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No. 94

# federal register

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Thursday  
May 14, 1992

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# Federal Register

Thursday  
May 14, 1992



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For information on briefings in Washington, DC, Boston, MA, and Chicago, IL, see announcement on the inside cover of this issue.



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- FOR:** Any person who uses the Federal Register and Code of Federal Regulations.
- WHO:** The Office of the Federal Register.
- WHAT:** Free public briefings (approximately 3 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
  2. The relationship between the Federal Register and Code of Federal Regulations.
  3. The important elements of typical Federal Register documents.
  4. An introduction to the finding aids of the FR/CFR system.
- WHY:** To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

### WASHINGTON, DC

- WHEN:** June 4, at 9:00 a.m.
- WHERE:** Office of the Federal Register.  
First Floor Conference Room.  
1100 L Street NW., Washington, DC.
- RESERVATIONS:** 202-523-5240.
- DIRECTIONS:** North on 11th Street from Metro Center to corner of 11th and L Streets

### BOSTON, MA

- WHEN:** May 27, at 9:00 a.m.
- WHERE:** Room 419  
Barnes Federal Building  
495 Summer Street  
Boston, MA
- RESERVATIONS:** Call the Federal Information Center, 1-800-347-1997

### CHICAGO, IL

- WHEN:** June 16; 9:00 a.m.
- WHERE:** Room 328  
Ralph H. Metcalfe Federal Building  
77 W. Jackson  
Chicago, IL
- RESERVATIONS:** Call the Federal Information Center, 1-800-366-2998

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# Presidential Documents

## Title 3—

Executive Order 12805 of May 11, 1992

## The President

### Integrity and Efficiency in Federal Programs

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to coordinate and enhance governmental efforts to promote integrity and efficiency and to detect and prevent fraud, waste, and abuse in Federal programs, the establishment of two Councils of Federal Inspectors General and appropriate Federal officials is hereby ordered as follows:

#### Section 1. *Establishment of the President's Council on Integrity and Efficiency.*

(a) There is established as an interagency committee the President's Council on Integrity and Efficiency (PCIE).

(b) The PCIE shall be composed of the following members:

- (1) The Deputy Director for Management of the Office of Management and Budget, who shall be Chairperson of the Council;
- (2) All civilian Presidentially appointed Inspectors General whose offices were established in the Inspector General Act of 1978 and subsequent amendments;
- (3) The Vice Chairperson of the Executive Council on Integrity and Efficiency;
- (4) The Controller of the Office of Federal Financial Management;
- (5) The Associate Deputy Director for Investigations of the Federal Bureau of Investigation;
- (6) The Director of the Office of Government Ethics;
- (7) The Special Counsel of the Office of Special Counsel; and
- (8) The Deputy Director of the Office of Personnel Management.

(c) The Chairperson may, from time to time, invite other officials to participate in meetings of the PCIE.

(d) The Chairperson shall, to the extent possible, convene meetings of the PCIE monthly.

#### Sec. 2. *Establishment of the Executive Council on Integrity and Efficiency.*

(a) There is established as an inter-entity committee the Executive Council on Integrity and Efficiency (ECIE).

(b) The ECIE shall be composed of the following members:

- (1) The Deputy Director for Management of the Office of Management and Budget, who shall be Chairperson of the Council;
- (2) All civilian statutory Inspectors General not represented on the PCIE;
- (3) The Vice Chairperson of the PCIE;
- (4) The Controller of the Office of Federal Financial Management;
- (5) The Associate Deputy Director for Investigations of the Federal Bureau of Investigation, or his or her designee;

- (6) The Director of the Office of Government Ethics, or his or her designee;
- (7) The Special Counsel of the Office of Special Counsel, or his or her designee; and
- (8) The Deputy Director of the Office of Personnel Management, or his or her designee.

(c) If any individual simultaneously serves as a Presidentially appointed Inspector General and as Inspector General of an entity represented on the ECIE, that individual may send a designee to ECIE meetings.

(d) The Chairperson may, from time to time, invite other officials to participate in meetings of the ECIE.

(e) The Chairperson or, in his or her absence, the Controller of the Office of Federal Financial Management shall, to the extent possible, convene meetings of the ECIE monthly.

**Sec. 3. Functions of the PCIE and the ECIE.**

(a) The Councils shall continually identify, review, and discuss areas of weakness and vulnerability in Federal programs and operations to fraud, waste, and abuse, and shall develop plans for coordinated, Governmentwide activities that address these problems and promote economy and efficiency in Federal programs and operations. These activities will include interagency and inter-entity audit and investigation programs and projects to deal efficiently and effectively with those problems concerning fraud and waste that exceed the capability or jurisdiction of an individual agency or entity. The Councils shall recognize the preeminent role of the Department of Justice in law enforcement and litigation.

(b) The Councils shall develop policies that will aid in the establishment of a corps of well-trained and highly skilled Office of Inspector General staff members.

(c) The individual members of the Councils should, to the extent permitted under law, adhere to professional standards developed by the Councils and participate in the plans, programs, and projects of the Councils.

(d) The creation and operation of the Councils shall neither interfere with existing authority and responsibilities in the relevant agencies and entities nor augment or diminish the statutory authority or responsibilities of individual members of either Council.

**Sec. 4. Responsibilities of the Chairperson of the PCIE and the ECIE.**

(a) The Chairperson may appoint a Vice Chairperson from the PCIE and the ECIE to assist in carrying out the functions of each Council.

(b) The Chairperson shall, in consultation with the members of each Council, establish the agenda for PCIE and ECIE activities.

(c) The Chairperson shall, on behalf of the Councils, report to the President on the activities of the Councils. The Chairperson shall, as appropriate, advise the Councils with respect to the President's consideration of the Councils' activities.

(d) The Chairperson shall provide agency and entity heads with summary reports of the activities of the Councils.

(e) The Chairperson shall establish, in consultation with members of the Councils, such committees of the PCIE and the ECIE as deemed necessary and appropriate for the efficient conduct of PCIE and ECIE functions. The Chairperson may invite members of the ECIE to serve on each PCIE Committee. Similarly, the Chairperson may invite members of the PCIE to serve on each ECIE Committee.

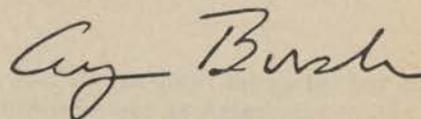
(f) The Chairperson shall convene joint meetings of the PCIE and the ECIE at least annually.

**Sec. 5. Administrative Provisions.**

(a) The Director of the Office of Management and Budget shall provide the PCIE and the ECIE with such administrative support as may be necessary for the performance of the functions of the Councils.

(b) The heads of agencies and entities represented on the PCIE and the ECIE shall provide their representatives with such administrative support as may be necessary, in accordance with law, to enable the representatives to carry out their responsibilities.

**Sec. 6. Revocation.** Executive Order No. 12625 of January 27, 1988, entitled "Integrity and Efficiency in Federal Programs," is revoked.



THE WHITE HOUSE,  
May 11, 1992.

[FR Doc. 92-11528

Filed 5-12-92; 3:10 pm]

Billing code 3195-01-M



## Presidential Documents

Proclamation 6435 of May 12, 1992

### Small Business Week, 1992

By the President of the United States of America

#### A Proclamation

Small business men and women accomplish great things for our communities and country, and each year it is our privilege as Americans to join in saluting these present-day pioneers.

Through their willingness to take risks and to do the hard work that is necessary to improve existing products and services or to design, develop, and market new ones, small business people are leading America's economic productivity and innovation. Indeed, small business is the lifeblood of our Nation's free enterprise system. This resilient sector generates two of every three jobs in the United States and has been cited by forecasters as the driving force behind the more than 850,000 new jobs that were created in 1991. In addition, small businesses employ more than half of the American work force—often providing that crucial first job to young people and other disadvantaged workers—while generating some 44 percent of all sales and 39 percent of our GNP. Today, as we look toward the vast frontier that is the 21st century, we know that small business men and women will continue to play a vital role in moving the United States forward to even greater heights of prosperity and progress.

In the future, the success of American small business will have increasing impact around the globe. Indeed, as they strive to overcome impoverishment and stagnation imposed by years of totalitarian rule, more and more of the world's emerging democracies are looking to the United States as a model of private initiative and market principles in action. Hence, it is important that we continue to promote a climate in which small businesses can thrive. This means alleviating the high cost of capital and the heavy burden of excessive government regulation, which stifle investment and creativity. Encouraging the success of small business will also require a continuing commitment to excellence in education, which is vital to producing workers who have the knowledge and skills that are necessary to excel in the increasingly competitive global marketplace. Today, it is gratifying to note that many small businesses have joined in support of AMERICA 2000, our comprehensive strategy to achieve our National Education Goals.

From their daily contributions toward our local and national economies to their generous participation in voluntary community service programs and other worthwhile endeavors, small business men and women are helping to build a better America for all of us. Thus, these enterprising individuals richly deserve our support and thanks.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim the week of May 10 through May 16 as Small Business Week. I urge all Americans to join me in saluting our Nation's small business men and women by observing this week with appropriate ceremonies and activities.



# Rules and Regulations

Federal Register

Vol. 57, No. 94

Thursday, May 14, 1992

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

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

## COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1, 5, 7, 12, 15, 20, 140 and 149

### Miscellaneous Rule Deletions, Amendments or Clarifications

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Final rules.

**SUMMARY:** The Commodity Futures Trading Commission ("CFTC" or "Commission") hereby is deleting miscellaneous rules which are redundant, which have been superseded or are now otherwise unnecessary. In addition, the Commission is amending other rules by making technical or conforming changes.

**EFFECTIVE DATE:** June 15, 1992.

**FOR FURTHER INFORMATION CONTACT:** Paul M. Architzel, Chief Counsel, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K St. NW., Washington, DC 20581, (202) 254-6990.

**SUPPLEMENTARY INFORMATION:** The Commission recently has undertaken a thorough reexamination of all of its rules. As part of this reexamination, the Commission has identified those rules which are redundant, which have been superseded or are now otherwise unnecessary. In addition, various of these rules are being amended to make technical or conforming changes.

#### I. Rules Being Deleted

The following Commission rules are being deleted.

##### A. 17 CFR 5.3

Commission Rule 5.3 requires exchanges with "low-volume" futures contracts to submit a report to the Commission that was intended to provide an additional means of

monitoring potential trade practice problems, such as noncompetitive and prearranged trades, as well as the extent of commercial participation in such markets (47 FR 29515 (July 7, 1982)). Under this rule, a low-volume contract is one with fewer than 1,000 contracts traded in at least four of any six consecutive calendar months. The reports required under the rule are designed to provide information on the nature of the trading activity in a low-volume contract and to assure that the exchange has an adequate program for surveillance of trade practices in such a contract. The reports were also intended to provide for the monitoring of commercial participation in such markets as a means of assessing whether trade practice abuses may be adversely affecting the accuracy of prices. During the past four years, the Commission has received an average of 15 low-volume reports per year, filed by a total of seven exchanges.

Although low-volume contracts may require specialized surveillance procedures,<sup>1</sup> the Commission is proposing to delete Rule 5.3 because it believes that the report required by Rule 5.3 is not needed to monitor such problems. The regular surveillance programs of the exchanges and the CFTC provide sufficient information concerning daily activity in such contracts, and the Commission relies on the exchanges in the first instance to use its surveillance programs to monitor potential trade practice problems. Further, the periodic reviews of the exchange rule enforcement programs by the Commission address the adequacy of exchange trade practice investigations for such markets as well as all other markets.

##### B. 17 CFR 7.100, 7.101 and 7.200

Commission Rules 7.100, 7.101 and 7.200 alter rules of the Chicago Mercantile Exchange's 13-week U.S. Treasury bill futures contract and one-year U.S. Treasury bill futures contract and the Chicago Board of Trade's long-term U.S. Treasury bond futures contract, respectively. These rules were adopted by the Commission in 1980, pursuant to its authority under section 8a(7) of the Act, 45 FR 51520 (August 1, 1980), and require the exchanges to

submit changes in trading hours and the listing of delivery months of the affected contracts for prior Commission approval under section 5a(12) of the Act.

Following enactment of the Futures Trading Act of 1982, which included amendments to section 5a(12) of the Act, the Commission amended Rule 1.41(a) to clarify that all contract trading months and hours must be approved by the Commission before taking effect. 48 FR 4256 (January 28, 1983); 48 FR 49003 (October 24, 1983). Subsequently, the Commission provided for expedited approval of routine, non-controversial changes in delivery months and trading hours. See, 17 CFR 1.41 (k) and (l) In light of these provisions, Regulations 7.100, 7.101 and 7.200 have become redundant and may be removed.

##### C. 17 CFR Part 12

Several Commission rules relating to its procedures regarding reparations proceedings are being amended to delete references to proceedings officer. Originally, the role of proceedings officer was created to expedite certain phases of reparation proceedings, such as discovery, by using the proceeding officer to assist the administrative law judges. In practice, the use of the proceeding officer did not result in a time savings and its use has been discontinued. Accordingly, the Commission is deleting rules or references relating to "proceedings officer" from its rules.

##### D. 17 CFR 15.04

Section 15.04 of the regulations requires that where more than one type of futures contract on the same commodity is traded on the same exchange for the same expiration month, a trader's position in each type of contract be combined for reporting purposes. Generally, parts 17 and 18 of the regulations require reports from members of contracts markets, FCMs or foreign brokers ("firms") and traders, respectively, when a trader holds a "reportable position," *i.e.*, any open position held or controlled by a trader at the close of business in any one future of a commodity traded on any one contract market that is equal to or in excess of the quantities fixed by the

<sup>1</sup> See, *e.g.*, *In re Buckwalter*, 2 Comm. Fut. L. Rep. (CCH) ¶24,995 (CFTC January 25, 1991).

