodic reports filed with the Commission pursuant to sections 30(a) and 30(b)(1) of the 1940 Act. The work papers of the Expert with respect to such reports, following a request by a Covered Company (which the Covered Company agrees to provide), will be available for inspection by the SEC staff upon written request by a senior member of the Division of Investment Management or a regional office of the SEC. Authorized staff members would be limited to the director, an associate director, the chief accountant, the chief financial analyst, an assistant director, and any regional administrators or associate and assistant administrators. The initial report of the Expert is a "Special Purpose" report on the "Design of a System" and on-going reports would be "Special Purpose" reports on the "Design of a System and Certain Compliance Tests" as defined and described in Statement of Auditing Standards No. 44 of the American Institute of Certified Public Accountants ("AICPA"), as it may be amended from time to time, or in similar auditing standards as may be adopted by the AICPA from time to time.

12. Applicants have adequate facilities in place to ensure implementation of the methodology and procedures for calculating the net asset value and dividends and distributions of the two classes of shares and the proper allocation of expenses between the classes of shares and this representation has been concurred with by the Expert in the initial report referred to in condition 11 above and will be concurred with by the Expert or an appropriate substitute Expert on an ongoing basis at least annually in the on-going reports referred to in that condition. Applicants will take immediate corrective action if the Expert, or appropriate substitute Expert, does not so concur in the on-going reports.

13. The prospectus of each Covered Company will contain a statement to the effect that a salesperson and any other person entitled to receive compensation for selling or servicing Covered Company shares may receive different compensation with respect to one particular class of shares over another in such Covered Company.

14. Furman Selz will adopt compliance standards as to when each class of shares may appropriately be sold to particular investors. Applicants will require all persons selling shares of a Covered Company to agree to confirm to such standards.

15. The conditions pursuant to which the exemptive order is granted and the duties and responsibilities of the Trustees/Directors with respect to the Multi-Class System will be set forth in guidelines to be furnished to the Trustees/Directors.

16. A Covered Company will disclose the respective expenses, performance data, distribution arrangements, services, fees, sales loads, deferred sales loads, and exchange privileges applicable to each class of shares in every prospectus, regardless of whether all classes of shares are offered through each prospectus. The Covered Company will disclose the respective expenses and performance data applicable to all classes of shares in every shareholder report. To the extent that any advertisement or sales literature describes the expenses or performance data applicable to any class of shares, it will also disclose the respective expenses and/or performance data applicable to all classes of shares. The information provided by Applicants for publication in any newspaper or similar listing of a Fund's net asset value or public offering price will present each class of shares separately.

17. Applicants acknowledge that the grant of the requested exemptive order does not imply SEC approval, authorization of or acquiescence in any particular level of payments that the Fund may make pursuant to any 12b-1 Plan or to Shareholder Servicing Agents pursuant to a Shareholder Servicing Plan in reliance on the exemptive order.

18. To the extent any Fund intends to declare dividends daily and maintain a stable net asset value per share, such Fund will have more than one class of shares outstanding only when and for so long as it declares its dividends on a daily basis, accrues its payments daily, and has received undertakings from the persons that are entitled to receive payments, waiving such portion of any such payments to the extent necessary to assure that payments (if any) required to be accrued by any class of shares on any day do not exceed the income to be accrued to such class on that day. In this manner, the net asset value per share for all shares in such Fund will remain the same. If such waivers are not sufficient to prevent the expenses of any class from exceeding its gross income on any given day, Furman Selz, TCIMCo, The Portfolio Group or any other adviser (the "Adviser") to such Fund will reimburse the class for such excess within five business days. Fees and expenses waived by the Shareholder Servicing Agents or any person entitled to receive Class Expenses (including Furman Selz or the Adviser), or reimbursed by Furman Selz to prevent the expense of any class from exceeding its gross income on any given day, will not be carried forward or recouped at a later date.

For the Commission, by the Division of Investment Management, under delegated authority.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 91-23589 Filed 9-30-91; 8:45 am]

BILLING CODE 8010-01-M

## SMALL BUSINESS ADMINISTRATION

**[License No. 09/09-0266]**

### PBC Venture Capital, Inc.; Licensee Surrender

Notice is hereby given that PBC Venture Capital, Inc., 1408 18th Street, Bakersfield, California, has surrendered its license to operate as a small business investment company under section 301(c) of the Small Business Investment Act of 1958, as amended (the Act). PBC Venture Capital, Inc. was licensed by the Small Business Administration on September 29, 1980.

Under the authority vested by the Act and pursuant to the regulations promulgated thereunder, the surrender of the licensee was accepted on September 23, 1991 and accordingly, all rights, privileges and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 24, 1991.

**Wayne S. Foren,**

*Associate Administrator for Investment.*

[FR Doc. 91-23578 Filed 9-30-91; 8:45 am]

BILLING CODE 8025-01-M

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

### Petitions 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 requests for waivers of

compliance with certain requirements of the federal railroad safety laws and regulations. The individual petitions are described below, including the parties seeking relief, the regulatory provisions involved, the nature of the relief being requested and the petitioner's argument in favor of relief.

Wheeling and Lake Erie Railway Company
Norfolk Southern Corporation
*Waiver Petition Docket Numbers PB–91–4 and SA–91–9*
Consolidated Rail Corporation
*Waiver Petition Docket Numbers PB–90–2 and SA–90–4*

The Wheeling and Lake Erie Railway Company (W&LE) and the Norfolk Southern Corporation (NS) (on behalf of its operating subsidiary Triple Crown Services, Inc.) jointly request waivers of compliance with certain provisions of the Railroad Power Brakes and Drawbar Regulations (49 CFR part 232), under Docket No. PB–91–4, and the Safety Appliance Standards (49 CFR part 231), under Docket No. SA–91–9. W&LE and NS seek these waivers of compliance to permit the operation of railroad/highway vehicles which are designated as "RoadRailer" units. W&LE and NS are entering into an agreement providing for interchange of NS RoadRailer trains at Bellevue, Ohio. The W&LE will operate the trains to points in eastern Ohio and western Pennsylvania and for interchange with the Consolidated Rail Corporation (Conrail) at Clairton, Pennsylvania.

Conrail, in conjunction with the NS, petitioned the FRA for a waiver of compliance on February 20, 1990, to permit the operation of RoadRailer units. That petition was designated as Waiver Petition Docket Numbers PB–90–2 and SA–90–4 and a public notice was published describing that operation and locations. (See notice of waiver petitions 55 FR 15095, April 20, 1990 for more detailed discussion). Conrail is also petitioning that it be permitted to interchange with the W&LE at Clairton and to add the route between Clairton and Portside or Kearny, New Jersey, to its original petition.

The W&LE describes the operation as a "test lane" to determine the feasibility of such a joint operation involving the W&LE, NS and Conrail. W&LE says that the initial operations will entail approximately 50 [RoadRailer] units per train with one eastbound and one westbound train per day. The RoadRailer units involved will be of the Mark IV and Mark V varieties.

At the present time, a combined total of approximately 2,000 Mark IV and Mark V RoadRailer units are being operated by the NS, under a conditional waiver (Docket Numbers SA–87–2 and PB–87–4) issued by FRA on July 28, 1987. (See notice of waiver petitions, 52 FR 16326, May 4, 1987, for more detailed discussion.) The RoadRailers are operated by Triple Crown Services, Inc. a subsidiary of the NS. These vehicles are almost identical to the standard semi-trailer presently used to haul cargo over the highway. The Mark IV RoadRailers are equipped with a special drawbar, railroad running wheels mounted on a single axle located between the tandem semi-trailer wheels, and a special railroad air brake system. The Mark V RoadRailers are similar in most respects to the Mark VIs, except that they are supported and transported on a standard 70-ton freight car truck instead of a self contained wheel/axle set. Each Mark V truck is equipped with an ABDW air brake system.

The RoadRailer vehicles, by design, cannot be subjected to traditional switching procedures conducted in railroad classification yards. The coupler assembly will only couple to another RoadRailer or to a specially designed adapter car between the locomotive and a RoadRailer train, and the drawbar height is nonstandard. The conditional waiver granted to the NS permits noncompliance with all the provisions of the Safety Appliance Standards (49 CFR part 231) because the RoadRailers are not subject to traditional handling in classification yards. These standards include provisions that provide the number, location and dimensional specifications for the handholds, ladders and sill steps that are required for each railroad car. The RoadRailers are not in compliance with the drawbar standard height above the top of the rail, 49 CFR 232.2; the standard height is 34½ inches to 31½ inches measured from the top of the rail to the center of the coupler. The RoadRailer coupler is 49 inches above the top of the rail in order to accommodate the height of the semi-trailer fifth-wheel assembly.

It was for these reasons that the NS applied for relief from parts 231 and 232. It is for the same reasons that the W&LE is seeking conditional waivers similar to those that were granted to the NS. One of the conditions of the NS conditional waiver is that the NS is not permitted to interchange the RoadRailer units with any other railroads, except the operating subsidiaries of the NS Corporation (Norfolk Western Railway and the Southern Railway). The NS is petitioning the FRA to have this condition modified so as to allow interchange of the RoadRailer units between W&LE and NS to provide the service described in the W&LE's petition. W&LE and NS would agree to all other terms and conditions that presently exist for the operation of RoadRailer equipment by the NS.