Commission in § 15.03 of the regulations.<sup>2</sup>

It has long been the Commission's practice to set reporting levels separately for each contract that is traded on the same exchange, not in the consolidated manner permitted by § 15.04. Generally when more than one contract in a commodity is traded on the same exchange, terms and conditions of such contracts differ in some significant manner. For market surveillance, the Commission has required the filing of large trader positions separately for each type of contract. If there are concerns about traders holding positions in similar contracts, the Commission may adjust reporting levels in these contracts to obtain more complete information. In view of the fact that this regulation has not been used and is obsolete, the Commission is removing current Rule 15.04 from its regulations.

#### E. 17 CFR 20.00

Commission Rule 20.00 requires that members of contract markets report to the Commission any transactions which are not reported to the clearing organization of an exchange or recorded on the books of a member of such organization. Formerly, certain transactions among members of a contract market, commonly called "pass outs", could be excluded from the trade clearing process or not reported to a clearing member. In order to monitor the extent and nature of passouts, the Commission required reports from members executing such transactions. Currently, however, all transactions executed on the floor of an exchange are recorded on the books of a clearing member and are subject to clearing according to the rules of the appropriate clearing organization. Because the Commission receives reports from all exchanges concerning transactions on the books of their associated clearing members,<sup>3</sup> there is no longer a need for the reporting requirement contained in Rule 20.00. Accordingly, the Commission is removing and reserving this section of its rules.

<sup>2</sup> Firms which carry accounts for traders who hold "reportable positions" are required to identify such accounts on a Form 102 and report on the series '01 forms any reportable positions in the account, the delivery notices issued or stopped by the account and any exchanges of futures for physicals. Traders who own or control reportable positions are required to file annually a CFTC Form 40 giving certain background information concerning their trading in commodity futures and on call by the Commission, must submit a Form 103 showing positions and transactions in the contract market specified in the call.

<sup>3</sup> See, for example, § 18.01 of the Commission's regulations 17 CFR 18.01 (1991).

#### F. 17 CFR 140.61 and 140.81

Commission Rule 140.61 delegates authority to the Chief Administrative Law Judge, among other things, to appoint a presiding officer to hear summary proceedings conducted under (now-eliminated) subpart G of part 12 of the Commission regulations. However, the 1982 amendments to the Commodity Exchange Act and subsequent rule revisions eliminated the need for this delegation. Accordingly, the rule is now being removed.

Commission Rule 140.81 delegates authority to the Director of the Complaints Section to perform certain ministerial functions in the administration of the CFTC reparations program. The 1982 amendments to the Commodity Exchange Act and subsequent revisions to the Commission's rules have eliminated the need for this delegation.

#### G. 17 CFR 149.110

Commission Rule 149.110 provides that by August 24, 1987, the CFTC must perform a self-evaluation of its practices and policies under its regulations concerning nondiscrimination on the basis of handicap and maintain records of its evaluation for three years. The agency's self-evaluation took place in 1987 and five years have since passed. Regulation 149.110 is outdated and is therefore being removed.

## II. Rules Being Revised

The following Commission rules are being revised in order to make certain technical corrections, to streamline Commission procedures and to eliminate certain unnecessary filing requirements.

#### A. 17 CFR 1.17

Commission Rule 1.17(h)(3)(vi) sets forth the filing requirements with respect to proposed subordination agreements<sup>4</sup> for FCMs and IBs, and applicants for registration in either category. The rule has required such applicants to file signed copies of proposed subordination agreements with NFA, with a signed copy to be filed with the appropriate Commission regional office. Registrants have been required to file signed copies of proposed subordination agreements with the Commission at the Office of the

<sup>4</sup> Subordination agreements govern the rights of lenders and borrowers with respect to subordinated debt. Lenders essentially agree to subordinate their rights to repayment to all present and future creditors of the borrower FCM or IB, including customers. The borrower FCM or IB is then able to exclude the repayment obligation from its liabilities when computing net capital, thus enhancing its net capital position by the amount borrowed.

Chief Accountant, Division of Trading and Markets, in Washington, DC and with their designated self-regulatory organization (DSRO), if any. NFA is required to review proposed subordination agreements for applicants. The DSRO must review proposed subordination agreements for registrants, except in those few instances where a registrant is not a member of any DSRO, in which case the Commission must review such agreements.<sup>5</sup>

The Commission has determined to amend Rule 1.17(h)(3)(vi) to eliminate the need to file subordinated agreements with the Commission, except for those rare cases where a registrant is not a member of a DSRO. Currently, the vast majority of subordination agreements are approved by DSROs, subject to Commission oversight of such approval processes.

When Rule 1.17(h)(3)(iv) was originally proposed, Commission approval would have been required for all subordination agreements. 43 FR 15072, 15093-94 (April 10, 1978). As promulgated, the rule required subordination agreements to be reviewed by Commission staff or, if the firm was a member of a DSRO, by the staff of the firm's DSRO. 43 FR 39956, 39965-66, 39980 (September 8, 1978). We note that there was no registered futures association at the time, so many FCMs had no DSRO. Originally, the Commission believed it necessary to have greater involvement in the subordination agreement approval process because subordinated debt could be the major portion of a firm's capital. (Only 30 percent of required capital must be equity capital; also, subordinated debt that is subject to certain higher standards in addition to the basic minimum requirements for all subordinated debt can qualify as equity capital.) The use of such debt to meet capital requirements was a fairly new phenomenon at that time. Many SROs did not have standard form agreements concerning subordinated debt, such as were later developed. Given the greater experience and familiarity of the industry and DSROs with subordinated debt today, the Commission believes that it generally does not need to receive copies of each subordination agreement.

<sup>5</sup> About a dozen of the approximately 300 registered FCMs are not members of any DSRO. Those dozen firms cannot deal with customers, since Commission Rule 170.15 requires any FCM that deals with customers to be an NFA member. A few registered IBs also fall into the category of firms that are not members of a DSRO.

**B. 17 CFR 1.41(e)**

Regulation 1.41(e) currently requires each contract market to furnish the Commission with written notification of any changes in its membership. It has been the Commission's experience with this requirement that the Commission has no routine need for such information. The Commission has come to believe that obtaining membership information on an as-needed basis would be sufficient to meet its regulatory needs. Therefore, the Commission is amending Regulation 1.41(e) by eliminating the requirement that membership changes be reported on a routine basis and replacing it with the requirement that each contract market provide a current membership list to the Commission upon request.

**C. 17 CFR 1.43**

Commission Rule 1.43 requires each contract market to file with the Commission a list of warehouses, depositories or similar entities ("facilities") in which or out of which commodities are deliverable in satisfaction of futures or options on physical contracts. The information required to be filed includes the name, location, and storage capacity of each facility and the name and business address of the facility's operator. This information is used principally for Market Surveillance purposes only on an as-needed basis. When needed, the Commission can obtain this information expeditiously from each exchange since the information is maintained as part of the exchanges normal business practices. In view of this, there is no need for a routine filing requirement in the Commission's regulations. Accordingly, the Commission is amending rule 1.43 to require that the exchanges file the information on call only.

**D. 17 CFR 140.72, 140.73, 140.77 and 140.96**

Commission Rule 140.96 delegates authority to the staff to publish rules of contract markets. It is being revised, herein, to further permit the staff to publish rules of self-regulatory organizations. This revision will further streamline the Commission review of rule changes by such self-regulatory organizations. Additionally, Commission Rules 140.72(a), 140.73(a) and (b), and 140.77 are amended to reference the Division of Economic Analysis instead of the former name, the Division of Economics and Education.

**E. 17 CFR 5.2**

Commission Rule 5.2 provides that an exchange may recommence trading in a dormant futures or option contract only following CFTC approval (47 FR 29515 (July 7, 1982)). A dormant contract is defined as one in which no trading has occurred for a period of six complete calendar months; however, a contract is exempted from being considered as dormant under Rule 5.2 until the end of three years (36 months) after (1) the contract's designation, (2) a determination by the Commission at its discretion to permit this exemption after a review of the contract, or (3) Commission approval of a previous Rule 5.2 submission by the contract market. Rule 5.2 was adopted to ensure that any dormant contract that is reactivated continues to comply with the requirements of the Commodity Exchange Act.

Commission approval under Rule 5.2 is required prior to the recommencement of trading in a dormant contract to assure that the terms and conditions do not have deficiencies that could increase the likelihood of cash, futures, or option market disruptions and undermine the usefulness and efficiency of the market if trading were resumed. The most likely cause of such potential deficiencies would be changes in cash market practices over a period of years so that the terms and conditions of the dormant contract became obsolete. Therefore, a review of the contract terms and conditions of a dormant contract prior to the recommencement of trading is needed to assure that they continue to reflect current practices in the underlying cash market and provide for adequate deliverable supplies or cash settlement procedures.

An exchange wishing to list trading months for a dormant contract must make a submission under Rule 5.2 that includes an economic justification, including a review of cash market conditions. The submission also must include, if applicable, an explanation of how any new contract terms and conditions would reflect changes in cash market conditions.

The Commission has decided to extend the period of the exemptions from Rule 5.2 described above to five years (60 months) from the existing three years (36 months). The terms and conditions of most contracts do not need significant revisions due to changes in the cash market after three years and up to five years after designation or a previous approval to recommence trading under Rule 5.2. A review of the 18 submissions under Rule 5.2 since its adoption in 1982 indicates that 8

submissions involved contracts that had been dormant for 3 to 5 years. Four of those contracts required no rule changes. The rule changes for the other four contracts in this category apparently were not necessitated by changes in cash market conditions. Therefore, it appears that an extension of the exemption period to five years in most cases would not result in the resumption of trading in contracts that have obsolete contract terms. The review of contracts under Rule 5.2 after five years of dormancy should provide sufficient assurance that the objectives of this regulation will be met.

**III. Related Matters****A. Administrative Procedure Act**

The Commission has determined that the Administrative Procedure Act, 5 U.S.C. 553, does not require notice of proposed rulemaking and an opportunity for public participation in connection with the adoption of these amendments. In this regard, the Commission notes that such notice and opportunity for comment is unnecessary because these rule amendments are related solely to agency organization, procedure and practice, make technical corrections, or delete rules which have become surplusage or are obsolete on their face.

Although these rule amendments are being promulgated as final rules, the Commission nevertheless will consider comments from interested persons concerning these rule amendments within 30 days of publication of these rules in the *Federal Register*. Comments on these rule amendments should be mailed to the Commodity Futures Trading Commission, 2033 K St., NW., Washington, DC 20581, attention: Office of the Secretariat, and should make reference to "Miscellaneous Rules."

**B. Regulatory Flexibility Act**

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, requires that agencies, in proposing rules, consider the impact of these rules on small entities. These rules relieve a regulatory burden, delete rules which are redundant, have been superseded or are otherwise unnecessary, or make technical and conforming changes. Accordingly, these amendments have no significant impact on a substantial number of small entities. For the above reasons, and pursuant to section 3(a) of the RFA, 5 U.S.C. 605(b), the Chairman, on behalf of the Commission, hereby certifies that these regulations will not have a significant economic impact on a substantial number of small entities.

*C. Paperwork Reduction Act*

The Paperwork Reduction Act of 1980, (Act) 44 U.S.C. 3501 *et seq.*, imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information

as defined by the Paperwork Reduction Act (PRA). In compliance with the Act the Commission has submitted these amended rules and their associated information collection requirements to the Office of Management and Budget.

Those rules associated with an information collection as defined by the

PRA and the OMB number assigned to these information collections are as follows: <sup>6</sup>

<sup>6</sup> The following rules are not associated with an information collection: 17 CFR part 20; 17 CFR 7.100, 7.101, 7.200, 140.61, 140.81, 140.72, 140.73, 140.77, 140.96, and 149.11.

OMB No.	Information collection title	Rule
3038-0024	Regulations and Forms Pertaining to the Financial Integrity of the Market Place	17 CFR 1.17
3038-0022	Regulations Pertaining to the Responsibilities of Contract markets and their Members.	17 CFR 1.41
3038-0018	Information Concerning Warehouses	17 CFR 1.43
3038-0016	Compliance with Requirements for Designation as a Contract Market	17 CFR 5.2 and 5.3
3038-0009	Large Trader Reports	17 CFR 15.04

Paperwork burdens associated with these entire collections, including the amended rules and their OMB numbers are as follows:

OMB No.		
3038-0024*	Average Burden hours per response	5.52
	Number of Respondents	925
	Frequency of Response	5.03
3038-0022*	Average Burden hours per response	2.1
	Number of Respondents	1322
	Frequency of Response	4.4
3038-0018	Average Burden hours per response	0.35
	Number of Respondents	11
	Frequency of Response	16.18
3038-0016	Average Burden hours per response	250
	Number of Respondents	14
	Frequency of Response	.0714
3038-0009	Average Burden hours per response	0.16
	Number of Respondents	3615
	Frequency of Response	21.6

\* Refers only to annual reporting or disclosure burden. The record keeping burden is unaffected by these amendments.

Copies of the OMB approved information collection package associated with these rules may be obtained from Gary Waxman, Office of Management and Budget, room 3220, NEOB, Washington, DC 20503, (202) 395-7340.

**List of Subjects***17 CFR Part 1*

Commodity futures, Contract markets, Contract market membership lists, Members of contract markets, Reporting and recordkeeping requirements.

*17 CFR Part 5*

Contract markets, Commodity futures, Designation application, Reporting and recordkeeping requirements.

*17 CFR Part 7*

Commodity exchanges, Arbitration, Commodity futures.

*17 CFR Part 12*

Administrative practice and procedure, Commodity exchanges, Commodity futures, Reparations.

*17 CFR Part 15*

Brokers and large traders, Reporting and recordkeeping requirements.

*17 CFR Part 20*

Contract markets, Exchanges, Commodity futures, Reporting and recordkeeping, Warehouses.

*17 CFR Part 140*

Authority Delegations (Government agencies).

*17 CFR Part 149*

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

In consideration of the foregoing and

pursuant to the authority contained in the Commodity Exchange Act and, in particular, sections 2(a) (1), 4, 4a, 4b, 4c, 4d, 4e, 4f, 4g, 4h, 4i, 4k, 4m, 4n, 4o, 5, 5a, 6(a), 6(b), 6b, 6c, 8, 8a, 8c, 12, 15, 17, 19 and 20 thereof, 7 U.S.C. 2, 2a, 4, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 7, 7a, 8, 9, 12, 12a, 12c, 13a, 13a-1, 16, 19, 21, 23 and 24, the Commission hereby amends Chapter I of title 17 of the Code of Federal Regulations as follows:

**PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT**

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

Authority: 7 U.S.C. 2, 2a, 4, 4a, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 7, 7a, 8, 9, 12, 12a, 12c, 13a, 13a-1, 16, 19, 21, 23, and 24, unless otherwise stated.

2. Section 1.17 is amended by revising paragraph (h)(3)(vi) to read as follows:

**§ 1.17 Minimum financial requirements for futures commission merchants and introducing brokers.**

(h) \* \* \*  
(3) \* \* \*

(vi) *Filing.* An applicant shall file a signed copy of any proposed subordination agreement (including nonconforming subordination agreements) with the National Futures Association at least ten days prior to the proposed effective date of the agreement or at such other time as the National Futures Association for good cause shall accept such filing. A registrant that is not a member of any designated self-regulatory organization shall file two signed copies of any proposed subordination agreement (including nonconforming subordination agreements) with the regional office of the Commission nearest the principal place of business of the registrant (except that a registrant under the jurisdiction of the Commission's Western Regional Office shall file such copies with the Commission's Southwestern Regional Office) at least ten days prior to the proposed effective date of the agreement or at such other time as the Commission for good cause shall accept such filing. A registrant that is a member of a designated self-regulatory organization shall file signed copies of any proposed subordination agreement (including nonconforming subordination agreements) with the designated self-regulatory organization in such quantities and at such time as the designated self-regulatory organization may require prior to the effective date. The applicant or registrant shall also file with said parties a statement setting forth the name and address of the lender, the business relationship of the lender to the applicant or registrant and whether the applicant or registrant carried funds or securities for the lender at or about the time the proposed agreement was so filed. A proposed agreement filed by an applicant with the National Futures Association shall be examined at the National Futures Association, and no such agreement shall be a satisfactory subordination agreement for the purposes of this section unless and until the National Futures Association has found the agreement acceptable and such agreement has become effective in the form found acceptable. A proposed agreement filed by a registrant shall be examined at the designated self-regulatory organization with whom such an agreement is required to be filed prior to its becoming effective or, if the registrant is not a member of any designated self-regulatory organization,

at the regional office of the Commission where the agreement is required to be filed prior to its becoming effective. No proposed agreement shall be a satisfactory subordination agreement for the purposes of this section unless and until the designated self-regulatory organization or, if a registrant is not a member of any designated self-regulatory organization, the Commission, has found the agreement acceptable and such agreement has become effective in the form found acceptable.

3. Section 1.41 is amended by revising paragraph (e) to read as follows:

**§ 1.41 Contract market rules; submission of rules to the Commission; exemption of certain rules.**

(e) *Membership lists.* Upon request of the Commission each contract market shall promptly furnish to the Commission a current list of the contract market's membership.

4. Section 1.43 is revised to read as follows:

**§ 1.43 Information required concerning warehouses.**

Each contract market shall file upon request by the Commission a list of all warehouses, depositories and other similar entities, in which or out of which commodities are deliverable in satisfaction of futures contracts or options on physicals made on or subject to the rules of such contract market, which list shall show the name, location, and storage capacity of each such warehouse, depository or other similar entity, together with the name and business address of the operator thereof. Each contract market shall require the operator of such warehouse, depository or other similar entity to furnish, upon request by the Commission, a schedule of storage charges, handling charges, and the annual fire insurance rate applicable to such warehouse, depository or other similar entity.

**PART 5—DESIGNATION OF AND CONTINUING COMPLIANCE BY CONTRACT MARKETS**

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

Authority: 7 U.S.C. 6c, 7, 7a, 8 and 12a.

6. Section 5.2(d) introductory text is revised to read as follows:

**§ 5.2 Dormant contracts.**

(d) *Exemptions.* No contract market shall be considered dormant until the

end of sixty (60) complete calendar months:

**§ 5.3 [Removed and reserved]**

7. Section 5.3 is removed and reserved.

**PART 7—CONTRACT MARKET RULES ALTERED OR SUPPLEMENTED BY THE COMMISSION**

8. The authority citation for part 7 continues to read as follows:

Authority: 7 U.S.C. 7a(12) and 12a(7).

**§ 7.100 [Removed and reserved]**

9. Section 7.100 is removed and reserved.

**§ 7.101 [Removed and reserved]**

10. Section 7.101 is removed and reserved.

**Subpart B—[Removed and Reserved]**

10A. Subpart B and its heading are reserved.

**§ 7.200 [Removed and reserved]**

11. Section 7.200 is removed and reserved.

**PART 12—RULES RELATING TO REPARATION PROCEEDINGS**

12. The authority citation for part 12 continues to read as follows:

Authority: 7 U.S.C. 4a(j), 12a(5), and 18(b).

13. In § 12.2 paragraph (w) is removed and reserved.

**§ 12.301 [Removed and reserved]**

14. Section 12.301 is removed and reserved.

**§ 12.302 [Removed and reserved]**

15. Section 12.302 is removed and reserved.

16. In § 12.304 paragraph (d) is removed and reserved.

16a. Section 12.2 is amended by removing and reserving paragraph (d)(4) and revising paragraphs (d)(1), (h), (i)(1), (p) and (r) to read as follows:

**§ 12.2 Definitions.**

(d) \* \* \*  
(1) A Judgment Officer;

(h) *Director of the Office of Proceedings* means an employee of the Commission who shall serve as the administrative head of that Office, with responsibility and authority to assure that the part 12 Reparation Rules are administered in a manner that will effectuate the purposes of section 14(b) of the Act. The Director is authorized to

convene meetings of all personnel in the Office of Proceedings, including Administrative Law Judges and their personally assigned law clerk. The Director shall have the authority to delegate his duties to administer §§ 12.15, 12.24, 12.26 and 12.27 of these rules, and, shall have the authority to assign and, if necessary, reassign the duties of, and set reasonable standards for performance for, all personnel in the Office, including the Judgment Officers, but not including Administrative Law Judges and their personally assigned law clerk;

(i) \* \* \*

(1) A discussion, after consent has been obtained from all of the named parties, between a party and a Judgment Officer or Administrative Law Judge, or the staffs of the foregoing, pertaining solely to the possibility of settling the case without the need for a decision;

(p) *Office of Proceedings* means that office within the Commission comprised of the Administrative Law Judges, Judgment Officers, the Director of that office, the Proceedings Clerk, and members of the staffs of the foregoing, which administers these part 12 Reparation Rules, other than the rules authorizing direct review by the Commission;

(r) *Order* means the whole or any part of a final procedural or substantive disposition of a reparation proceeding by the Commission, an Administrative Law Judge, a Judgment Officer or the Proceedings Clerk;

16b. Section 12.22(b) is revised to read as follows:

**§ 12.22 Default proceedings.**

(b) *Default procedure.* Upon a party's failure to respond timely to a complaint or counterclaim as prescribed in §§ 12.16 and 12.20 of these rules, or timely to comply with § 12.25 (b) or (c), the Director of the Office of Proceedings shall forward the pleadings, and other materials then of record, to a Judgment Officer or Administrative Law Judge who may thereafter enter findings and conclusions concerning the questions of violations and damages and, if warranted, enter a reparation award against the non-responding party. If the facts which are treated as admitted are considered insufficient to support a violation or the amount of reparations sought, the Judgment Officer or Administrative Law Judge may order production of supplementary evidence

from the party not in default and may enter a default order and an award based thereon.

16c. Section 12.303 is amended by revising the introductory text to the section and the concluding text to the section to read as follows:

**§ 12.303 Pre-decision conferences.**

During the time period permitted for discovery pursuant to § 12.30(d), and thereafter, the Administrative Law Judge may, in his discretion, conduct one or more pre-decision conferences to be held in Washington, DC or by telephone, with all parties for the purposes of:

At or following the conclusion of a pre-decision conference, the Administrative Law Judge may serve a pre-decision memorandum and order setting forth the agreements reached by the parties, any procedural determinations made by him, and the issues for resolution not disposed of by admissions or agreements by the parties. Such an order shall control the subsequent course of the proceeding unless modified to prevent injustice.

17. In 17 CFR part 12 remove the words "Proceedings Officer," in the following places:

- a. Section 12.5(a);
- b. Section 12.6(a);
- c. Section 12.8 (a) and (b);
- d. Section 12.10 (a)(3), and (c); and
- e. Section 12.408(a)(3).

**§ 12.408 [Amended]**

17a. In addition to the amendments set forth above, in § 12.408(a)(2) remove the words "Proceedings Officer".

**PART 15—REPORTS—GENERAL PROVISIONS**

18. The authority citation for part 15 continues to read as follows:

Authority: 7 U.S.C. 2, 4, 6a, 6c(a)-(d), 6f, 6g, 6i, 6k, 6m, 6n, 7, 9, 12a, 19, and 21; 5 U.S.C. 552 and 552(b).

**§ 15.04 [Removed and reserved]**

19. Section 15.04 is removed and reserved.

**PART 20—[REMOVED AND RESERVED]**

20. Part 20 is removed and reserved.

**PART 140—ORGANIZATION, FUNCTIONS, AND PROCEDURES OF THE COMMISSION**

21. The authority citation for part 140 continues to read as follows:

Authority: 17 U.S.C. 12(a).

**§ 140.61 [Removed and reserved]**

22. Section 140.61 is removed and reserved.

**§ 140.81 [Removed and reserved]**

23. Section 140.81 is removed and reserved.

24. Section 140.96 is amended by revising paragraph (b) as follows:

**§ 140.96 Delegation of authority to publish in the Federal Register.**

(b) The Commodity Futures Trading Commission hereby delegates, until such time as the Commission orders otherwise, to the Director of the Division of Economic Analysis or the Director's designee, and to the Director of the Division of Trading and Markets or the Director's designee, with the concurrence of the General Counsel or the General Counsel's designee, the authority to determine to publish, and to publish, in the **Federal Register**, requests for public comment on proposed exchange and self-regulatory organization rule amendments when publication of the proposed rule amendment is in the public interest and will assist the Commission in considering the views of interested persons.

**§§ 140.72, 140.73, 140.77 [Amended]**

25. In 17 CFR part 140 remove the words "Division of Economics and Education" and add, in their place, the words "Division of Economic Analysis" in the following places:

- a. Section 140.72(a);
- b. Section 140.73 (a) introductory text and (b);
- c. Section 140.77 (a), (b), and (c).

**PART 149—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE COMMODITY FUTURES TRADING COMMISSION**

26. The authority citation for part 149 continues to read as follows:

Authority: 29 U.S.C. 794.

**§ 149.110 [Removed and reserved]**

27. Section 149.110 is removed and reserved.

Issued in Washington, D.C., this 5th day of May, 1992, by the Commodity Futures Trading Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 92-10950 Filed 5-13-92; 8:45 am]

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**DEPARTMENT OF THE TREASURY****Internal Revenue Service****26 CFR Part 1**

[T.D. 8412]

RIN 1545-AM54

**Application of Section 904 to Income Subject to Separate Limitations****AGENCY:** Internal Revenue Service, Treasury.**ACTION:** Final regulations.

**SUMMARY:** This document contains final Income Tax Regulations relating to the application of section 904 with respect to income received or accrued by a taxpayer consisting of income described in section 904(d). Amendments to the final regulations are necessary because of the changes made to the applicable law by the Technical and Miscellaneous Revenue Act of 1988. The regulations provide taxpayers with guidance needed to comply with that Act and with the Tax Reform Act of 1986 and affect individuals and entities claiming the foreign tax credit. In addition, these regulations remove an obsolete provision from the regulations under section 905 of the Internal Revenue Code of 1986.

**EFFECTIVE DATE:** The amendments to the regulation are effective for taxable years beginning after December 31, 1986.

**FOR FURTHER INFORMATION CONTACT:** Caren Silver Shein of the Office of Associate Chief Counsel (International), within the Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224 (attention: CC-CORP:T:R (INTL-0790-88)) (202-566-3452, not a toll-free call).

**SUPPLEMENTARY INFORMATION:****Background**

On August 26, 1987, the Internal Revenue Service published in the *Federal Register* proposed amendments to the Income Tax Regulations (26 CFR part 1) under section 904 of the Internal Revenue Code of 1954 (52 FR 32242). On July 18, 1988, the Internal Revenue Service published in the *Federal Register* final regulations under section 904 of the Internal Revenue Code of 1986 (53 FR 27006). The regulations provided rules for determining a taxpayer's foreign tax credit limitations under section 904(d) and conformed the regulations to the Tax Reform Act of 1986 (Pub. L. 99-514, 100 Stat. 2085). The proposed regulations reflected proposed technical corrections. Because the technical corrections bill had not yet

been enacted, portions of the final regulations were reserved. The reserved portions have now been added to conform the regulations to section 1012 of the Technical and Miscellaneous Revenue Act of 1988 (Pub. L. 100-647, 102 Stat. 3342). Other amendments and corrections also have been made. Written comments were received with respect to the final regulations. No public hearing was requested or held with respect to those comments. The significant points raised by the comments and the changes made to the final regulations are discussed in the remainder of the preamble. After consideration of the comments received, the amendments are adopted as modified by this Treasury Decision.

**Explanation of Provisions**

In addition to numerous clarifying and correcting amendments, the following revisions are made to the regulations.

*Section 1.904-4*

Section 1.904-4(c)(1) is amended to clarify that for purposes of allocating taxes to groups of income, foreign taxes imposed on both United States source and foreign source income are included. In making the determination whether income is high-taxed under the rules of paragraph (c) (the high-tax exception to the passive income category), however, only foreign source income is relevant.

Pursuant to comments, § 1.904-4(c)(5)(ii) is amended to clarify that United States QBUs of United States entities are subject to the grouping rules of paragraph (c)(3), as is a distributive share of income from a United States partnership earned by a United States QBU.