Interested parties are invited to participate in these proceedings by submitting written views, 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 parties desire 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 PB–91–4) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Communications received before October 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. to 5 p.m.) in room 8201, Nassif Building, 400 Seventh Street SW., Washington, DC 20590.

Issued in Washington, DC on September 25, 1991.

**Phil Olekszyk,**

*Deputy Associate Administrator for Safety.*

[FR Doc. 91–23587 Filed 9–30–91; 8:45 am]

BILLING CODE 4910–06–M

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Performance Review Board

**AGENCY:** Internal Revenue Service, TD.

**ACTION:** Notice of members of Senior Executive Service Performance Review Board.

**EFFECTIVE DATE:** Performance Review Board effective October 1, 1991.

**FOR FURTHER INFORMATION CONTACT:** DiAnn Kiebler, HR:H:E, room 3515, 1111 Constitution Avenue, NW., Washington, DC 20224 Telephone No. (202) 566–4633, (not a toll-free number).

**SUPPLEMENTARY INFORMATION:** Pursuant to section 4314(c)(4) of the Civil Service Reform Act of 1978, the members of the Internal Revenue Service's Senior

Executive Service Performance Review Board for senior executives in the Office of the Chief Inspector are as follows: Michael J. Murphy, Deputy Commissioner, Chairperson, Helen L. White, Assistant to the Commissioner (Equal Opportunity), Donald E. Kirkendall, Inspector General, Department of the Treasury.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978 (43 FR 52122).

**Fred T. Goldberg, Jr.,**

*Commissioner.*

[FR Doc. 91–23583 Filed 9–30–91; 8:45 am]

BILLING CODE 4830–01–M

## Performance Review Board

**AGENCY:** Internal Revenue Service, TD.

**ACTION:** Notice of Members of Senior Executive Service Performance Review Board.

**EFFECTIVE DATE:** Performance Review Board effective October 1, 1991.

**FOR FURTHER INFORMATION CONTACT:** DiAnn Kiebler, HR:H:E, room 3515, 1111 Constitution Avenue, NW., Washington, DC 20224 Telephone No. (202) 566–4633, (not a toll-free number).

**SUPPLEMENTARY INFORMATION:** Pursuant to section 4314(c) (4) of the Civil Service Reform Act of 1978, the members of the Internal Revenue Service's Senior Executive Service Performance Review Board for Assistant Commissioners, Regional Commissioners and senior executives in the Office of the Commissioner are as follows: Michael J. Murphy, Deputy Commissioner, Chairperson, Henry H. Philcox, Chief Information Officer, Teddy R. Kern, Chief Inspector, David L. Jordon, Deputy Chief Counsel, Richard J. Mihelcic, Associate Chief Counsel (Finance and Management).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978 (43FR52122).

**Fred T. Goldberg, Jr.,**

*Commissioner.*

[FR Doc. 91–23584 Filed 9–30–91; 8:45 am]

BILLING CODE 4830–01–M

# Sunshine Act Meetings

Federal Register
Vol. 56, No. 190
Tuesday, October 1, 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 ENERGY REGULATORY COMMISSION**

**"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:** September 23, 1991, 56 FR 47994.

**PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING:** September 25, 1991, 10:00 a.m.

**CHANGE IN THE MEETING:** The following Docket Numbers have been added to Item CAG–12 on the Agenda scheduled for September 25, 1991:

*Item No., Docket No., and Company*

CAG–12—TM91–3–2–001, RP91–79–000 and RP91–79–001, East Tennessee Natural Gas Company

**Louis D. Cashell,**

*Secretary.*

[FR Doc. 91–23758 Filed 9–27–91; 3:55 pm]

**BILLING CODE 6717–01–M**

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**BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM**

**TIME AND DATE:** 11:00 a.m., Monday, October 7, 1991.

**PLACE:** Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:**

1. Proposed 1992 Federal Reserve Board employee salary structure adjustments.
2. Proposed acquisition of currency processing equipment within the Federal Reserve System.
3. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
4. Any items carried forward from a previously announced meeting.

**CONTACT PERSON FOR MORE INFORMATION:** Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: September 27, 1991.

**Jennifer J. Johnson,**

*Associate Secretary of the Board.*

[FR Doc. 91–23741 Filed 9–27–91; 3:40 pm]

**BILLING CODE 6210–01–M**

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**INTERSTATE COMMERCE COMMISSION**

Commission Voting Conference

**TIME AND DATE:** 10:00 a.m., Tuesday, October 8, 1991.

**PLACE:** Hearing Room A, Interstate Commerce Commission, 12th and Constitution Avenue, NW., Washington, DC 20423.

**STATUS:** The purpose of the conference is for the Commission to discuss among themselves, and to vote on, the agenda items. Although the conference is open for the public observation, no public participation is permitted.

**MATTERS TO BE DISCUSSED:**

Finance Docket No. 21478 (Sub-No. 13), *Great Northern Pacific & Burlington Lines, Inc..—Merger—Great Northern Railway—In The Matter of William A. Rilling.*

Finance Docket No. 31281, *Arkansas and Missouri Railroad Company v. Missouri Pacific Railroad Company.*

Docket No. AB–254 (Sub–No. 3), *Providence and Worcester Railroad—Abandonment—Pontiac Secondary Line in Providence and Kent Counties, RI.*

Ex Parte No. MC–201, *Limitations of Liability for Loss and Damage.*

Ex Parte No. MC–95 (Sub-No. 6), *Practices of Motor Common Carriers of Passengers—Checked Baggage Prohibitions and Liability Exemptions.*

**CONTACT PERSON FOR MORE INFORMATION:** A. Dennis Watson, Office of External Affairs, Telephone: (202) 275–7252, TDD: (202) 275–1721.

**Sidney L. Strickland, Jr.,**

*Secretary.*

[FR Doc. 91–23706 Filed 9–27–91; 1:42 pm]

**BILLING CODE 7035–01–M**

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**UNITED STATES INTERNATIONAL TRADE COMMISSION**

[USITC SE–91–28]

**TIME AND DATE:** October 7, 1991 at 10:30 a.m.

**PLACE:** Room 101, 500 E Street S.W., Washington, DC 20436.

**STATUS:** Open to the public.

**MATTERS TO BE CONSIDERED:**

1. Agenda.
2. Minutes.
3. Ratification List.
4. FY 93 Budget.
5. Any items left over from previous agenda.

**CONTACT PERSON FOR MORE INFORMATION:** Kenneth R. Mason, Secretary (202) 205–2000.

Dated: September 24, 1991.

**Kenneth R. Mason,**

*Secretary.*

[FR Doc. 91–23703 Filed 9–27–91; 1:41 p.m.]

**BILLING CODE 7020–02–M**

**UNITED STATES INTERNATIONAL TRADE COMMISSION**

[USITC SE–91–29]

**TIME AND DATE:** October 10, 1991 at 10:30 a.m.

**PLACE:** Room 101, 500 E Street SW., Washington, DC 20436.

**STATUS:** Open to the public.

**MATTERS TO BE CONSIDERED:**

1. Petitions and complaints—
   Certain microcomputer memory controllers, components thereof, and products containing same (Docket Number 1646)
2. Inv. Nos. 701–TA–305, 731–TA–478, 480–482 (Final) (Steel wire rope from India, China, Taiwan and Thailand)—briefing and vote.
3. Inv. Nos. 303–TA–22 and 731–TA–527 (Preliminary) (Extruded rubber thread from Malaysia)—briefing and vote.
4. Further general discussion of the APO issue (per motion adopted in Commission meeting of August 21, 1991).

**CONTACT PERSON FOR MORE INFORMATION:** Kenneth R. Mason, Secretary, (202) 205–2000.

Dated: September 24, 1991.

**Kenneth R. Mason,**

*Secretary.*

[FR Doc. 91–23704 Filed 9–27–91; 1:41 pm]

**BILLING CODE 7020–02–M**

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**UNITED STATES INTERNATIONAL TRADE COMMISSION**

[USITC SE–91–30]

**TIME AND DATE:** October 16, 1991 at 10:00 a.m.

**PLACE:** Room 101, 500 E Street SW., Washington, DC 20436.

**STATUS:** Open to the public.

**MATTERS TO BE CONSIDERED:**

1. Agenda.
2. Minutes.
3. Ratification List.
4. Petitions and complaints.
5. Inv. Nos. 701–TA–309, 310 and 731–TA–528, 529 (Preliminary) ( Magnesium from Canada and Norway)—briefing and vote.

6. Inv. Nos. 731-TA-530, 531 (Preliminary) (High tenacity rayon filament yarn from Germany and the Netherlands)—briefing and vote.

7. Any items left over from previous agenda.

**CONTACT PERSON FOR MORE INFORMATION:** Kenneth R. Mason, Secretary (202) 205-2000.

Dated: September 24, 1991.