Section 1.904-4(c)(5)(iv) is added to provide a rule for certain dividends that are not taxable under subpart F by reason of section 954(b)(4) (the subpart F high-tax exclusion), but are passive income for foreign tax credit purposes. As an example, such dividends may be passive because of a reduction in the effective rate of tax imposed by a foreign country on the dividend and consequent redetermination of United States income tax liability pursuant to section 905(c). Paragraph (c)(5)(iv) provides that a dividend from a controlled foreign corporation that is treated as passive income under the look through rules shall be grouped, for purposes of determining whether the income is high-taxed, according to the rules of paragraph (c)(4).

Section 1.904-4(c)(7)(ii) is amended to clarify that foreign law controls the year to which a reduction in foreign tax relates, and to provide that the LIFO ordering rules are to apply only when

foreign law is not clear. These amendments conform the regulations to section 905(c) and the regulations under that section, which generally look to foreign law to determine the year to which a reduction in tax relates.

Section 1.904-4(c)(6)(ii) has been revised and § 1.904-4(c)(8) has been deleted to be consistent with the regulations under section 905(c). The Service suspended § 1.905-3T(d)(2)(ii)(A), which provided that redeterminations more than 90 days before the due date of a return for the prior taxable year must be reflected on that return. Notice 90-26, 1990-1 C.B. 336. Thus, paragraph (c)(8), which provided that if there is a redetermination of foreign tax within the meaning of section 905(c) more than 90 days before the due date of its income tax return, a taxpayer is required to reflect the income as redetermined on its return for that taxable year, has been deleted. Paragraph (c)(6)(ii) provided two exceptions to the general rule of paragraph (c)(6)(i) that the determination whether a subpart F inclusion is high-taxed is to be made in the year of the inclusion, notwithstanding that the taxpayer is required to pay an additional tax when the previously taxed income is distributed in a later year. The second exception, providing that additional taxes paid on previously taxed income will be taken into account for purposes of applying the high-tax kick out if a distribution is received more than 90 days before the due date of the tax return for the taxable year of the subpart F inclusion, has been deleted.

Section 1.904-4(d) is revised, pursuant to technical corrections, to provide that interest income that is not high withholding tax interest because it is export financing interest shall be treated as general limitation income unless it is received by a financial services entity, in which case it will be financial services income.

Paragraphs (e)(1) and (5) (i) and (ii) of § 1.904-4, which had been reserved, are added. Paragraph (e)(1) defines the term "financial services income" and paragraphs (e)(5) (i) and (ii) describe income that is excluded from the definition of financial services income.

The Service has clarified § 1.904-4(e)(2)(i)(V) by defining a finance lease based on generally accepted accounting standards used to distinguish a finance lease from an operating lease. A finance lease, for purposes of section 904(d), is defined by these regulations to be a direct financing lease or a leveraged lease for accounting purposes that is also a lease for tax purposes. A lease

that produces active rental income excludible from subpart F pursuant to section 954(c)(2)(A) is not a finance lease and the rental income earned from that lease would not be active financing income. As a result of this change, the rule in § 1.904-4(e)(3)(ii) providing that leasing income of any member of the group will not be considered active financing income if any member of the recipient's group satisfies the active trade or business requirements of section 954(c)(2)(A) with respect to that income is unnecessary and, therefore, is deleted.

Section 1.904-4(f) is revised to correct an oversight in the final regulations. Income that falls into both the shipping and foreign trade income categories will be treated as foreign trade income.

Formerly reserved § 1.904-4(g)(2)(iv) is added to provide that an inclusion in gross income under section 1293 with respect to a noncontrolled section 902 corporation shall be treated as a dividend from a noncontrolled section 902 corporation.

Section 1.904-4(h)(2) and (3) is revised and the reserved paragraphs of § 1.904-4(h)(3) are added. Paragraph (h)(3) provides exceptions to the general rule for the treatment of export financing interest provided in paragraph (h)(2).

The Federal Register published proposed revised regulations under §§ 1.904-4(j), 1.954-2T(g) and 1.985-3(d) on July 10, 1991 (56 FR 31362). Those regulations are proposed to be effective prospectively. The Service, therefore, is leaving § 1.904-4(j) in place until the proposed regulations are effective.

A new § 1.904-4(k) is added to provide a rule for characterizing income for purposes of computing the alternative minimum tax ("AMT") foreign tax credit under section 59(a). For taxable years beginning after 1989, alternative minimum taxable income ("AMTI") is increased by 75 percent of the excess of AMTI computed without the adjustment based on adjusted current earnings (the "ACE adjustment") and AMTI computed with the ACE adjustment. Section 56(g). In computing the AMT foreign tax credit, the rules of section 904 apply except that AMTI is substituted for taxable income. Section 59(a)(1)(B). Commenters have suggested that for purposes of determining the character of income under section 904(d), the ACE adjustment should be viewed as an item of income. Because the ACE adjustment is not described in any other category, it would be included in the residual or general limitation basket. The Service does not adopt such a rule. Congress did not intend that all ACE adjustments be made to the general limitation basket. The legislative history

indicates that items included in AMTI by reason of the ACE adjustment are to be sourced for section 904 purposes on an item-by-item basis. See H.R. Rep. (Conf.) 841, 99th Cong., 2d Sess. II-282 (1986). Once the ACE adjustment has been divided into its component parts for sourcing purposes, the character or basket of each foreign source component also should be determined on an item-by-item basis under section 904(d). Thus, paragraph (k) has been added to provide that an item included in AMTI by reason of the ACE adjustment is to be characterized for purposes of section 904(d) based on the character of the underlying item of income.

Formerly reserved § 1.904-4(k) is added as new paragraph (1) to provide priority rules in the case of income that meets the definitions of more than one category of separate limitation income.

#### Section 1.904-5

A commenter suggested that the Service amend § 1.904-5(a)(3) to change the definition of an affiliated group to include foreign corporations. This would allow look-through treatment for foreign source payments between related United States entities who are not part of the same affiliated group because a nonincludible corporation such as a foreign corporation has been inserted between them in the chain of ownership. Such corporations in most cases are disaffiliated for tax planning reasons. There is no indication that Congress intended to provide look-through treatment in such cases.

Formerly reserved § 1.904-5(d)(1) is added to provide that if a controlled foreign corporation satisfies the de minimis rule of section 954(b)(5), all of the controlled foreign corporation's gross foreign base company income and gross insurance income, other than income that would be financial services income, shall be treated as general limitation income.

Several commenters requested that § 1.904-5(g) be expanded to provide look-through treatment for foreign source dividends paid by a U.S. corporation to a related U.S. corporation. Section 1.904-5(g) currently provides look-through treatment only for foreign source interest, rents and royalties paid by a U.S. corporation to a related U.S. corporation. The problem concerns section 936 corporations and the alternative minimum tax ("AMT") foreign tax credit. For regular tax purposes, dividends received from a section 936 corporation by a related U.S. corporation are entitled to a 100% dividends received deduction and taxes paid on that income are not treated as

foreign income taxes. Section 243(a)(3). For AMT purposes after 1989, however, there is no deduction and the dividend is added back in calculating the taxpayers adjusted current earnings. section 56(g)(4)(C)(ii).

Dividends paid by a section 936 corporation are foreign source under section 861(a)(2)(A) and are characterized as passive income under section 904(d)(2)(A). Commenters argue that because a section 936 corporation must derive 75 percent of its income from an active trade or business (section 936(a)(2)(B)), it is inappropriate to retain dividends received from a section 936 corporation in the passive basket. Dividends from a section 936 corporation, however, are virtually always subject to a low rate of tax. Providing look-through would permit averaging of high and low-taxed income. Where low-taxed foreign source income such as a dividend from a section 936 corporation is already separately identified for other Code purposes, permitting averaging of such income with high-taxed foreign source income is inappropriate. The comment, therefore, is rejected.

The temporary and proposed regulations under section 864(e) (5) and (6) currently provide that a section 936 corporation is a member of the affiliated group for purposes of allocating and apportioning interest and certain other expenses. See §§ 1.861-1T(d) and 1.861-14T(d). The proposed regulations (but not the temporary regulations) are proposed to be amended (in a separate document (INTL-0001-92)) to exclude section 936 corporations from the affiliated group solely for purposes of determining foreign source alternative minimum taxable income and the AMT foreign tax credit. The intended result of the proposed amendments is to increase the proportion of interest and certain other expenses apportioned to foreign source passive income, and to reduce the proportion of those expenses apportioned to foreign source general limitation income, in each case solely for AMT purposes. For taxpayers subject to the AMT, these adjustments are intended to provide expense allocation rules consistent with the treatment of dividends paid by a section 936 corporation as foreign source passive income. For further discussion of the proposed amendments to the interest and other expense allocation and apportionment rules under section 864(e) (5) and (6), see INTL-0001-92.

Section 1.904-5(h)(3), which had been reserved, is added to provide that if a partner recognizes gain on the sale of a partnership interest, that income shall

be treated as passive income to the partner, unless the income is high taxed.

A commenter suggested that an active trade or business exception be added to the rule of § 1.904-5(h)(3) that gain on the sale of a partnership interest is passive. Specifically, the commenter suggested that if a partner holds an interest in an oil and gas joint venture or partnership and the partner is regularly, actively and substantially engaged in the exploration for and extraction of minerals either directly or through the joint venture or partnership, then the partner should be entitled to look-through treatment on the disposition of the interest. The commenter noted that most foreign countries in which oil and gas exploration occurs require foreign investors to operate through a partnership or joint venture. Such investors thus do not have the option of operating in corporate form in order to obtain look-through treatment on disposition of their interests.

There is no statutory authority to add the suggested exception. Section 954(c)(1) defines foreign personal holding company income as, among other things, royalties, rents, and gain on the sale of a partnership interest.

Section 954(c)(2) provides an active trade or business exception for rents and royalties derived from the active conduct of a trade or business. No exception is provided for gain on the sale of a partnership interest in which the partner was an active participant.

In the final regulations published in 1988, paragraph (i)(3) was reserved on the issue whether to extend look-through to payments from foreign parents to United States subsidiaries. The Service has decided not to allow look-through on payments from a foreign parent to a United States subsidiary. To apply the look-through rules, the Service needs complete information concerning the foreign corporation's income and expenses. The Service may not be able to obtain all of the necessary information from a foreign parent corporation and to audit it. In addition, the payments generally would be deductible from taxable income of the payor that is entirely outside the jurisdiction of the United States (including subpart F) and, therefore, do not give rise to the same concerns involved in other look-through cases.

Section 1.904-5(j), which had been reserved, is added to provide that the look-through rules apply to amounts included in the gross income of a United States shareholder of a passive foreign investment company under section 1293 if that company is also a controlled foreign corporation.

Formerly reserved § 1.904-5(m)(7) is added to provide a special rule for income that would be United States source income under section 904(g), but is treated as foreign source income under an income tax convention with the United States and the taxpayer elects the benefits of the treaty pursuant to section 904(g)(10). Paragraph (m)(7) provides that if the taxpayer elects the benefits of the treaty, the income shall be treated as foreign source but the foreign tax credit rules shall be applied separately with respect to income treated as foreign source pursuant to each treaty under which the taxpayer has claimed benefits. Thus, the taxpayer must segregate income treated as foreign source under each treaty and then allocate the income within each treaty to a separate group of section 904(d) categories. For example, a taxpayer may not average general limitation income treated as foreign source under one treaty with general limitation income treated as foreign source under another treaty. A taxpayer also may not average general limitation income treated as foreign source under a treaty with passive income treated as foreign source under the same treaty.

#### Section 1.904-6

Section 1.904-6(a)(1)(iv) is added to provide special rules for items that are taxed under foreign law but are not income for United States purposes, and for items that are income for United States purposes, but are subject to a foreign tax in a year other than the year in which they would be income under United States tax principles. Paragraph (a)(1)(iv) provides two rules. First, if a foreign country imposes a tax on income that would not be income for United States purposes, the tax shall be treated as imposed with respect to general limitation income. Second, if the foreign country imposes a tax on an item in one year that would be recognized under United States tax principles in another year, the tax must be allocated among the separate categories as if the income were recognized under United States principles in the year in which the tax was imposed.

Section 1.904-6(a)(2) is revised to provide that if a taxpayer receives or accrues a dividend from a noncontrolled section 902 corporation, and there is an express or implied agreement that the dividend is to be paid out of earnings that would be subject to the separate limitation for passive income or high withholding tax interest, then only foreign income taxes imposed on passive or high withholding tax interest income will be considered taxes relating to the dividend.

Section 1.904-6(b)(2)(i) is amended in response to a comment to provide that the rule shall be applicable to individual as well as corporate shareholders.

#### Section 1.904-7

Section 1.904-7(a) is revised pursuant to comments to provide that the transition rules for characterizing income derived by a controlled foreign corporation in taxable years beginning before January 1, 1987, and distributed to or included in the gross income of a United States shareholder in a taxable year beginning after December 31, 1986, apply to distributions and section 951(a)(1)(A) (ii) and (iii) and (B) inclusions.

Paragraph (a) is revised further, in response to comments, to clarify that the transition rules of § 1.904-7 apply only if the controlled foreign corporation was a controlled foreign corporation at the time the income to be distributed to or included by the United States shareholder was accumulated by the controlled foreign corporation. Section 1.904-7(a) provides transition rules for applying the § 1.904-5 look-through rules when earnings accumulated in a pre-1987 year are distributed or included in a post-1986 year. The look-through rules apply only to controlled foreign corporations. Thus, the transition rules also apply only if a corporation was a controlled foreign corporation in the year in which the income distributed or included was earned.

#### Section 1.905-2

Paragraph (c) of § 1.905-2 has been removed because it interprets a provision that is no longer in the Internal Revenue Code.

#### Special Analyses

It has been determined that these rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It also has 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, therefore, a final Regulatory Flexibility Analysis is not required by the Regulatory Flexibility Act.

#### Drafting Information

The principal author of these regulations is Caren Silver Shein of the Office of Associate Chief Counsel (International), within the Office of Chief Counsel, Internal Revenue Service. Other personnel from the Internal Revenue Service and Treasury

Department participated in developing the regulations.