**Kenneth R. Mason,**

*Secretary.*

[FR Doc. 91-23705 Filed 9-27-91; 1:41 pm]

BILLING CODE 7020-02-M

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**NUCLEAR REGULATORY COMMISSION**

**DATE:** Weeks of September 30, October 7, 14, and 21, 1991.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

**STATUS:** Open and Closed.

**MATTERS TO BE CONSIDERED:**

**Week of September 30**

*Tuesday, October 1*

1:30 p.m.
General Discussion of High Level Waste Program (Public Meeting)

3:00 p.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 and 6)

*Wednesday, October 2*

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

**Week of October 7—Tentative**

*Monday, October 7*

10:30 a.m.
Briefing on Use of Advanced Computers in AEOD and Status of Upgrading NRC Operations Center's Emergency Telecommunications Systems (Public Meeting)

3:00 p.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2)

4:00 p.m.
Affirmation/Discusssion and Vote (Public Meeting)
a. Final Rule Entitled "Material Control and Accounting Requirements for Uranium Enrichment Facilities Producing Special Nuclear Material of Low Strategic Significance"and Conforming Amendments to 10 CFR Parts 2, 40, 70, and 74 (Tentative) (postponed from September 25)

**Week of October 14—Tentative**

*Thursday, October 17*

9:00 a.m.
Collegial Discussion of Recent International Safety Issues (Public Meeting)

10:00 a.m.
Briefing on Staff Recommended Course of Action for Standardization of Advanced Reactor Designs (Public Meeting)

11:30 a.m.
Affirmation/Discussion and vote (Public Meeting) (if needed)

2:00 p.m.
Briefing on Commercial Grade Procurement and Dedication Programs (Public Meeting)

*Friday, October 18*

9:00 a.m.
Briefing on IIT Report on Nine Mile Point (Public Meeting)

10:00 a.m.
Briefing on GE-Wilmington Incident (Public Meeting)

**Week of October 21—Tentative**

*Tuesday, October 22*

2:00 p.m.
Briefing on Status of Technical Specifications Improvement Program (Public Meeting)

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

**Note:** Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

To Verify the Status of Meetings Call (Recording)—(301) 492-0292

**CONTACT PERSON FOR MORE INFORMATION:** William Hill

Dated: September 25, 1991.

**William M. Hill, Jr.,**

*Office of the Secretary.*

[FR Doc. 91-23696 Filed 9-27-91; 1:40 pm]

BILLING CODE 7590-01-M

# Corrections

Federal Register
Vol. 56, No. 190
Tuesday, October 1, 1991

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

## INTERSTATE COMMERCE COMMISSION

### 49 CFR Parts 1105 and 1152

**[Ex Parte No. 55 (Sub-No. 22A)]**

**RIN 3120-AB53**

### Implementation of Environmental Laws

*Correction*

In rule document 91-18006 beginning on page 36104, in the issue of Wednesday, July 31, 1991, make the following corrections:

**§ 1105.5 [Corrected]**

1. On page 36106, in the second column, in § 1105.5(c), in the paragraph following paragraph (c)(3), in the second line insert "that" following "abandonments".

**§ 1105.7 [Corrected]**

2. On page 36107, in the ihird column, in § 1105.7(e)(3)(i), in the third line "inconsistenci" should read "inconsistencies".

**§ 1105.10 [Corrected]**

3. On page 36110, in the first column, in § 1105.10(a)(5), in the last line "practicable." should read "practical.".

**§ 1105.12 [Corrected]**

4. On page 36111, in the first column, in the appendix to § 1105.12, the third full paragraph is incorrect and should read as follows:

(Name of railroad) gives notice that on or about (insert date petition for abandonment exemption will be filed with the Interstate Commerce Commission) it intends to file with the Interstate Commerce Commission, Washington DC 20423, a petition for exemption under 49 U.S.C. 10505 from the prior approval requirements of 49 U.S.C. 10903, *et seq.*, permitting the (abandonment of or discontinuance of service on) a _____ mile line of railroad between railroad milepost _____, near (station name), and railroad milepost _____, near (station name) in _____ County(ies), (State). The proceeding has been docketed as No. AB _____ (Sub. No. _____X).

**PART 1152 [CORRECTED]**

5. On page 36111, in the second column, in the authority citation for part 1152, in the second line "l6 U.S.C." should read "16 U.S.C."

BILLING CODE 1505-01-D

## DEPARTMENT OF LABOR

### Employment and Training Administration

### Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

*Correction*

In notice document 91-17451 beginning on page 33765 in the issue of Tuesday, July 23, 1991, make the following correction:

On page 33766, in the first column, under the table, in the file line at the end of the document, "FR Doc. 91-17450" should read "FR Doc. 91-17451".

BILLING CODE 1505-01-D

## NATIONAL SCIENCE FOUNDATION

### Instrumentation & Facilities Review Panel; Meeting

*Correction*

In notice document 91-21123 appearing on page 43799 in the issue of Wednesday, September 4, 1991, in the second column, in the file line at the end of the document, "FR Doc. 91-2123" should read "FR Doc. 91-21123".

BILLING CODE 1505-01-D

## DEPARTMENT OF STATE

### Bureau of Consular Affairs

### 22 CFR Part 43

**[Public Notice 1477]**

### Visas: Documentation of Immigrants under Section 132 of Public Law 101-649

*Correction*

In rule document 91-21543 beginning on page 46094 in the issue of Monday, September, 9, 1991, make the following corrections:

1. On page 46094, in the third column, in the third line from the bottom, "and" should read "any".

2. On page 46095, in the second column, in the second line, "as" should read "at".

3. On page 46097, in the third column, under paragraph (4), in the third line, "purpose." should read "purpose?".

4. On page 46099, in the second column, in the third paragraph, in the eighth line, "that" should read "the".

**§ 43.17 [Corrected]**

5. On page 46103, in the second column, in § 43.17, in the first line, "for" should read "of".

BILLING CODE 1505-01-D

## DEPARTMENT OF STATE

### Bureau of Consular Affairs

### 22 CFR Part 41

**[Public Notice 1468]**

### Visas: Documentation of Nonimmigrants Under the Immigration and Nationality Act, as Amended

*Correction*

In proposed rule document 91-20838 beginning on page 43565 in the issue of Tuesday, September 3, 1991, make the following corrections:

1. On page 43566, in the third column, under *Trade*, in the third paragraph, in the ninth line, "charge" should read "change".

2. On the same page, in the same column, under *Substantial Trade*, in the last line, "numbers" should read "numerous".

3. On page 43567, in the second column, under *Commercial Activity*, in the next to last line, "crated" should read "created".

BILLING CODE 1505-01-D

## DEPARTMENT OF STATE

### Bureau of Consular Affairs

[Public Notice 1478]

### Registration for the AA-1 Immigrant Visa Program

*Correction*

In notice document 91-21544 beginning on page 46104 in the issue of Monday, September, 9, 1991, make the following correction:

On page 46106, in the second column, in the last paragraph, in the sixth line, "December" should read "September".

BILLING CODE 1505-01-D'

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

### 46 CFR Part 28

[CGD 88-079]

### Commercial Fishing Industry Vessel Regulations

*Corrections*

In rule document 91-19064 beginning on page 40364 in the issue of Wednesday, August 14, 1991, make the following corrections:

1. On the same page, in the first column, in the **SUMMARY**, in the third line, "numbers" should read "numbered".

2. On page 40372, in the 1st column, in the last paragraph, in the 13th line, the word "obvious" was misspelled.

3. On page 40378, in the first column, in the last paragraph, in the ninth line, the word "principle" was misspelled.

4. On page 40379, in the first column, in the last paragraph, in the last line, the word "rulemaking" was misspelled.

**§ 28.30 [Corrected]**

5. On page 40394, in the third column, in § 28.30(a), in the fifth line, "of subchapter S" should read "of 33 CFR subchapter S".

**§ 28.110 [Corrected]**

6. On page 40397, in § 28.110, in the table at the top of the page:

a. In the first column, in the second entry, in the second line, "beyond *cold*" should read "beyond, *cold*".

b. In the third column, in the fourth entry, in the second line, "hybrid immersion" should read "hybrid, immersion".

**§ 28.115 [Corrected]**

7. On the same page, in the first column, in § 28.115, in the second column of the table, in the fourth entry, "160.50" should read "160.050".

**§ 28.120 [Corrected]**

8. On the same page, in the third column, in § 28.120(h)(2), "Rivers" should read "Rivers."

**§ 28.135 [Corrected]**

9. On page 40399, in the third column, in § 28.135(a), in the second line, "subpart of part" should read "subpart or part".

10. On the same page, in § 28.135, in the table, the main headings should be "Item" and "Markings Required", and "Name of vessel" and "Retroflective material" should be subheadings under "Markings Required".

**§ 28.140 [Corrected]**

11. On the same page, in § 28.140, in the first column of the table, in the sixth entry, "Hydrostatis" should read "Hydrostatic".

**§ 28.375 [Corrected]**

12. On page 40406, in the second column, in § 28.375(c)(6), "system; and;" should read "system and;".

**§ 28.380 [Corrected]**

13. On the same page, in the third column, in § 28.380(b), in the fifth line, "an" should read "and".

**§ 28.385 [Corrected]**

14. On page 40407, in the first column, in § 28.385(b), in the fourth line, "Superstructure" should read "Superstructures".

**§ 28.410 [Corrected]**

15. On the same page, in the second column, the section heading should read as set forth below:

**§ 28.410 Deck rails, lifelines, storm rails, and hand grabs.**

BILLING CODE 1505-01-D

federal register

Tuesday
October 1, 1991

Part II

# Office of Management and Budget

## Rescission of OMB Circulars; Notice

## OFFICE OF MANAGEMENT AND BUDGET

### Rescission of OMB Circulars

**AGENCY:** Office of Management and Budget.

**ACTION:** Notice of Rescission of OMB Circulars.

**SUMMARY:** The Director of OMB issued a press release on September 19, 1991 announcing the reform of the OMB circular system. The release indicated that Notices of Rescission for eleven specified circulars would appear in the **Federal Register** on October 1, 1991. The circulars proposed for elimination are described below.

**DATES:** October 1, 1991.

**ADDRESSES:** 725 17th Street, NW room 464, OEOB Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Rosalyn J. Rettman, Associate General Counsel for Budget on (202) 395–5600.

**Darrell A. Johnson,**

*Assistant Director for Administration.*

### Government Publications

**AGENCY:** Office of Management and Budget, Executive Office of the President.

**ACTION:** Notice of Rescission of OMB Circular No. A–3.

**SUMMARY:** Notice is hereby given that the Office of Management and Budget (OMB) intends to rescind Circular No. A–3, Government Publications, on November 15, 1991 except as provided below. Certain provisions contained in Circular No. A–3 will be incorporated into Circular No. A–130, Management of Federal Information Policy.

**DATES:** Persons who wish to comment on the proposed rescission of Circular No. A–3 and the incorporation of its provisions into Circular No. A–130 should submit their comments no later than on October 31, 1991.

**ADDRESSES:** Comments should be addressed to: Peter N. Weiss, Information Policy Branch, Office of Information and Regulatory Affairs, Office of Management and Budget, room 3235 New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Peter N. Weiss, Information Policy Branch, telephone (202) 395–4814. Copies of the relevant circular are available at the address above.

**SUPPLEMENTARY INFORMATION:** On September 19, 1991, OMB announced its intention to reform the circular system. This initiative involves eliminating 11 circulars, and revising 20 of the remaining 32 circulars. Circular No. A–3 establishes policies regarding agency publications. Circular No. A–3 would be eliminated as a separate circular in order to improve consistency and avoid duplication with Circular No. A–130, a comprehensive circular dealing with information policy. Certain of the policies contained in Circular No. A–3 would be incorporated in Circular No. A–130. Specifically, the policies and requirements contained in sections 4, 6(a) and 6(b) would be incorporated into Circular No. A–130, and all other provisions of Circular No. A–3 will be rescinded. Proposed revisions to Circular No. A–130, including incorporation of Circular No. A–3, will be published for public comment on or about January 31, 1992. These provisions of Circular No. A–3 will remain in effect until final publication of a revised Circular No. A–130.

### Policies on Construction of Family Housing

**AGENCY:** Office of Management and Budget, Executive Office of the President.

**ACTION:** Notice of Rescission of OMB Circular No. A–18.

**SUMMARY:** Notice is hereby given that the Office of Management and Budget (OMB) intends to rescind Circular No. A–18, Policies on Construction of Family Housing, on November 15, 1991, except as provided below. Certain provisions contained in Circular No. A–18 will be incorporated into Circular No. A–11, Preparation and Submission of Annual Budget Estimates, and possibly Circular No. A–45, Policy Governing Charges for Rental Quarters and Related Facilities.

**DATES:** Persons who wish to comment on the proposed rescission of Circular No. A–18 and the incorporation of its provisions in Circular Nos. A–11 and A–45 should submit their comment no later than on October 31, 1991.

**ADDRESSES:** Comments should be addressed to: Richard A. Ong, Deputy Associate Administrator, Office of Federal Procurement Policy, Office of Management and Budget, room 9001 New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Richard Ong, Office of Federal Procurement Policy, telephone (202) 395–3300. Copies of the relevant circular are available at the address above.

**SUPPLEMENTARY INFORMATION:** On September 19, 1991, OMB announced its intention to reform the circular system. This initiative involves eliminating 11 circulars, and revising 20 of the remaining 32 circulars. Circular No. A–18 established policies for budgeting, planning, and undertaking the construction of Federally-owned housing for Federal personnel and for employees of Government contractors. The circular has been used in considering Federal agency estimates and requests for funds for family housing for civilian and military personnel. The design standards referenced in Circular No. A–18 are no longer readily available and little use is now made of the circular. Only the major policies of Circular No. A–18 will be maintained by incorporating them into Circular No. A–11, and possibly Circular No. A–45. Specifically, we propose initially to retain only the general guidelines in Section 2 of Circular No. A–18 relating to determining whether construction of housing is appropriate. Proposed revisions to Circular Nos. A–11 and A–45 are anticipated in July 1992. These provisions of Circular No. A–18 will remain in effect until final publication of a revised Circular No. A–11 and possibly, Circular No. A–45.

### Control Over the Use of Foreign Currencies

**AGENCY:** Office of Management and Budget, Executive Office of the President.

**ACTION:** Notice of Rescission of OMB Circular No. A–20.

**SUMMARY:** Notice is hereby given that the Office of Management and Budget (OMB) intends to rescind Circular No. A–20, System of Control over the Use of Foreign Currencies. The provisions of this Circular will be incorporated into Circular No. A–11, Preparation and Submission of Budget Estimates.

**DATES:** Persons who wish to comment on the proposed rescission of Circular No. A–20 and the incorporation of its provisions into Circular No. A–11 should submit their comments no later than on October 31, 1991.

**ADDRESSES:** Comments should be addressed to: Kelly Lehman, International Affairs Division, Office of Management and Budget, room 8225 New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Kelly Lehman, International Affairs Division, telephone (202) 395–4580. Copies of the relevant circulars are available at the address above.

**SUPPLEMENTARY INFORMATION:** On September 19, 1991, OMB announced its intention to reform the circular system. This initiative involves eliminating 11 circulars, and revising 20 of the remaining 32 circulars. Circular No. A–

20 provides guidance on the use of U.S. owned foreign currencies, as authorized by sections 104 and 306 of the Agricultural Trade and Development Assistance Act of 1954, as amended (Pub. L. 480). With technical changes, Circular No. A–20 guidance will be included in Circular No. A–11. Proposed revisions of Circular A–11 are anticipated in July 1992, Circular A–20 will remain in effect until final publication of a revised Circular No. A–11.

**Federal Meteorological Services**

**AGENCY:** Office of Management and Budget, Executive Office of the President.

**ACTION:** Notice of Rescission of OMB Circular No. A–62.

**SUMMARY:** Notice is hereby given that the Office of Management and Budget (OMB) intends to rescind Circular No. A–62, Policies and Procedures for the Coordination of Federal Meteorological Services, on November 15, 1991.

**DATES:** Persons who wish to comment on the proposed rescission of Circular No. A–62 should submit their comments no later than on October 31, 1991.

**ADDRESSES:** Comments should be addressed to: David Gold, Commerce/Justice Branch, Transportation, Commerce and Justice, Office of Management and Budget, room 9215 New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** David Gold, Commerce/Justice Branch, telephone (202) 395–3914. Copies of the relevant circular are available at the address above.

**SUPPLEMENTARY INFORMATION:** On September 19, 1991, OMB announced its intention to reform the circular system. This initiative involves eliminating 11 circulars, and revising 20 of the remaining 32 circulars. Circular No. A–62 prescribes policy guidelines and procedures for planning and conducting Federal meteorological services and applied research and development to improve such services. These policy guidelines will be carried out through other mechanisms, with the Department of Commerce having the central role with respect to meteorological services.

**Water Data Collection**

**AGENCY:** Office of Management and Budget, Executive Office of the President.

**ACTION:** Notice of Rescission of OMB Circular No. A–67.

**SUMMARY:** Notice is hereby given that the Office of Management and Budget (OMB) intends to rescind Circular No. A–67, water data collection. Interagency coordination of water data will continue through another mechanism.

**DATES:** Persons who wish to comment on the proposed rescission of Circular No. A–67 should submit their comments no later than November 1, 1991.

**ADDRESSES:** Comments should be addressed to: Joel Kaplan, Interior Branch, Natural Resources and Energy and Science, Office of Management and Budget, room 8208 New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Joel Kaplan, Interior Branch, telephone (202) 395–4993. Copies of the relevant circular are available at the address above.

**SUPPLEMENTARY INFORMATION:** On September 19, 1991, OMB announced its intention to reform the circular system. This initiative involves eliminating 11 circulars, and revising 20 of the remaining 32 circulars. Circular No. A–67 establishes policies regarding the collection of certain water data. Circular A–67 will be eliminated as a separate circular because the circular mechanism is not necessary for carrying out these procedures. Because water-related responsibilities are dispersed throughout the Executive Branch with a large number of Federal agencies collecting, analyzing, and disseminating water resources information, the coordination activities established under Circular No. A–67 will continue through another mechanism.