#### List of Subjects in 26 CFR 1.901-1 Through 1.905-5T

Income taxes, Reporting and recordkeeping requirements, United States investments abroad.

#### Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

#### PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. The authority citation for part 1 continues to read in part:

**Authority:** 26 U.S.C. 7805 \* \* \* Sections 1.904-4 through 1.904-7 also issued under 26 U.S.C. 904(d)(5). \* \* \*

Par. 2. Section 1.904-0 is revised to read as follows:

#### § 1.904-0 Outline of regulation provisions for section 904.

This section lists the revised paragraphs contained in §§ 1.904-1 through 1.904-7, 1.904(b)-1 through 1.904(b)-4, 1.904(f)-1 through 1.904(f)-6 and 1.904(f)-12.

#### § 1.904-1 Limitation on credit for foreign taxes.

- (a) Per-country limitation.
  - (1) General.
  - (2) Illustration of principles.
- (b) Overall limitation.
  - (1) General.
  - (2) Illustration of principles.
- (c) Special computation of taxable income.
- (d) Election of overall limitation.
  - (1) In general.
    - (i) Manner of making election.
    - (ii) Revocation for first taxable year beginning after December 31, 1969.
  - (2) Method of making the initial election.
  - (3) Method of revoking an election and making a new election.
- (e) Joint return.
  - (1) General.
  - (2) Electing the overall limitation.

#### § 1.904-2 Carryback and carryover of unused foreign tax.

- (a) Credit for foreign tax carryback or carryover.
- (b) Years to which carried.
  - (1) General.
  - (2) Definitions.
  - (3) Taxable years beginning before January 1, 1958.
- (c) Tax deemed paid or accrued.
  - (1) Unused foreign tax for per-country limitation year.
  - (2) Unused foreign tax for overall limitation year.
  - (3) Unused foreign tax with respect to foreign mineral income.
- (d) Determination of excess limitation for certain years.
- (e) Periods of less than 12 months.

- (f) Statement with tax return.
- (g) Illustration of carrybacks and carryovers.

#### § 1.904-3 Carryback and carryover of unused foreign tax by husband and wife.

- (a) In general.
- (b) Joint unused foreign tax and joint excess limitation.
- (c) Continuous use of joint return.
- (d) From separate to joint return.
- (e) Amounts carried from or through a joint return year to or through a separate return year.
- (f) Allocation of unused foreign tax and excess limitation.
  - (1) Limitation.
    - (i) Per-country limitation.
    - (ii) Overall limitation.
  - (2) Unused foreign tax.
    - (i) Per-country limitation.
    - (ii) Overall limitation.
  - (3) Excess limitation.
    - (i) Per-country limitation taxpayer.
    - (ii) Overall limitation.
    - (4) Excess limitation to be applied.
    - (5) Reduction of excess limitation.
    - (6) Spouses using different limitations.
- (g) Illustrations.

#### § 1.904-4 Separate application of section 904 with respect to certain categories of income.

- (a) In general.
- (b) Passive income.
  - (1) In general.
    - (i) Rule.
    - (ii) Example.
  - (2) Active rents or royalties.
    - (i) In general.
    - (ii) Exception for certain rents and royalties.
    - (iii) Unrelated person.
    - (iv) Example.
- (c) High-taxed income.
  - (1) In general.
  - (2) Grouping of items of income in order to determine whether passive income is high-taxed income.
    - (i) Effective date.
    - (ii) Allocation and apportionment of expenses.
  - (3) Amounts received or accrued by United States persons.
  - (4) Income of controlled foreign corporations and foreign QBUs.
  - (5) Special rules.
    - (i) Certain rents and royalties.
    - (ii) Treatment of partnership income.
    - (iii) Currency gain or loss.
    - (iv) Certain passive dividends.
  - (6) Application of this paragraph to additional taxes paid or deemed paid in the year of receipt of previously taxed income.
    - (i) Determination made in year of inclusion.
    - (ii) Exception.
    - (iii) Allocation of foreign taxes imposed on distributions of previously taxed income.
    - (iv) Increase in taxes paid by successors.
  - (7) Application of this paragraph to certain reductions of tax on distributions of income.
    - (i) In general.
    - (ii) Allocation of reductions of foreign tax.
    - (iii) Interaction with section 954(b)(4).
- (8) Examples.

- (d) High withholding tax interest.
- (e) Financial services income.
  - (1) In general.
  - (2) Active financing income.
    - (i) Income included.
  - (3) Financial services entities.
    - (i) In general.
    - (ii) Special rule for affiliated groups.
    - (iii) Treatment of partnerships and other pass-through entities.
  - (A) Rule.
  - (B) Examples.
  - (iv) Examples.
  - (4) Definition of incidental income.
    - (i) In general.
    - (A) Rule.
    - (B) Examples.
    - (ii) Income that is not incidental income.
  - (5) Exceptions.
- (f) Shipping income.
- (g) Non-controlled section 902 corporations.
  - (1) Definition.
  - (2) Treatment of dividends for each separate noncontrolled section 902 corporation.
    - (i) In general.
    - (ii) Special rule for dividends received by a controlled foreign corporation.
    - (iii) Special rule for high withholding tax interest.
    - (iv) Treatment of inclusions under section 1293.
  - (3) Special rule for controlled foreign corporations.
    - (i) General rule.
    - (ii) Dividend distributions out of earnings and profits for a year during which a shareholder that is currently a more-than-90-percent United States shareholder was not a United States shareholder.
    - (iii) Ordering rule.
    - (iv) Examples.
  - (4) Examples.
- (h) Export financing interest.
  - (1) Definitions.
    - (i) Export financing.
    - (ii) Fair market value.
    - (iii) Related person.
  - (2) Treatment of export financing interest.
    - (3) Exceptions.
      - (i) Export financing interest that is high withholding tax interest.
      - (ii) Export financing interest that is also related person factoring income.
      - (iii) Export financing interest that is related person factoring income and is received or accrued by a financial services entity.
      - (iv) Export financing interest that is related person factoring income and high withholding tax interest.
    - (4) Examples.
    - (5) Income eligible for section 864(d)(7) exception (same country exception) from related person factoring treatment.
      - (i) Income other than interest.
      - (ii) Interest income.
      - (iii) Examples.
  - (i) Interaction of section 907(c) and income described in this section.
  - (j) Special rule for certain currency gains and losses.
  - (k) Special rule for alternative minimum tax foreign tax credit.
  - (l) Priority rules.

- (1) In general.  
(2) Examples.
- § 1.904-5 Look-through rules as applied to controlled foreign corporations and other entities.*
- (a) Definitions.  
(b) In general.  
(c) Rules for specific types of inclusions and payments.  
(1) Subpart F inclusions.  
(i) Rule.  
(ii) Examples.  
(2) Interest.  
(i) In general.  
(ii) Allocating and apportioning expenses including interest paid to a related person.  
(iii) Definitions.  
(A) Value of assets and reduction in value of assets and gross income.  
(B) Related person debt allocated to passive assets.  
(iv) Examples.  
(3) Rents and royalties.  
(4) Dividends.  
(i) Look-through rule.  
(ii) Special rule for dividends attributable to certain loans.  
(iii) Examples.  
(d) Effect of exclusions from Subpart F income.  
(1) De minimis amount of Subpart F income.  
(2) Exception for certain income subject to high foreign tax.  
(3) Examples.  
(e) Treatment of Subpart F income in excess of 70 percent of gross income.  
(1) Rule.  
(2) Example.  
(f) Modifications of look-through rules for certain income.  
(1) High withholding tax interest.  
(2) Dividends from a non-controlled section 902 corporation.  
(i) Rule.  
(ii) Example.  
(3) Distributions from a FSC.  
(4) Example.  
(g) Application of the look-through rules to certain domestic corporations.  
(h) Application of the look-through rules to partnerships and other pass-through entities.  
(1) General rule.  
(2) Exception for certain partnership interests.  
(i) Rule.  
(ii) Exceptions.  
(3) Income from the sale of a partnership interest.  
(4) Value of a partnership interest.  
(i) Application of look-through rules to related entities.  
(1) In general.  
(2) Exception for distributive shares of partnership income.  
(3) Special rule for dividends.  
(4) Examples.  
(j) Look-through rules applied to passive foreign investment company inclusions.  
(k) Ordering rules.  
(1) In general.  
(2) Specific rules.  
(l) Examples.
- (m) Application of section 904(g).  
(1) In general.  
(2) Treatment of interest payments.  
(3) Examples.  
(4) Treatment of dividend payments.  
(i) Rule.  
(ii) Determination of earnings and profits from United States sources.  
(iii) Example.  
(5) Treatment of Subpart F inclusions.  
(i) Rule.  
(ii) Example.  
(6) Treatment of section 78 amount.  
(7) Coordination with treaties.  
(i) Rule.  
(ii) Example.  
(n) Order of application of sections 904 (d) and (g).  
(o) Effective date.
- § 1.904-6 Allocation and apportionment of taxes.*
- (a) Allocation and apportionment of taxes to a separate category or categories of income.  
(1) Allocation of taxes to a separate category or categories of income.  
(i) Taxes related to a separate category of income.  
(ii) Apportionment of taxes related to more than one separate category.  
(iii) Apportionment of taxes for purposes of applying the high tax income test.  
(iv) Special rule for base and timing differences.  
(2) Treatment of certain dividends from noncontrolled section 902 corporations.  
(b) Application of paragraph (a) to sections 902 and 960.  
(1) Determination of foreign taxes deemed paid.  
(2) Distributions received from foreign corporations that are excluded from gross income under section 959(b).  
(3) Application of section 78.  
(4) Increase in limitation.  
(c) Examples.
- § 1.904-7 Transition rules.*
- (a) Characterization of distributions and section 951(a)(1)(A) (ii) and (iii) and (B) inclusions of earnings of a controlled foreign corporation accumulated in taxable years beginning before January 1, 1987, during taxable years of both the payor controlled foreign corporation and the recipient which begin after December 31, 1986.  
(1) Distributions and section 951(a)(1)(A) (ii) and (iii) and (B) inclusions.  
(2) Limitation on establishing the character of earnings and profits.  
(b) Application of look-through rules to distributions (including deemed distributions) and payments by an entity to a recipient when one's taxable year begins before January 1, 1987 and the other's taxable year begins after December 31, 1986.  
(1) In general.  
(2) Payor of interest, rents, or royalties is subject to the Act and recipient is not subject to the Act.  
(3) Recipient of interest, rents, or royalties is subject to the Act and payor is not subject to the Act.
- (4) Recipient of dividends and subpart F inclusions is subject to the Act and payor is not subject to the Act.  
(5) Examples.  
(c) Installment sales.  
(d) Special effective date for high withholding tax interest earned by persons with respect to qualified loans described in section 1201(e)(2) of the Act.  
(e) Treatment of certain recapture income.
- § 1.904(b)-1 Treatment of capital gains for corporations.*
- (a) In general.  
(1) Inclusion in foreign source taxable income.  
(2) Inclusion in entire taxable income.  
(3) Treatment of capital losses.  
(b) Definitions.  
(1) Capital gain net income.  
(2) Foreign source capital gain net income.  
(3) Net capital gain.  
(4) Foreign source net capital gain.  
(5) Rate differential portion.  
(6) Net capital loss.  
(7) Allocation and apportionment.  
(8) Computation of net section 1231 gain.  
(c) Illustrations.
- § 1.904(b)-2 Treatment of capital gains for other taxpayers.*
- (a) In general.  
(1) Inclusion in foreign source taxable income.  
(2) Inclusion in entire taxable income.  
(3) Treatment of capital losses.  
(b) Definition of net capital loss.  
(c) Illustrations.
- § 1.904(b)-3 Sale of personal property.*
- (a) General rule.  
(b) Special rules.  
(c) Exception.  
(d) Application of source rules.  
(e) Gain from liquidation of certain foreign corporations.  
(f) Residence defined.  
(g) Tax rate applicable to gain.  
(h) Country in which gross income derived.
- § 1.904(b)-4 Effective date.*
- § 1.904(f)-1 Overall foreign loss and the overall foreign loss account.*
- (a) Overview of regulations.  
(b) Overall foreign loss accounts.  
(c) Determination of a taxpayer's overall foreign loss.  
(1) Overall foreign loss defined.  
(2) Separate limitation defined.  
(3) Method of allocation and apportionment of deductions.  
(d) Additions to the overall foreign loss account.  
(1) General rule.  
(2) Overall foreign net capital loss.  
(3) Overall foreign losses of another taxpayer.  
(4) Additions to overall foreign loss account created by loss carryovers.  
(5) Adjustments.  
(i) Adjustment due to reduction in foreign source income under section 904(b).  
(ii) Adjustment to account for rate differential between ordinary income rate and capital gain rate.

- (e) Reductions of overall foreign loss accounts.
- (1) Pre-recapture reduction for amounts allocated to other taxpayers.
- (2) Reduction for amounts recaptured.
- (f) Illustrations.

**§ 1.904(f)-2 Recapture of overall foreign losses.**

- (a) In general.
- (b) Determination of taxable income from sources without the United States for purposes of recapture.
- (1) In general.
- (c) Section 904(f)(1) recapture.
- (1) In general.
- (2) Election to recapture more of the overall foreign loss than is required under paragraph (c)(1).
- (3) Special rule for recapture of losses incurred prior to section 936 election.
- (4) Recapture of pre-1983 overall foreign losses determined on a combined basis.
- (5) Illustrations.
- (d) Recapture of overall foreign losses from dispositions under section 904(f)(3).
- (1) In general.
- (2) Treatment of net capital gain.
- (3) Dispositions where gain is recognized irrespective of section 904(f)(3).
- (4) Dispositions in which gain would not otherwise be recognized.
- (i) Recognition of gain to the extent of the overall foreign loss account.
- (ii) Basis adjustment.
- (iii) Recapture of overall foreign loss to the extent of amount recognized.
- (iv) Priorities among dispositions in which gain is deemed to be recognized.
- (5) Definitions.
- (i) Disposition.
- (ii) Property used in a trade or business.
- (iii) Property used predominantly outside the United States.
- (iv) Property which is a material factor in the realization of income.
- (6) Carryover of overall foreign loss accounts in a corporate acquisition to which section 381(a) applies.
- (7) Illustrations.