**Policies and Guidelines for Federal Credit Programs**

**AGENCY:** Office of Management and Budget, Executive Office of the President.

**ACTION:** Notice of Rescission of OMB Circular No. A–70.

**SUMMARY:** Notice is hereby given that the Office of Management and Budget (OMB) intends to rescind Attachment A to Circular No. A–70, Policies and Guidelines for Federal Credit Programs, on November 15, 1991, except as provided below. The remaining provisions of Circular No. A–70 will be incorporated into Circular No. A–129, Managing Federal Credit Programs.

**DATES:** Persons who wish to comment on the proposed rescission of Circular No. A–70 and the incorporation of its provisions into Circular No. A–129 should submit their comments no later than on October 31, 1991.

**ADDRESSES:** Comments should be addressed to: Kim Burke, Budget Analysis and Systems Division, Office of Management and Budget, room 6025, New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Kim Burke, Budget Analysis and Systems Division, telephone (202) 395–3930. Copies of the relevant circulars are available at the address above.

**SUPPLEMENTARY INFORMATION:** On September 19, 1991, OMB announced its intention to reform the circular system. This initiative involves eliminating 11 circulars, and revising 20 of the remaining 32 circulars. Circular No. A–70 establishes policies regarding federal credit programs. Circular No. A–70 is being consolidated with Circular No. A–129. Attachment A of the circular, "Measuring the Subsidy Element of Federal Financing", has been superseded by the Federal Credit Reform Act of 1990. The remaining provisions of A–70 will continue in effect until they are consolidated with A–129. A revised with Circular No. A–129 will be issued July 1992.

**Indirect Cost Rates, Audit, and Audit Follow-up at Educational Institutions**

**AGENCY:** Office of Management and Budget, Executive Office of the President.

**ACTION:** Notice of Rescission of OMB Circular No. A–88.

**SUMMARY:** Notice is hereby given that the Office of Management and Budget (OMB) intends to rescind Circular No. A–88, Indirect Cost Rates, Audit, and Audit Follow-up at Educational Institutions. The provisions of Circular No. A–88 will be incorporated into Circular No. A–21, Cost Principles for Educational Institutions.

**DATES:** Persons who wish to comment on the proposed rescission of Circular No. A–88 and the incorporation of its provisions into Circular No. A–21 should submit their comments no later than on October 31, 1991.

**ADDRESSES:** Comments should be addressed to: Palmer Marcantonio, Office of Federal Financial Management, Office of Management and Budget, room 10235 New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Palmer Marcantonio, Office of Federal Financial Management, telephone (202) 395–3993. Copies of the relevant circulars are available at the address above.

**SUPPLEMENTARY INFORMATION:** On September 19, 1991, OMB announced its intention to reform the circular system. This initiative involves eliminating 11 circulars, and revising 20 of the remaining 32 circulars. Circular No. A–

88 establishes policies for (a) developing indirect cost rates, (b) auditing, (c) correcting system deficiencies and, (d) resolving questioned costs. All the policies contained in Circular A–88 will be incorporated into Circular No. A–21. Proposed revisions to Circular No. A–21, including incorporation of the provisions of Circular No. A–88, will be published for public comment on or about May 31, 1992. The provisions of Circular A–88 will remain in effect until the final publication of Circular No. A–21.

**Direction and Control of Litigation**

**AGENCY:** Office of Management and Budget, Executive Office of the President.

**ACTION:** Notice of Rescission of OMB Circular No. A–99.

**SUMMARY:** Notice is hereby given that the Office of Management and Budget (OMB) intends to rescind Circular No. A–99, Direction and Control of Litigation, on November 15, 1991, except as provided below. Certain of the provisions contained in Circular No. A–99 will be incorporated into Circular No. A–19, Legislative Coordination and Clearance.

**DATES:** Persons who wish to comment on the proposed rescission of Circular No. A–99 and the incorporation of certain of its provisions into Circular No. A–19 should submit their comments no later than on October 31, 1991.

**ADDRESS:** Comments should be addressed to: Bernard H. Martin, Assistant Director for Legislative Reference, Office of Management and Budget, room 7202 New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Bernard H. Martin, Legislative Reference Division, telephone (202) 395–4864. Copies of the relevant circulars are available at the address above.

**SUPPLEMENTARY INFORMATION:** On September 19, 1991, OMB announced its intention to reform the circular system. This initiative involves eliminating 11 circulars, and revising 20 of the remaining 32 circulars. Circular No. A–99 establishes guidelines for legislation covering the direction and control of litigation before the courts on behalf of departments and agencies. Circular No. A–99 would be eliminated as a separate circular and its provisions included in Circular No. A–19, a comprehensive circular addressing legislative clearance. The guidelines contained in section 2 of Circular No. A–99 would be incorporated into Circular No. A–19, and all other provisions of Circular No. A–99 would be rescinded. Proposed revisions to Circular No. A–19, including incorporation of Circular No. A–99, will be published for public comment on or about February 1, 1992. Section 2 will remain in effect until final publication of a revised Circular No. A–19.

**Evaluating Leases of Capital Assets**

**AGENCY:** Office of Management and Budget, Executive Office of the President.

**ACTION:** Notice of Rescission of OMB Circular No. A–104.

**SUMMARY:** Notice is hereby given that the Office of Management and Budget (OMB) intends to rescind Circular No. A–104. On November 15, 1991, except as provided below. Certain of the provisions contained in Circular No. A–104 will be incorporated into Circular No. A–11, Preparation and Submission of Budget Estimates.

**DATES:** Persons who wish to comment on the proposed rescission of Circular No. A–104 and the incorporation of certain of its provisions into Circular No. A–11 should submit their comments no later than on October 31, 1991.

**ADDRESS:** Comments should be addressed to: Robert B. Anderson, Office of Management and Budget, room 9002 New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Robert B. Anderson, telephone (202) 395–3381. Copies of the relevant circulars are available at the address above.

**SUPPLEMENTARY INFORMATION:** On September 19, 1991, OMB announced its intention to reform the circular system. This initiative involves eliminating 11 circulars, and revising 20 of the remaining 32 circulars. Circular No. A–104 prescribes a method for agencies to use in conducting economic analysis in determining whether to lease or purchase a capital asset. Parts 4, 5, 6 paragraph 2.g of Appendix A, and Appendix B of the circular would be incorporated into Circular No. A–11, and all other provisions of Circular No. A–104 will be rescinded. These provisions of Circular No. A–104 compliment the provisions of the Budget Enforcement Act of 1990 dealing with capital leases. Instructions regarding these BEA provisions would be included in Circular No. A–11. Proposed revisions to Circular No. A–11, including incorporation of Circular No. A–104, are anticipated in July 1991. These provisions of Circular No. A–104 will remain in effect until final publication of a revised Circular No. A–19.

**Audiovisual Activities**

**AGENCY:** Office of Management and Budget, Executive Office of the President.

**ACTION:** Notice of Rescission of OMB Circular No. A–114.

**SUMMARY:** Notice is hereby given that the Office of Management and Budget (OMB) intends to rescind Circular No. A–114, on November 15, 1991, except as provided below. Certain of the provisions contained in Circular No. A–114 will be incorporated into Circular No. A–130, Management of Federal Information Policy.

**DATES:** Persons who wish to comment on the proposed rescission of Circular No. A–114 and the incorporation of certain of its provisions into Circular No. A–130 should submit their comments no later than on October 31, 1991.

**ADDRESS:** Comments should be addressed to: Peter N. Weiss, Information Policy Branch, Office of Information and Regulatory Affairs, Office of Management and Budget, room 3235 New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Peter N. Weiss, Information Policy Branch, telephone (202) 395–4814. Copies of the relevant circulars are available at the address above.

**SUPPLEMENTARY INFORMATION:** On September 19, 1991, OMB announced its intention to reform the circular system. This initiative involves eliminating 11 circulars, and revising 20 of the remaining 32 circulars. Circular No. A–114 established policies regarding agency audiovisual activities. Circular No. A–114 would be eliminated as a separate circular in order to improve consistency and avoid duplication with Circular No. A–130, a comprehensive circular dealing with information policy. Specifically, the policies and requirements contained in sections 5, 6(b) through 6(f), 7(a), 7(b), and 7(e) would be incorporated into Circular No. A–130 or other appropriate guidance, and all other provisions of Circular No. A–114 would be rescinded. Proposed revisions to Circular No. A–130, including incorporation of Circular No. A–114, will be published for public comment on or about January 31, 1992. These provisions of Circular No. A–114 will remain in effect until final publication of a revised circular No. A–130.

**Federal Productivity and Quality Improvement in Service Delivery**

**AGENCY:** Office of Management and Budget, Executive Office of the President.

**ACTION:** Notice of Rescission of OMB Circular No. A–132.

**SUMMARY:** Notice is hereby given that the Office of Management and Budget (OMB) intends to rescind Circular No. A–132, Federal Productivity and Quality Improvement in Service Delivery, on November 15, 1991, except as provided below.

**DATES:** Persons who wish to comment on the proposed rescission of Circular No. A–132 should submit their comments no later than October 31, 1991.