**§ 1.904(f)-3 Allocation of net operating losses and net capital losses.**

- (a) Allocation of net operating loss carrybacks and carryovers that include overall foreign losses.
- (b) Allocation of net capital loss carrybacks and carryovers that include overall foreign losses.
- (c) Transitional rule.
- (d) Illustrations.

**§ 1.904(f)-4 Recapture of foreign losses out of accumulation distributions from a foreign trust.**

- (a) In general.
- (b) Effect of recapture on foreign tax credit limitation under section 667(d).
- (c) Recapture if taxpayer deducts foreign taxes deemed distributed.
- (d) Illustrations.

**§ 1.904(f)-5 Special rules for recapture of overall foreign losses of a domestic trust.**

- (a) In general.
- (b) Recapture of trust's overall foreign loss.
- (1) Trust accumulates income.

- (2) Trust distributes income.
- (3) Trust accumulates and distributes income.
- (c) Amounts allocated to beneficiaries.
- (d) Section 904(f)(3) dispositions to which § 1.904(f)-2(d)(4)(i) is applicable.
- (e) Illustrations.

**§ 1.904(f)-6 Transitional rule for recapture of FORI and general limitation overall foreign losses incurred in taxable year beginning before January 1, 1983, from foreign source taxable income subject to the general limitation in taxable years beginning after December 31, 1982.**

- (a) General Rule.
- (b) Recapture of pre-1983 FORI and general limitation overall foreign losses from post-1982 income.
- (1) Recapture from income subject to the same limitation.
- (2) Recapture from income subject to the other limitation.
- (c) Coordination of recapture of pre-1983 and post-1982 overall foreign losses.
- (d) Illustrations.

**§ 1.904(f)-12 Transition rules.**

- (a) Recapture in years beginning after December 31, 1986, of overall foreign losses incurred in taxable years beginning before January 1, 1987.
- (1) In general.
- (2) Rule for general limitation losses.
- (i) In general.
- (ii) Exception.
- (3) Priority of recapture of overall foreign losses incurred in pre-effective date taxable years.
- (4) Examples.
- (b) Treatment of overall foreign losses that are part of net operating losses incurred in pre-effective date taxable years which are carried forward to post-effective date taxable years.
- (1) Rule.
- (2) Example.
- (c) Treatment of overall foreign losses that are part of net operating losses incurred in post-effective date taxable years which are carried back to pre-effective date taxable years.
- (1) Allocation to analogous income category.
- (2) Allocation to U.S. source income.
- (3) Allocation to other separate limitation categories.
- (4) Examples.
- (d) Recapture of FORI and general limitation overall foreign losses incurred in taxable years beginning before January 1, 1983.
- (e) Recapture of pre-1983 overall foreign losses determined on a combined basis.
- (f) Transition rules for taxable years beginning before December 31, 1990.

**Par. 3. Section 1.904-4 is amended as follows:**

1. Paragraph (b)(1)(i) concluding text is amended by removing the last sentence and adding three sentences in its place.

2. Paragraph (b)(2)(i) is amended by removing "§ 1.954-2(d)(1)" and adding in its place "section 954(c)(2)(A) and the regulations under that section".

3. Paragraph (b)(2)(iv) is amended by removing "§ 1.954-2(d)(1)" in the *Example* and adding in its place "section 954(c)(2)(A) and the regulations under that section".

4. Paragraph (c)(1) is amended by removing the last sentence and adding four sentences in its place.

5. Paragraph (c)(2)(ii) is amended by removing "§ 1.861-8" and adding in its place "§§ 1.861-8 through 1.861-14T".

6. The heading and introductory text to paragraph (c)(4) are revised.

7. Paragraphs (c)(5) (ii) and (iii) are revised, and a new paragraph (c)(5)(iv) is added.

8. Paragraph (c)(6)(ii) is revised.

9. Paragraph (c)(7)(ii) is amended by removing the second sentence and adding two sentences in its place, and paragraph (c)(7)(iii) is amended by adding a new sentence at the end of the paragraph.

10. Paragraph (c)(8) is removed, paragraph (c)(9) is redesignated paragraph (c)(8), and newly designated paragraph (c)(8) is amended by:

- a. Revising *Example (4)*;
- b. Amending *Example (5)* by inserting "(not including the section 78 amount)" after "\$80" in the second sentence, and by removing the language "after P has filed its return for its 1988 tax year," in the eighth sentence;
- c. Removing *Example (6)*, *Example (7)* and *Example (12)*;
- d. Redesignating *Example (8)* through *Example (11)* as *Example (6)* through *Example (9)*, respectively;
- e. Amending newly designated *Example (7)* and *Example (8)* by removing the references "*Example (8)*" and adding in their place "*Example (6)*";
- f. Amending newly designated *Example (9)* (ii) by adding "(the reduction in tax rates from 50 percent to 30 percent is a 40 percent reduction in tax)" after "40 percent" in the seventh sentence; and

g. Adding a new *Example (10)*.

11. Paragraph (e)(1) is revised.
12. Paragraph (e)(2)(i)(V) is revised.
13. Paragraph (e)(3)(i) is amended by:
- a. Adding "at least" before "80 percent" in the third sentence;
- b. Adding after the sixth sentence "See paragraph (e)(3)(iv) *Example (5)* of this section."; and
- c. Adding a sentence at the end of the paragraph.

14. Paragraph (e)(3)(ii) is amended by removing the fourth sentence.

15. Paragraph (e)(3)(iii) is amended by:

a. Removing the designation (A) and removing the heading "*Rule.*";

b. Redesignating paragraph (e)(3)(iii)(B) as paragraph (e)(3)(iv);

c. Removing the reference "paragraph (e)(3)(iii)" in the introductory paragraph of newly designated paragraph (e)(3)(iv) and adding "paragraph (e)(3)" in its place;

d. In newly designated paragraph (e)(3)(iv), redesignating *Examples (1) and (2)* as *Examples (3) and (4)*, respectively, and adding new *Examples (1), (2) and (5)*.

16. Paragraphs (e)(5) (i) and (ii) are added.

17. Paragraph (f) is amended by removing the last sentence and adding a new sentence in its place.

18. Paragraph (g)(1) is amended by adding "Except as provided in section 902 and the regulations under that section and paragraph (g)(3) of this section, a controlled" in place of "A controlled" at the beginning of the second sentence.

19. Paragraph (g)(2)(ii)(A) is amended by adding "that is not a controlled foreign corporation" after "foreign corporation" and before "is", and by adding at the end of paragraph (g)(2)(ii)(A) the language "see paragraph (g)(4) *Example (1)*."

20. Paragraph (g)(2)(iv) is revised.

21. Paragraph (g)(3) is amended by:

a. Adding the language "(i) *General rule*." at the end of the heading; and

b. Adding and reserving paragraphs (g)(3) (ii), (iii) and (iv).

22. Paragraph (g)(4) is amended by:

a. Amending *Example (2)* by adding "section 904(d)(2)(E)(i) and" before "paragraph (g)(3)" in the last sentence; and

b. Amending *Example (3)* by removing the reference "paragraph (g)(3)" in the ninth sentence and adding in its place "paragraph (g)(2)(iii)".

23. Paragraph (h)(2) is revised.

24. Paragraph (h)(3) is amended by:

a. Revising the heading and paragraphs (h)(3) (i) through (iii);

b. Redesignating paragraphs (iv) and (v) as paragraphs (h)(4) and (h)(5), respectively; and

c. Adding a new paragraph (iv).

25. Newly designated paragraph (h)(4) is amended by:

a. Revising the introductory text;

b. Adding "is not a financial services entity and" in the second sentence of *Example (1)* after "S" and before "has";

c. Adding text to *Example (2)*; and

d. Adding "is not a financial services entity and" in the second sentence of *Example (3)* after "S" and before "has".

26. Newly designated paragraph (h)(5) is amended by:

a. Redesignating paragraphs (h)(5) (A), (B) and (C) as paragraphs (h)(5) (i), (ii) and (iii), respectively;

b. Adding a sentence at the end of newly designated paragraph (h)(5)(i);

c. Adding a sentence at the end of newly designated paragraph (h)(5)(ii); and

d. Revising the introductory text and *Example (1)*, and adding text to *Examples (2) and (4)* of newly designated paragraph (h)(5)(iii).

27. Paragraph (k) is revised.

28. Paragraph (l) is added.

29. The revised, redesignated, reserved and added provisions read as follows:

**§ 1.904-4 Separate application of section 904 with respect to certain categories of income.**

(b) \* \* \*

(1) \* \* \*

(i) \* \* \*

\* \* \* In addition, passive income does not include any income that would otherwise be passive but is characterized as income in another separate category under the lookthrough rules. In determining whether any income is of a kind that would be foreign personal holding company income, the rules of section 864(d)(5)(A)(i) and (6) (treating related person factoring income of a controlled foreign corporation as foreign personal holding company income that is not eligible for the export financing income exception to the separate limitation for passive income) shall apply only in the case of income of a controlled foreign corporation (as defined in section 957). Thus, income earned directly by a United States person that is related person factoring income may be eligible for the exception for export financing interest.

(c) \* \* \*

(1) \* \* \* Income and taxes shall be translated at the appropriate rates, as determined under sections 986, 987 and 989 and the regulations under those sections, before application of this paragraph. For purposes of allocating taxes to groups of income, United States source passive income is treated as any other passive income. In making the determination whether income is high-taxed, however, only foreign source income, as determined under United States tax principles, is relevant. See paragraph (c)(8) *Example (10)* this section for an example illustrating the application of this paragraph (c)(1).

(4) *Income of controlled foreign corporations and foreign QBUs.* Except as provided in paragraph (c)(5) of this section, all amounts included in gross income of a United States shareholder under section 951(a)(1) for a particular

year that (after application of the look-through rules of section 904(d)(3) and § 1.904-5) are attributable to passive income received or accrued by a controlled foreign corporation and all amounts of passive income received or accrued by a United States person through a foreign QBU shall be subject to the rules of this paragraph (c)(4). This paragraph (c)(4) shall be applied separately to inclusions with respect to each controlled foreign corporation of which the taxpayer is a United States shareholder. This paragraph (c)(4) also shall be applied separately to income attributable to each QBU of a controlled foreign corporation or any other look-through entity as defined in § 1.904-5(i), except that if the entity subject to the look-through rules is a United States person, then this paragraph (c)(4) shall be applied separately only to each foreign QBU of that United States person.

(5) \* \* \*

(ii) *Treatment of partnership income.* A partner's distributive share of income from a foreign or United States partnership that is not subject to the look-through rules and that is treated as passive income under § 1.904-5(h)(2)(i) (generally providing that a less than 10 percent partner's distributive share of partnership income is passive income) shall be treated as a single item of income and shall not be grouped with other amounts. A distributive share of income from a foreign partnership that is treated as passive income under the look-through rules shall be grouped according to the rules in paragraph (c)(4) of this section. A distributive share of income from a United States partnership that is treated as passive income under the look-through rules shall be grouped according to the rules in paragraph (c)(3) of this section, except that the portion, if any, of the distributive share of income attributable to income earned by a United States partnership through a foreign QBU shall be grouped under the rules of paragraph (c)(4) of this section.

(iii) *Currency gain or loss—(A) Section 986(c).* Any currency gain or loss with respect to a distribution received by a United States shareholder (other than a foreign QBU of that shareholder) of previously taxed earnings and profits that is recognized under section 986(c) and that is treated as an item of passive income shall be subject to the rules provided in paragraph (c)(3)(iii) of this section. If that item, however, is received or accrued by a foreign QBU of the United States shareholder, it shall be treated as an item of passive income from sources within the QBU's country

of operation for purposes of paragraph (c)(4)(i) of this section. This paragraph (c)(5)(iii)(A) shall be applied separately for each foreign QBU of a United States shareholder.

(B) *Section 987(3)*. Any currency gain or loss with respect to remittances or transfers of property between QBUs of a United States shareholder that is recognized under section 987(3)(B) and that is treated as an item of passive income shall be subject to the rules provided in paragraph (c)(3)(iii) of this section. If that item, however, is received or accrued by a foreign QBU of the United States shareholder, it shall be treated as an item of passive income from sources within the QBU's country of operation for purposes of paragraph (c)(4)(i) of this section. This paragraph (c)(5)(iii)(B) shall be applied separately for each foreign QBU of a United States shareholder.

(C) *Example*. The following example illustrates the provisions of this paragraph (c)(5)(iii).

*Example*. P, a domestic corporation, owns all of the stock of S, a controlled foreign corporation that uses x as its functional currency. In 1993, S earns 100x of passive foreign personal holding company income. When included in P's income under subpart F, the exchange rate is 1x equals \$1. Therefore, P's subpart F inclusion is \$100. At the end of 1993, S has previously taxed earnings and profits of 100x and P's basis in those earnings is \$100. In 1994, S has no earnings and distributes 100x to P. The value of the earnings when distributed is \$150. Assume that under section 986(c), P must recognize \$50 of passive income attributable to the appreciation of the previously taxed income. Country X does not recognize any gain or loss on the distribution. Therefore, the section 986(c) gain is not subject to any foreign withholding tax or other foreign tax. Thus, under paragraph (c)(3)(iii) of this section, the section 986(c) gain shall be grouped with other items of P's income that are subject to no withholding tax or other foreign tax.

(iv) *Certain passive dividends*. A dividend from a controlled foreign corporation that is treated as passive income under the look-through rules shall be grouped according to the rules of paragraph (c)(4) of this section.

(6) \* \* \*

(ii) *Exception*. Paragraph (c)(8)(i) of this section shall not apply to an increase in tax in a case in which the taxpayer is required to adjust its foreign taxes in the year of inclusion under section 905(c).