**ADDRESSES:** Comments should be addressed to: Ray Kogut, Federal Personnel Policy Branch, General Management Division, Office of Management and Budget, room 6235 New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Ray Kogut, Federal Personnel Policy Branch, telephone (202) 395–5017. Copies of the relevant circular are available at the address above.

**SUPPLEMENTARY INFORMATION:** On September 19, 1991, OMB announced its intention to reform the circular system. This initiative involves eliminating 11 circulars, and revising 20 of the remaining 32 circulars. Circular No. A–132 prescribes detailed quarterly, semi-annual and annual reporting requirements. Responsibility for government-wide guidance on total quality management was transferred to the Office of Personnel Management in 1990. The reporting requirements of the Circular will be rescinded as indicated above. However, the policy portions of the circular will be rescinded upon the issuance of a new directive expected by not later than November 30, 1991.

Technical guidance on total quality management and productivity improvement is provided by the Office of Personnel Management's Federal Quality Institute. For information, contact the Federal Quality Institute at P.O. Box 99, Washington, DC 20044–0099, or call (202) 376–3747.

[FR Doc. 91–23746 Filed 9–30–91; 8:45 am]
BILLING CODE 3110–01–M

federal register

Tuesday
October 1, 1991

Part III

# Department of Transportation

**Research and Special Programs Administration**

**49 CFR Part 171**

**Infectious Substances (Etiologic Agents); Revisions to Transitional Provisions; Final Rule**

**DEPARTMENT OF TRANSPORTATION**

**Research and Special Programs Administration**

**49 CFR Part 171**

**[Docket Nos. HM-181 and HM-142A; Amendment No. 171-111]**

**RIN 2137-AA01 and 2137-AB56**

## Infectious Substances (Etiologic Agents); Revisions to Transitional Provisions

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

**ACTION:** Final rule; partial response to petition for reconsideration.

**SUMMARY:** This amendment extends the transition provisions in 49 CFR 171.14 concerning the regulations for the transportation of infectious substances (etiologic agents), which were published under Docket No. HM-142A (56 FR 197, January 3, 1991, and which was incorporated into Docket HM-181 in a final rule published September 18, 1991 (56 FR 47158). The September 18, 1991, final rule extended the effective date for certain quantities of infectious substances, partially in response to a petition for reconsideration. This further revision to the transition provisions in § 171.14 is necessary because RSPA anticipates issuing a further response to the petition for reconsideration in a forthcoming corrections document. This amendment also makes a minor technical correction to § 171.14(b)(4)(ii).

**EFFECTIVE DATE:** October 1, 1991.

**FOR FURTHER INFORMATION CONTACT:** Eileen Edmonson, Office of Hazardous Materials Standards, Research and Special Programs Administration, 400 Seventh St., SW., Washington, DC 20590-0001, telephone: (202) 366-4488.

**SUPPLEMENTARY INFORMATION:** The definition and packaging provisions for infectious substances (etiologic agents) were issued in a final rule under Docket HM-142A (56 FR 197, January 3, 1991), entitled "Etiologic Agents." The final rule issued under Docket HM-181 (published December 21, 1990, 55 FR 52402) expanded the provisions issued under Docket HM-142A and authorized the term "infectious substances" as synonymous with the term "etiologic agents." Although the final rule under Docket HM-142A was published subsequent to the final rule under HM-181, the intent of Docket HM-142A was to provide interim provisions for the transportation of infectious substances (etiologic agents) until the October 1, 1991 effective data under Docket HM-181.

RSPA received a petition for reconsideration of Docket HM-142A from the National Solid Wastes Management Association that raised several issues concerning the potential impact of the final rule on the waste management industry. RSPA delayed the effective date of the final rule to September 30, 1991 (56 FR 7312), to provide more time to evaluate the petition.

Because RSPA intended that the provisions of Docket HM-181 supersede those in Docket HM-142A, RSPA incorporated Docket HM-142A into Docket HM-181 on September 18, 1991, and extended the effective date for cultures of infectious substances (etiologic agents) of 50 ml or less total quantity per package from October 1, 1991, to October 1, 1992. For infectious substances not meeting that exception the effective date remained October 1, 1991. At that time, RSPA anticipated that the correction document for HM-181 would be issued in the near future. Unfortunately, due to the complexity and length of the corrections document, it will not be possible to publish it by October 1, 1991.

Therefore, RSPA is revising the transitional provisions for all infectious substances to extend the effective date for hazard communication (shipping papers, marking, and labeling) and classification requirements to October 1, 1992. In addition, a minor technical correction is made in § 171.14(b)(4)(ii).

### Administrative Notices

*A. Executive Order 12291*

This final rule has been reviewed under the criteria specified in section 1(b) of Executive Order 12291 and is determined not to be a major rule. However, it is a significant rule under the regulatory procedures of the Department of Transportation (44 FR 11034). This rule does not require a Regulatory Impact Analysis, or an environmental impact statement under the National Environmental Policy Act (42 U.S.C., 4321 *et seq.*) This final rule does not impose additional requirements and has the net result of reducing costs imposed under the final rule published in the **Federal Register** on December 21, 1990, without reducing safety (55 FR 52402). The original regulatory evaluation of the final rule was not modified because the changes made under this rule will result in minimal economic impact on industry.

*B. Executive Order 12612*

This action has been analyzed in accordance with Executive Order 12612 ("Federalism"). It has no substantial direct effect on the States, on the current Federal-State relationship, or the current distribution of power and responsibilities among levels of government. Thus, this final rule contains no policies that have Federalism implications, as defined in Executive Order 12612, and no Federalism Assessment is required.

*C. Impact on Small Entities*

Based on limited information concerning size and nature of entities likely to be affected by this rule, I certify this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A regulatory flexibility analysis is available for review in the docket.

*D. Paperwork Reduction Act*

This amendment imposes no changes to the information collection and recordkeeping requirements contained in the December 21, 1990 final rule, which was approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. chapter 35.

*E. Regulatory Information Number (RIN)*

A regulatory information number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

### List of Subjects on 49 CFR Part 171

Exports, Hazardous materials transportation, Hazardous waste, Imports, Incorporation by reference, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR part 171, is amended as follows:

## PART 171—GENERAL INFORMATION, REGULATIONS AND DEFINITIONS

1. The authority citation for part 171 continues to read as follows:

**Authority:** 49 App. U.S.C. 1802, 1803, 1804, 1805, 1808, 1818; 49 CFR part 1.

2. Section 171.14 is amended by removing paragraph (b)(1)(iii) and revising paragraphs (b)(2)(ii) and (b)(4)(ii) to read as follows:

**# 171.14 Transitional provisions for implementing requirements based on the UN Recommendations.**

* * * * *

(b) * * *

(2) * * *

(ii) For infectious substances (etiologic agents), the hazard classification procedures as set forth in § 173.134 of this subchapter and hazard communication requirements (i.e., shipping papers, emergency response information, package markings, and labeling) as set forth in part 172 of this subchapter.

* * * * *

(4) * * *

(ii) Package manufacturing and marking requirements under the provisions of subpart B of 173, and parts 178 and 179 of this subchapter. (DOT specification packagings removed from part 178 of this subchapter by the December 21, 1990, rule may no longer be manufactured).

* * * * *

Issued in Washington, DC on September 30, 1991 under authority delegated in 49 CFR part 1.

**Travis P. Dungan,**

*Administrator, Research and Special Programs Administration.*

[FR Doc. 91–23791 Filed 9–30–91; 12:15 pm]

BILLING CODE 4910–60–M

federal register

Tuesday
October 1, 1991

Part IV

# The President

**Executive Order 12774—Continuance of Certain Federal Advisory Committees**

# Federal Register

Federal Register
Vol. 56, No. 190
Tuesday, October 1, 1991

# Presidential Documents

Title 3—

The President

## Executive Order 12774 of September 27, 1991

## Continuance of Certain Federal Advisory Committees

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), it is hereby ordered as follows:

**Section 1.** Each advisory committee listed below is continued until September 30, 1993.

(a) Committee for the Preservation of the White House; Executive Order No. 11145, as amended (Department of the Interior).

(b) Federal Advisory Council on Occupational Safety and Health; Executive Order No. 12196, as amended (Department of Labor).

(c) President's Commission on White House Fellowships; Executive Order No. 11183, as amended (Office of Personnel Management).

(d) President's Committee on the Arts and the Humanities; Executive Order No. 12367, as amended (National Endowment for the Arts).

(e) President's Committee on the International Labor Organization; Executive Order No. 12216 (Department of Labor).

(f) President's Committee on Mental Retardation; Executive Order No. 11776 (Department of Health and Human Services).

(g) President's Committee on the National Medal of Science; Executive Order No. 11287, as amended (National Science Foundation).

(h) President's Council on Physical Fitness and Sports; Executive Order No. 12345, as amended (Department of Health and Human Services).

(i) President's Export Council; Executive Order No. 12131, as amended (Department of Commerce).

(j) President's National Security Telecommunications Advisory Committee; Executive Order No. 12382, as amended (Department of Defense).

**Sec. 2.** Notwithstanding the provisions of any other Executive order, the functions of the President under the Federal Advisory Committee Act that are applicable to the committees listed in Section 1 of this order, except that of reporting annually to the Congress, shall be performed by the head of the department or agency designated after each committee, in accordance with the guidelines and procedures established by the Administrator of General Services.

**Sec. 3.** The following Executive orders or sections thereof, which established committees that have been terminated or whose work has been completed, are revoked:

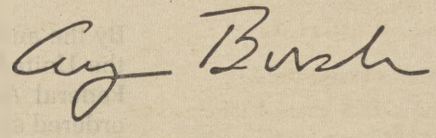
(a) Section 3–401 of Executive Order No. 12661, as amended by Executive Order No. 12716, establishing the National Commission on Superconductivity;

(b) Executive Order No. 12686, as amended by Executive Order No. 12705, establishing the President's Commission on Aviation Security and Terrorism; and

(c) Executive Order No. 12658, as amended by Executive Order No. 12665, establishing the President's Commission on Catastrophic Nuclear Accidents.

**Sec. 4.** Executive Order No. 12692 is superseded.

**Sec. 5.** This order shall be effective September 30, 1991.



THE WHITE HOUSE,
*September 27, 1991.*

[FR Doc. 91-23839
Filed 9-30-91; 12:57 pm]
Billing code 3195-01-M

# Reader Aids

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Vol. 56, No. 190

Tuesday, October 1, 1991

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## FEDERAL REGISTER PAGES AND DATES, OCTOBER



## CFR PARTS AFFECTED DURING OCTOBER

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.

## 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 August 22, 1991**

## CFR ISSUANCES 1991
## January—July 1991 Editions and Projected October, 1991 Editions

This list sets out the CFR issuances for the January—July 1991 editions and projects the publication plans for the **October, 1991** quarter. A projected schedule that will include the **January, 1992** quarter will appear in the first **Federal Register** issue of January.

**For pricing information on available 1990—1991 volumes consult the CFR checklist which appears every Monday in the Federal Register.**

Pricing information is not available on projected issuances. The weekly CFR checklist and the monthly List of CFR Sections Affected will continue to provide a cumulative list of CFR titles and parts, revision date and price of each volume.

Normally, CFR volumes are revised according to the following schedule:

Titles 1—16—January 1
Titles 17—27—April 1
Titles 28—41—July 1
Titles 42—50—October 1

All volumes listed below will adhere to these scheduled revision dates unless a notation in the listing indicates a different revision date for a particular volume.

*Indicates volume is still in production.

### Titles revised as of January 1, 1991 editions:

| Title | |
|---|---|
| **CFR Index** | 1–199 |
| | 200–End |
| **1–2** | |
| | **10 Parts:** |
| **3 (Compilation)** | 0–50 |
| | 51–199 |
| **4** | 200–399 (Cover only) |
| | 400–499 |
| **5 Parts:** | 500–End |
| 1–699 | |
| 700–1199 | **11** |
| 1200–End | |
| | **12 Parts:** |
| **6 [Reserved]** | 1–199 |
| | 200–219 |
| **7 Parts:** | 220–299 |
| 0–26 | 300–499 |
| 27–45 | 500–599 |
| 46–51 | 600–End |
| 52 | |
| 53–209 | **13** |
| 210–299 | |
| 300–399 | **14 Parts:** |
| 400–699 | 1–59 |
| 700–899 | 60–139 |
| 900–999 | 140–199 |
| 1000–1059 | 200–1199 |
| 1060–1119 | 1200–End |
| 1120–1199 | |
| 1200–1499 | **15 Parts:** |
| 1500–1899 | 0–299 |
| 1900–1939 | 300–799 |
| 1940–1949 | 800–End |
| 1950–1999 | |
| 2000–End | **16 Parts:** |
| | 0–149 |
| **8** | 150–999 |
| | 1000–End |
| **9 Parts:** | |

### Titles revised as of April 1, 1991:

| Title | |
|---|---|
| **17 Parts:** | **23** |
| 1–199 | |
| 200–239 | **24 Parts:** |
| 240–End | 0–199 |
| | 200–499 |
| **18 Parts:** | 500–699 |
| 1–149 | 700–1699 |
| 150–279 | 1700–End (Cover only) |
| 280–399 | |
| 400–End | **25** |
| | |
| **19 Parts:** | **26 Parts:** |
| 1–199 | 1 (§§ 1.0-1–1.60) |
| 200–End | 1 (§§ 1.61–1.169) |
| | 1 (§§ 1.170–1.300) |
| **20 Parts:** | 1 (§§ 1.301–1.400) |
| 1–399 | 1 (§§ 1.401–1.500) |
| 400–499 | 1 (§§ 1.501–1.640) |
| 500–End | 1 (§§ 1.641–1.850) (Cover only) |
| | 1 (§§ 1.851–1.907) |
| **21 Parts:** | 1 (§§ 1.908–1.1000) |
| 1–99 | 1 (§§ 1.1001–1.1400) (Cover only) |
| 100–169 | 1 (§ 1.1401–End) |
| 170–199 | 2–29 |
| 200–299 | 30–39 |
| 300–499 | 40–49 |
| 500–599 | 50–299 |
| 600–799 | 300–499 |
| 800–1299 | 500–599 (Cover only) |
| 1300–End | 600–End |
| **22 Parts:** | |
| 1–299 | **27 Parts:** |
| 300–End | 1–199 |
| | 200–End |

### Titles revised as of July 1, 1991:

| Title | |
|---|---|
| **28** | 400–End |
| | |
| **29 Parts:** | **35** |
| 0–99 | |
| 100–499 | **36 Parts:** |
| 500–899* | 1–199* |
| 900–1899 | 200–End* |
| 1900–1910 (§§ 1901.1–1910.999) | **37** |
| 1910 (§§ 1910.1000–End) | |
| 1911–1925 (Cover only) | **38 Parts:** |
| 1926 | 0–17 |
| 1927–End | 18–End* |
| | |
| **30 Parts:** | **39*** |
| 1–199 | |
| 200–699 | **40 Parts:** |
| 700–End | 1–51 |
| | 52* |
| **31 Parts:** | 53–60 |
| 0–199 | 61–80 |
| 200–End | 81–85 |
| | 86–99* |
| **32 Parts:** | 100–149 |
| 1–189 | 150–189* |
| 190–399 | 190–259* |
| 400–629* | 260–299* |
| 630–699 | 300–399 |
| 700–799 | 400–424 |
| 800–End | 425–699 (Cover only) |
| | 700–789* |
| **33 Parts:** | 790–End |
| 1–124* | |
| 125–199* | **41 Parts:** |
| 200–End | Chs. 1–100 (Cover only) |
| | Ch. 101* |
| **34 Parts:** | Chs. 102–200 |
| 1–299 | Ch. 201–End |
| 300–399 | |

**Projected October 1, 1991 editions:**

| Title | |
|---|---|
| **42 Parts:** | 1–199 |
| 1–60 | 200–499 |
| 61–399 | 500–1199 |
| 400–429 | 1200–End |
| 430–End | |
| | **46 Parts:** |
| **43 Parts:** | 1–40 |
| 1–999 | 41–69 |
| 1000–3999 | 70–89 |
| 4000–End | 90–139 |
| | 140–155 |
| **44** | 156–165 |
| | 166–199 |
| **45 Parts:** | 200–499 |
| 500–End | Ch. 15–End |
| **47 Parts:** | **49 Parts:** |
| 0–19 | 1–99 |
| 20–39 | 100–177 (Revision date to be announced) |
| 40–69 | 178–199 (Revision date to be announced) |
| 70–79 | 200–399 |
| 80–End | 400–999 |
| **48 Parts:** | 1000–1199 |
| Ch. 1 (1–51) | 1200–End |
| Ch. 1 (52–99) | |
| Ch. 2 (201–251) (Revised as of Dec. 31, 1991) | **50 Parts:** |
| Ch. 2 (252–299) (Revised as of Dec. 31, 1991) | 1–199 |
| Chs. 3–6 | 200–599 |
| Chs. 7–14 | 600–End |

## TABLE OF EFFECTIVE DATES AND TIME PERIODS—OCTOBER 1991

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

| DATE OF FR PUBLICATION | 15 DAYS AFTER PUBLICATION | 30 DAYS AFTER PUBLICATION | 45 DAYS AFTER PUBLICATION | 60 DAYS AFTER PUBLICATION | 90 DAYS AFTER PUBLICATION |
|---|---|---|---|---|---|
| October 1 | October 16 | October 31 | November 15 | December 2 | December 30 |
| October 2 | October 17 | November 1 | November 18 | December 2 | December 31 |
| October 3 | October 18 | November 4 | November 18 | December 2 | January 2 |
| October 4 | October 21 | November 4 | November 18 | December 3 | January 2 |
| October 7 | October 22 | November 6 | November 21 | December 6 | January 6 |
| October 8 | October 23 | November 7 | November 22 | December 9 | January 6 |
| October 9 | October 24 | November 8 | November 25 | December 9 | January 7 |
| October 10 | October 25 | November 12 | November 25 | December 9 | January 8 |
| October 11 | October 28 | November 12 | November 25 | December 10 | January 9 |
| October 15 | October 30 | November 14 | November 29 | December 16 | January 13 |
| October 16 | October 31 | November 15 | December 2 | December 16 | January 14 |
| October 17 | November 1 | November 18 | December 2 | December 16 | January 15 |
| October 18 | November 4 | November 18 | December 2 | December 17 | January 16 |
| October 21 | November 5 | November 20 | December 5 | December 20 | January 21 |
| October 22 | November 6 | November 21 | December 6 | December 23 | January 21 |
| October 23 | November 7 | November 22 | December 9 | December 23 | January 21 |
| October 24 | November 8 | November 25 | December 9 | December 23 | January 22 |
| October 25 | November 12 | November 25 | December 9 | December 24 | January 23 |
| October 28 | November 12 | November 27 | December 12 | December 27 | January 27 |
| October 29 | November 13 | November 29 | December 13 | December 30 | January 27 |
| October 30 | November 14 | November 29 | December 16 | December 30 | January 28 |
| October 31 | November 15 | December 2 | December 16 | December 30 | January 29 |