(7) \* \* \*

(ii) \* \* \* Thus, for purposes of determining to which year's taxes the reduction in taxes relates, foreign law shall apply. If, however, foreign law

does not attribute a reduction in taxes to a particular year or years, then the reduction in taxes shall be attributable, on an annual last-in-first-out (LIFO) basis, to foreign taxes potentially subject to reduction that are associated with previously taxed income, then on a LIFO basis to foreign taxes associated with income that under paragraph (c)(7)(iii) of this section remains as passive income but that was excluded from subpart F income under section 954(b)(4), and finally on a LIFO basis to foreign taxes associated with other earnings and profits. \* \* \*

(iii) \* \* \* For an example illustrating the operation of this paragraph (c)(7)(iii), see paragraph (c)(8) *Example (7)* of this section.

(8) *Examples*. \* \* \*

*Example (4)*. Domestic corporation M operates in branch form in foreign countries X and Y. The branches are qualified business units (QBUs), within the meaning of section 989(a). In 1988, QBU X earns passive royalty income, interest income and rental income. All of the QBU X passive income is from Country Z sources. The royalty income is not subject to a withholding tax, and is not taxed by Country X, and the interest and the rental income are subject to a 5 percent and 10 percent withholding tax, respectively. QBU Y earns interest income in Country Y that is not subject to foreign tax. For purposes of determining whether M's foreign source passive income is high-taxed income, the rental income and the interest income earned in QBU X are treated as one item of income pursuant to paragraphs (c) (4)(ii) and (3)(ii) of this section. The interest income earned in QBU Y and the royalty income earned in QBU X are each treated as a separate item of income under paragraphs (c)(4)(i) (with respect to QBU Y's interest income) and (c) (4)(ii) and (3)(iii) (with respect to QBU X's royalty income) of this section.

*Example (10)*. P, a domestic corporation, earns \$100 of passive royalty income from sources within the United States. Under the laws of Country X, however, that royalty is considered to be from sources within Country X and Country X imposes a 10 percent withholding tax on the payment of the royalty. P also earns \$100 of passive foreign source dividend income subject to a 10 percent withholding tax to which \$15 of expenses are allocated. In determining whether P's passive income is high-taxed, the \$10 withholding tax on P's royalty income is allocated to passive income, and within the passive category to the group of income described in paragraph (c)(3)(ii) of this section (passive income subject to a withholding tax of less than 15 percent (but greater than zero)). For purposes of determining whether the income is high-taxed, however, only the foreign source dividend income is taken into account. The foreign source dividend income will still be treated as passive income because the

foreign taxes paid on the passive income in the group (\$20) do not exceed the highest United States tax rate multiplied by the \$85 of net foreign source income in the group (\$20 is less than  $\$28.90 (\$100 - \$15) \times .34$ ).

(e) *Financial services income*—(1) *In general*. The term "financial services income" means income derived by a financial services entity, as defined in paragraph (e)(3) of this section, that is:

(i) Income derived in the active conduct of a banking, insurance, financing, or similar business (active financing income as defined in paragraph (e)(2) of this section), except income described in paragraph (e)(2)(i)(W) of this section (high withholding tax interest);

(ii) Passive income as defined in section 904(d) (2) (A) and paragraph (b) of this section as determined before the application of the exception for high-taxed income;

(iii) Export financing interest as defined in section 904(d)(2)(G) and paragraph (h) of this section that, but for section 904(d)(2)(B)(ii), would also meet the definition of high withholding tax interest; or

(iv) Incidental income as defined in paragraph (e)(4) of this section.

(2) \* \* \*

(i) \* \* \*

(V) Income from a finance lease. For this purpose, a finance lease is any lease that is a direct financing lease or a leveraged lease for accounting purposes and is also a lease for tax purposes.

(3) \* \* \* (i) \* \* \* For purposes of this paragraph, related person is defined in § 1.904-5(i)(1).

(4) \* \* \*

(iv) *Examples*. \* \* \*

*Example (1)*. P is a domestic corporation that owns 100 percent of the stock of S, a controlled foreign corporation incorporated in Country X. For the 1990 taxable year, 60 percent of S's income is active financing income that consists of income that will be considered general limitation or passive income if S is not a financial services entity. The other 40 percent of S's income is passive non-active financing income. S is not a financial services entity and its active financing income thus retains its character as general limitation and passive income. S makes an interest payment to P in 1990 that is characterized under the look-through rules. Although the interest is not financial services income to S under the look-through rules, it retains its character as active financing income when paid to P and P must take that income into account in determining whether it is a financial services entity under paragraph (e)(3)(i) of this section. If P is determined to be a financial services entity, both the portion of the interest payment characterized as active financing income

(whether general limitation or passive income in S's hands) and the portion characterized as passive non-active financing income received from S will be recharacterized as financial services income.

*Example (2).* [Reserved]

*Example (5).* P is a United States corporation that is not a financial services entity. P owns 100 percent of the stock of S, a controlled foreign corporation that is not a financial services entity. S owns 100 percent of the stock of T, a controlled foreign corporation that is a financial services entity. In 1991, T pays a dividend to S. The dividend from T is characterized under the look-through rules of section 904(d)(3). Pursuant to paragraph (e)(3)(i) of this section, the dividend from T is excluded in determining whether S is a financial services entity. S is determined not to be a financial services entity but the dividend retains its character as financial services income in S's hands. Any subpart F inclusion or dividend to P out of earnings and profits attributable to the dividend from T will be excluded in determining whether P is a financial services entity but the inclusion or dividend will retain its character as financial services income.

(5) \* \* \*

(i) Export financing interest as defined in section 904(d)(2)(G) and paragraph (h) of this section unless that income would be high withholding tax interest as defined in section 904(d)(2)(B) but for paragraph (d)(2)(B)(ii) of that section;

(ii) High withholding tax interest as defined in section 904(d)(2)(B) unless that income also meets the definition of export financing interest; and

(f) \* \* \* Shipping income does not include any dividends received or accrued from a noncontrolled section 902 corporation, any income that is financial services income, or any income described in section 904(d)(1)(G) (foreign trade income within the meaning of section 923(b)).

(g) \* \* \*

(2) \* \* \*

(iv) *Treatment of inclusions under section 1293.* If a foreign corporation is a noncontrolled section 902 corporation with respect to a taxpayer, any inclusion in the taxpayer's gross income under section 1293 with respect to that corporation shall be treated as a dividend from a noncontrolled section 902 corporation and thus shall be subject to a separate limitation.

(3) \* \* \*

(ii) *Dividend distributions out of earnings and profits for a year during which a shareholder that is currently a more-than-90-percent United States shareholder was not a United States shareholder.* [Reserved]

(iii) *Ordering rule.* [Reserved]

(iv) *Examples.* [Reserved]

(h) \* \* \*

(2) *Treatment of export financing interest.* Except as provided in paragraph (h)(3) of this section, if a taxpayer (including a financial services entity) receives or accrues export financing interest from an unrelated person, then that interest shall be treated as general limitation income.

(3) *Exceptions—(i) Export financing interest that is high withholding tax interest.* If a financial services entity receives or accrues export financing interest that would also be high withholding tax interest but for section 904(d)(2)(B)(ii), that income shall be treated as financial services income.

(ii) *Export financing interest that is also related person factoring income.* Export financing interest shall be treated as passive income if that income is also related person factoring income. For this purpose, related person factoring income is—

(A) Income received or accrued by a controlled foreign corporation that is income described in section 864(d)(6) (income of a controlled foreign corporation from a loan for the purpose of financing the purchase of inventory property of a related person); or

(B) Income received or accrued by any person that is income described in section 864(d)(1) (income from a trade receivable acquired from a related person).

(iii) *Export financing interest that is related person factoring income and is received or accrued by a financial services entity.* If a financial services entity receives or accrues export financing interest that is also related person factoring income, then the income shall be treated as financial services income. See section 864(d)(5)(A)(i).

(iv) *Export financing interest that is related person factoring income and high withholding tax interest.* If any taxpayer (including a financial services entity) receives or accrues export financing interest that is also related person factoring income and high withholding tax interest, then that income shall be treated as high withholding tax interest. See section 864(d)(5)(A)(i).

(4) *Examples.* The following examples illustrate the operation of paragraph (h)(3) of this section:

*Example (1).* The facts are the same as in *Example (1)* except that S is a financial services entity and derives the income in an active financing business. The income derived by S on the receivables is related

person factoring income and is also export financing interest. Therefore, pursuant to paragraph (h)(3)(iii) of this section, the income is financial services income to S.

(5) *Income eligible for section 864(d)(7) exception (same country exception) from related person factoring treatment—(i) Income other than interest.* \* \* \* If a financial services entity receives or accrues that income, the income shall not be considered to be export financing interest and, therefore, shall be treated as financial services income.

(ii) *Interest income.* \* \* \* If that interest is received or accrued by a financial services entity, section 904(d)(2)(C)(iii)(III) shall apply and the interest shall be treated as general limitation income. If that interest also would be high withholding tax interest but for section 904(d)(2)(B)(ii), then the interest shall be treated as financial services income.

(iii) *Examples.* The following examples illustrate the operation of this paragraph (h) (5):

*Example (1).* Controlled foreign corporation S is a wholly-owned subsidiary of domestic corporation P. Controlled foreign corporation T is a wholly-owned subsidiary of controlled foreign corporation S. S and T are incorporated in Country M. In 1987, P sells tractors to T, which T sells to X, an unrelated foreign corporation organized in country M. The tractors are to be used in country M. T uses a substantial part of its assets in its trade or business located in Country M. T has uncollected trade receivables from X that it factors to S. S derived more than 20 percent of its gross income for 1987 other than from an active financing business and the income derived by S from the receivables is not derived in an active financing business. Thus, pursuant to paragraph (e)(3)(i) of this section, S is not a financial services entity. The income is not related person factoring income because it is described in section 864(d)(7) (income eligible for the same country exception). If section 864(d)(1) applied, the income S derived from the receivables would meet the definition of export financing interest. The income, therefore, is considered to be export financing interest and is general limitation income to S.

*Example (2).* The facts are the same as in *Example (1)* except that S is a financial services entity and derives the income on the receivables from the conduct of an active financing business. The income S derives from the receivables is not related person factoring income because it is described in section 864(d)(7). If the income would be high withholding tax interest but for section 904(d)(2)(B)(ii), then the income will not be considered to be export financing interest and will be financial services income to S. Otherwise, the income will be considered to

be export financing interest and will be general limitation income to S.

*Example (4).* The facts are the same as in *Example (3)* except that S is a financial services entity and derives the interest on the loan to X in an active financing business. The interest S earns is export financing interest that is not described in section 864(d)(1) because it is described in section 864(d)(7). Because the interest is described in section 864(d)(7) and is export financing interest, section 904(d)(2)(C)(iii)(III) shall apply and the income shall be general limitation income to S, unless it would also be high withholding tax interest but for section 904(d)(2)(B)(ii), in which case it will be financial services income to S.

(k) *Special rule for alternative minimum tax foreign tax credit.* For purposes of computing the alternative minimum tax foreign tax credit under section 59(a), items included in alternative minimum taxable income by reason of section 56(g) (adjustments based on adjusted current earnings) shall be characterized as income described in a separate category under section 904(d) and this section based on the character of the underlying items of income.

(l) *Priority rules—(1) In general.* In the case of income that meets the definitions of more than one category of separate limitation income, the following priority rules apply:

(i) Income that meets the definitions of passive income and of any other separate limitation income described in section 904(d)(1) (B) through (H) will be subject to the other separate limitation;

(ii) Income that meets the definitions of financial services income and of either shipping income or passive income will be subject to the separate limitation for financial services income;

(iii) Income that meets the definitions of financial services income and of any separate limitation income other than shipping or passive income will be subject to the other separate limitation;

(iv) Income that meets the definitions of dividends from a noncontrolled section 902 corporation and of any other separate limitation income will be subject to the separate limitation for dividends from a noncontrolled section 902 corporation unless that income is foreign oil and gas extraction income defined in section 907(c), in which case it will be treated as general limitation income pursuant to § 1.907(a)-1(f);

(v) Income that meets the definitions of high withholding tax interest and of any other separate limitation income will be high withholding tax interest; and

(vi) Income that meets the definitions of shipping income and of foreign trade

income will be subject to the separate limitation for foreign trade income.

(2) *Examples.* The provisions of this paragraph (l) are illustrated by the following examples:

*Example (1).* Controlled foreign corporation S is a wholly-owned subsidiary of domestic corporation P. S owns 20 percent of the voting stock of T, a foreign corporation that is not a controlled foreign corporation. In 1987, T pays S a dividend that qualifies as foreign base company shipping income to S under § 1.954-6(f)(1). The dividend from T is also a dividend from a noncontrolled section 902 corporation. Therefore, pursuant to section 904(d)(2)(D) and paragraph (l)(1)(iv) of this section, the dividend from T is treated as a dividend from a noncontrolled section 902 corporation.

*Example (2).* In 1987, domestic corporation P received a dividend from R, a foreign corporation that is not a controlled foreign corporation. P owns 30 percent of the voting stock of R. P is a financial services entity and the dividend from R qualifies as financial services income under paragraph (e)(4)(i)(A) of this section. The dividend from R is also a dividend from a noncontrolled section 902 corporation. Therefore, pursuant to section 904(d)(2)(C) (iii)(II) and paragraphs (l)(1)(iii) and (iv) of this section, the dividend from R is treated as a dividend from a noncontrolled section 902 corporation.

*Example (3).* P, a domestic corporation, owns 10 percent of foreign corporation S. S is a noncontrolled section 902 corporation. In 1990, S earns foreign oil and gas extraction income which is general limitation income. S pays a dividend to P out of its earnings and profits for 1990. The dividend from S is a dividend from a noncontrolled section 902 corporation that is also foreign oil and gas extraction income. Pursuant to section 907(c)(3)(A), § 1.907(a)-1(f) and paragraph (l)(1)(iv) of this section, P will include the dividend in income as general limitation income.