# Public Laws

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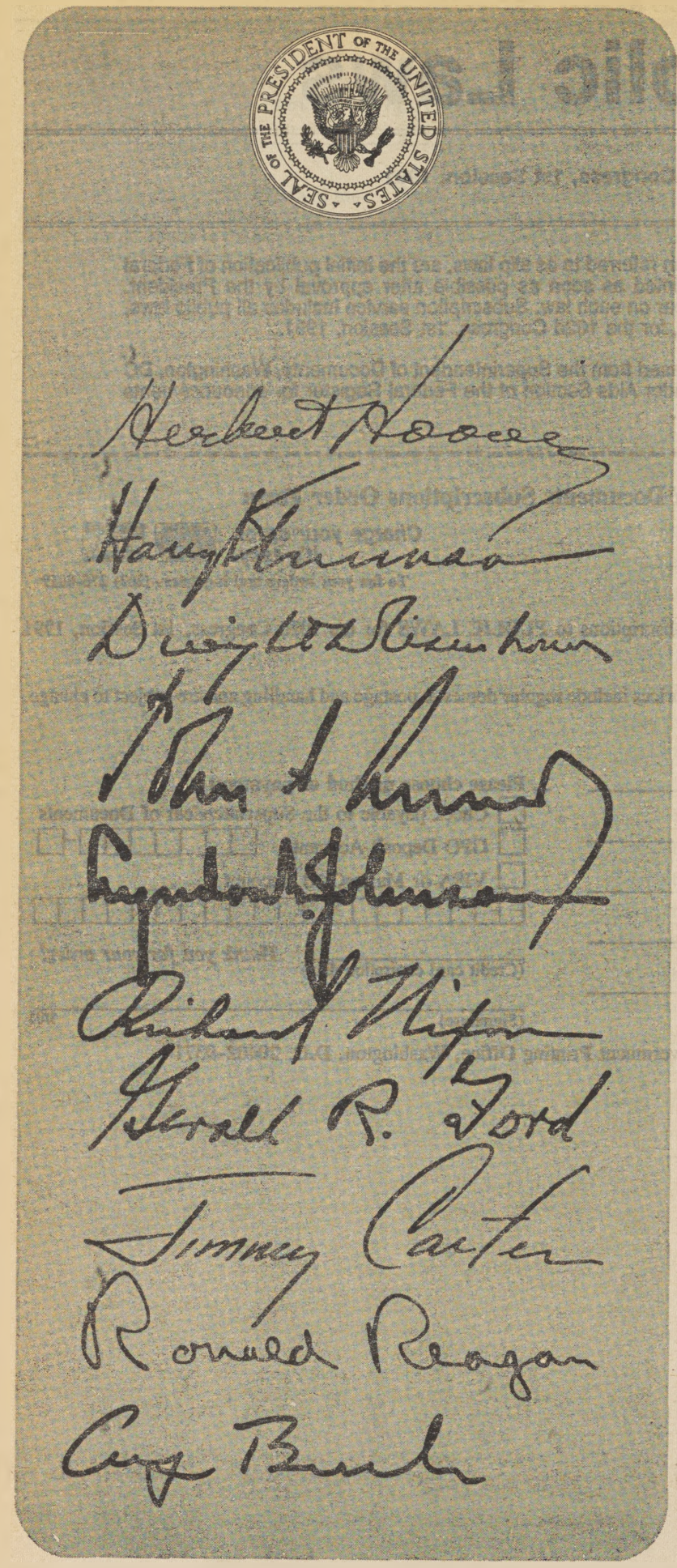

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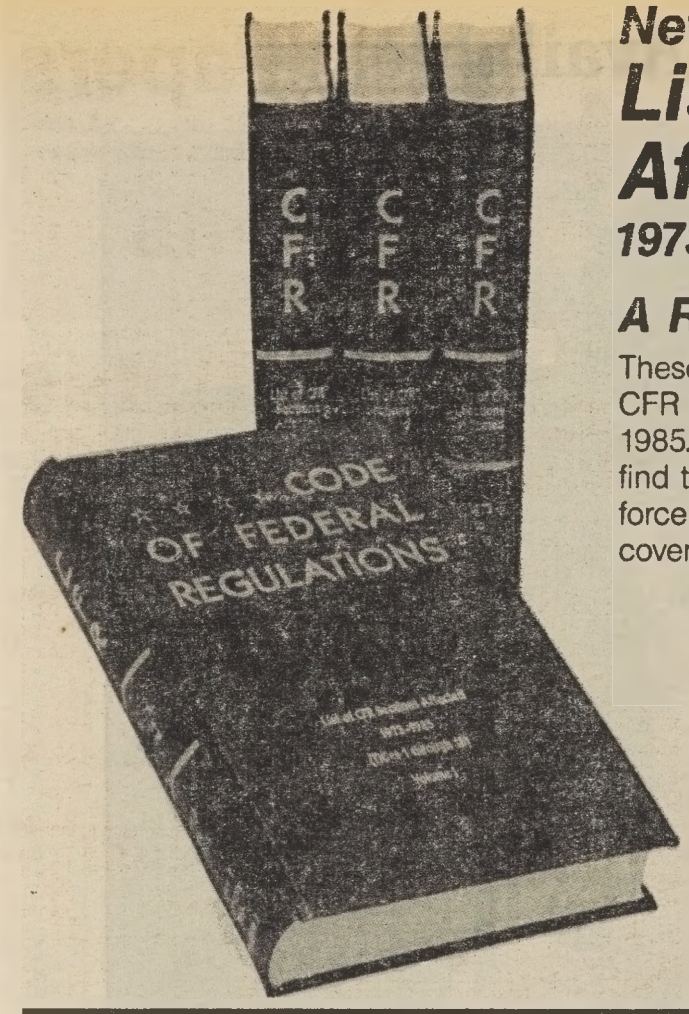


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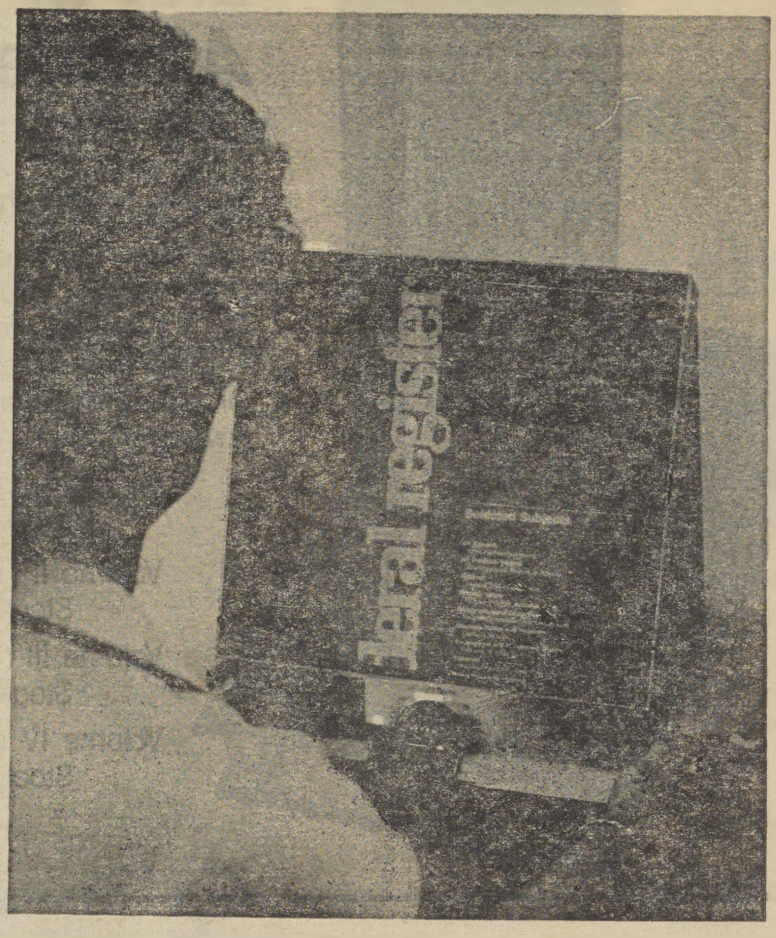


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