**Par. 4.** Section 1.904-5 is amended as follows:

1. Paragraph (a) is amended by:

a. Removing the language "this section" in the introductory text and adding in its place "the regulations under section 904"; and

b. Removing the language "section 1504(a)(2)" the first time it appears in the last sentence of paragraph (a) (3) and adding in its place "section 1504(a)(1)".

2. Paragraph (b) is amended by removing the language "section 904(d)(3)" and adding in its place "section 904(d) (2)(E) and (3)".

3. Paragraph (c)(1)(i) is amended by removing the last sentence and adding two new sentences in its place.

4. In paragraph (c)(1)(ii), text is added to *Example (2)* and *Example (3)*, *Example (4)* is redesignated as *Example (5)*, and a new *Example (4)* is added.

5. Paragraph (c)(2)(i) is revised.

6. Paragraph (c)(2)(ii) is amended by:

a. Revising the heading;

b. Revising the introductory text;

c. Revising paragraph (c)(2)(ii)(B);

d. Revising paragraphs (c)(2)(ii) (D) and (E).

7. Paragraph (c)(2)(iii)(A) is amended by removing "§ 1.861-8" in the first sentence and adding in its place "§ 1.861-9T(g)"; by removing "§ 1.861-8" in the second sentence and adding in its place "§ 1.861-10T(d)(2)"; and by removing "§ 1.861-8" in the last sentence and adding in its place "§ 1.861-9T(g)(2)".

8. Paragraph (c)(2)(iv) *Example (1)* is amended by:

a. Removing the language "allocate" in the last sentence of *Example (1)* (i) and adding "apportion" in its place; and

b. Removing the language "allocable" in the third sentence of *Example (1)* (ii) and adding "apportioned" in its place, and removing the language "allocated" in the fifth and sixth sentences and adding "apportioned" in its place.

9. Paragraph (c)(2)(iv) *Example (2)* is amended by removing the language "for allocating" in the first sentence and adding "to apportion" in its place, and by removing the language "allocated" each place it appears in the second and third sentences and adding "apportioned" in its place.

10. Paragraph (c)(2)(iv) *Example (3)* is amended by:

a. Removing the language "allocated" in the last sentence of *Example (3)* (i) and adding "apportioned" in its place; and

b. Revising *Example (3)* (iii) and (iv).

11. Paragraph (c)(2)(iv) *Example (4)* is amended by:

a. Removing in *Example (4)* (i) the language "§ 1.861-8" and adding in its place "§§ 1.861-8 through 1.861-14T", and removing the language "allocate" in the last two sentences and adding in its place "apportion";

b. Removing in *Example (4)* (ii) the language "(c)(2)(ii) (B)" and adding "(c)(2)(ii) (C)", and by removing the language "allocated" in the second sentence and adding "apportioned" in its place; and

c. Removing in *Example (4)* (iii) the language "allocated" each place it appears and adding "apportioned" in its place and by removing the language "allocable" in the last sentence and adding "apportioned" in its place.

12. Paragraph (c)(2)(iv) *Example (5)* is amended by removing the language "allocate" in the first sentence and adding "apportion" in its place, and by removing the language "allocated" in the third and fourth sentences and adding "apportioned" in its place.



be apportioned according to the following formula:

Related person interest minus Related person interest minus allocated under paragraph (c)(2)(ii)(C) of this section

$$\times \frac{\text{Value of assets in a separate category (other than passive)}}{\text{Value of total assets (other than passive)}}$$

(E) Any other expenses (including unrelated person interest that is not directly allocated to income from a specific property) that are not definitely related expenses or that are definitely related to all of gross income as a class shall be apportioned under the rules of this paragraph to reduce income in each separate category.

(1) If under § 1.861-9T, the modified gross income method of apportioning interest expense is elected, the interest expense shall be apportioned as follows:

Expense apportionable to a separate category =

$$\times \frac{\text{Gross income in a separate category (minus related person interest allocated under paragraph (c)(2)(ii)(C) of this section if the category is passive)}}{\text{Total gross income minus related person interest allocated to passive income under paragraph (c)(2)(ii)(C) of this section}}$$

(2) If under § 1.861-9T, the asset method of apportioning interest expense is elected, then the expense shall be apportioned as follows:

Expense apportionable to a separate category =

$$\times \frac{\text{Value of assets in a separate category (minus related person debt allocated to passive assets if the category is passive)}}{\text{Value of total assets minus related person debt allocated to passive assets}}$$

(3) Expenses other than interest shall be apportioned in a similar manner depending on the apportionment method used. See § 1.861-8T(c)(1) (i)-(vi).

(iv) \* \* \*

Example (3). \* \* \*

(iii) Under paragraph (c)(2)(ii)(E) of this section, the non-interest expenses that are not definitely related are apportioned on the basis of the asset values reduced by the allocated related person debt. Therefore, \$10 of these expenses are apportioned to the passive category  $(\$50 \times (\$2000 - \$1500) /$

$(\$4000 - \$1500))$  and \$40 are apportioned to the general limitation category  $(\$50 \times \$2000 / (\$4000 - \$1500))$ .

(iv) In order to apportion third person interest between the categories of assets, the value of assets in a separate category must also be reduced under the principles of § 1.861-8 by the indebtedness relating to the specifically allocated interest. Therefore, under paragraph (c)(2)(iii)(B) of this section, the value of assets in the passive category for purposes of apportioning the additional third person interest = 0  $(\$2000 \text{ minus } \$500 \text{ (the principal amount of the debt, the interest payment on which is directly allocated to specific interest producing properties) minus } \$1500 \text{ (the related person debt allocated to passive assets))}$ . Under paragraph (c)(2)(ii)(E) of this section, all \$100 of the non-definitely related third person interest is apportioned to the general limitation category  $(\$100 = \$100 \times \$2000 / (\$4000 - \$500 - \$1500))$ .

(4) \* \* \*  
(iii) \* \* \*

Example (1). Controlled foreign corporation S is a wholly-owned subsidiary of P, a domestic corporation. In 1987, S has earnings and profits of \$1,000, \$600 of which is attributable to general limitation income and \$400 of which is attributable to dividends received by S from its wholly-owned subsidiary, T. T is a controlled foreign corporation and is incorporated and operates in the same country as S. All of T's income is financial services income. Neither S's general limitation income nor the dividend from T is subpart F income. In December 1987, S pays a dividend to P of \$200, all of which is attributable to earnings and profits earned in 1987. Six-tenths of the dividend (\$120) is treated as general limitation income because six-tenths of S's earnings and profits are attributable to general limitation income. Four-tenths of the dividend (\$80) is treated as financial services income because four-tenths of S's earnings and profits are attributable to dividends from T, and all of T's earnings are financial services income.

(d) Effect of exclusions from subpart F income—(1) De minimis amount of subpart F income. If the sum of a controlled foreign corporation's gross foreign base company income (determined under section 954(a) without regard to section 954(b)(5)) and gross insurance income (determined under section 953(a)) for the taxable year is less than the lesser of 5 percent of gross income or \$1,000,000, then all of that income (other than income that would be financial services income without regard to this paragraph (d)(1)) shall be treated as general limitation income. In addition, if the test in the preceding sentence is satisfied, for purposes of paragraphs (c)(2)(ii) (D) and (E) of this section (apportionment of interest expense to passive income using the asset method), any passive limitation assets shall be treated as

general limitation assets. The determination in the first sentence shall be made prior to the application of the exception for certain income subject to a high rate of foreign tax described in paragraph (d)(2) of this section.

(3) \* \* \*

Example (1). Controlled foreign corporation S is a wholly-owned subsidiary of P, a domestic corporation. In 1987, S earns \$100 of gross income, \$4 of which is interest that is subpart F foreign personal holding company income and \$96 of which is gross manufacturing income that is not subpart F income. S has no other earnings for 1987. S has no expenses and pays no foreign taxes. S pays P a \$100 dividend. Under the de minimis rule of section 954(b)(3), none of S's income is treated as foreign base company income. All of S's income, therefore, is treated as general limitation income. The entire \$100 dividend is general limitation income to P.

Example (2). (i) Controlled foreign corporation S is a wholly-owned subsidiary of P, a domestic corporation. In 1987, S earns \$50 of shipping income of a type that is foreign base company shipping income. S also earns \$50 of dividends from T, a foreign corporation in which S owns 45 percent of the voting stock, and receives \$50 of dividends from U, a foreign corporation in which S owns 5% of the voting stock. Foreign persons hold the remaining voting stock of both T and U. S, T, and U are all incorporated in different foreign countries. The dividends S receives from T and U are of a type that normally would be subpart F foreign personal holding company income that is passive income. Under § 1.904-4(l)(1)(iv), however, the dividends from T are dividends from a noncontrolled section 902 corporation rather than passive income. S has no expenses. The earnings and profits of S are equal to the net income after taxes of S. The dividends and the shipping income are taxed abroad by S's country of incorporation at an effective rate of 40 percent. P establishes to the satisfaction of the Secretary that the effective rate of tax on both the dividends and the shipping income exceeds 90 percent of the maximum United States tax rate. Thus, under section 954(b)(4), neither the shipping income nor the dividends are taxed currently to P under subpart F. S's earnings attributable to shipping income and dividends from a noncontrolled section 902 corporation retain their character as such. Under paragraph (d)(2) of this section, S's earnings attributable to the dividends from U are treated as earnings attributable to general limitation income. See §§ 1.905-3T and 1.905-4T, however, for rules concerning adjustments to the pools of earnings and profits and foreign taxes and redeterminations of United States tax liability when foreign taxes are refunded in a later year.

(ii) In 1988, S has no earnings and pays a \$150 dividend (including gross-up) to P. The dividend is paid out of S's post-1986 pool of earnings and profits. One-third of the dividend (\$50) is attributable to S's shipping earnings, one-third (\$50) is attributable to the dividend from T, and one-third (\$50) is

attributable to the dividend from U. Pursuant to section 904(d)(3)(E) and paragraph (c)(4) of this section, one-third of the dividend is shipping income, one-third is a dividend from a noncontrolled section 902 corporation, T, and one-third is general limitation income to P.

(f) \* \* \*

(2) \* \* \*—(i) Rule. \* \* \*

(ii) Example. The following example illustrates the provisions of this paragraph (f)(2).

Example. P, a domestic corporation, owns 40 percent of S, a controlled foreign corporation. U, an unrelated domestic corporation, owns the remaining 60 percent of S. S owns 10 percent of T, a noncontrolled section 902 corporation. In 1990, T pays S a dividend, which S includes in its gross income as a dividend from a noncontrolled section 902 corporation. S has no other income during 1990. P and U must include S's dividend income from T in their gross income under subpart F. Pursuant to § 1.904-4(g)(2)(ii)(C), the subpart F inclusion to U is characterized as a dividend from a noncontrolled section 902 corporation because U meets the 5 percent ownership requirement of section 902(b) ( $60\% \times 10\% = 6\%$ ). The subpart F inclusion to P is characterized as passive income because P does not meet the 5 percent ownership requirement of section 902(b) ( $40\% \times 10\% = 4\%$ ).

(3) Distributions from a FSC. Income received or accrued by a taxpayer that, under the rules of paragraph (c)(4) of this section (look-through rules for dividends), would be treated as foreign trade income or as passive income that is interest and carrying charges (as defined in section 927(d)(1)), and that is also a distribution from a FSC (or a former FSC), shall be treated as a distribution from a FSC (or a former FSC).

(g) Application of look-through rules to certain domestic corporations. The principles of section 904(d)(3) and this section shall apply to any foreign source interest, rents and royalties paid by a United States corporation to a related corporation. For this purpose, a United States corporation and another corporation are considered to be related if one owns, directly or indirectly, stock possessing 50 percent or more of the total voting power of all classes of stock of the other corporation or 50 percent or more of the total value of the other corporation. In addition, a United States corporation and another corporation shall be considered to be related if the same United States shareholders own, directly or indirectly, stock possessing 50 percent or more of the total voting power of all classes of stock or 50 percent of the total value of each

corporation. For purposes of this paragraph, the constructive stock ownership rules of section 318 and the regulations under that section apply.

(h) \* \* \*

(3) Income from the sale of a partnership interest.

To the extent a partner recognizes gain on the sale of a partnership interest, that income shall be treated as passive income to the partner, unless the income is considered to be high-taxed under section 904(d)(2)(A)(iii)(III) and § 1.904-4(c).

(i) \* \* \* (1) \* \* \* Except as provided in paragraphs (i) (2) and (3) of this section, the principles of this section shall apply to distributions and payments that are subject to the look-through rules of section 904(d)(3) and this section from a controlled foreign corporation or other entity otherwise entitled to look-through treatment (a "look-through entity") under this section to a related lookthrough entity. \* \* \*

(3) Special rule for dividends. [Reserved]

(4) Examples. The following examples illustrate the provisions of this paragraph (i):

Example (1). P, a domestic corporation, owns all of the stock of S, a controlled foreign corporation. S owns 40 percent of the stock of T, a controlled foreign corporation. The remaining 60 percent of the stock of T is owned by V, a domestic corporation. The percentages of value of T owned by S and V correspond to their percentages of stock ownership. T owns all of the stock of U, a controlled foreign corporation. U earns exclusively general limitation non-subpart F income. In 1992, U makes an interest payment of \$100 to T, which is subpart F income to P and V. V and T are related look-through entities, but P and T are not related look-through entities. V, therefore, is entitled to look-through treatment on the interest payment to T and the payment will be treated as general limitation income. P is not entitled to look-through treatment (because P, through S, owns only 40 percent of T) and the interest payment, therefore, is passive income to P.

Example (2). [Reserved]

(j) Look-through rules applied to passive foreign investment company inclusions. If a passive foreign investment company is a controlled foreign corporation and the taxpayer is a United States shareholder in that passive foreign investment company, any amount included in gross income under section 1293 shall be treated as income in a separate category to the extent the amount so included is attributable to income received or accrued by that controlled foreign corporation that is described as income in the separate category. For purposes of

this paragraph (j), the priority rules of § 1.904-4(l) shall apply prior to the application of the rules of this paragraph.

(k) \* \* \* (1) In general. Income received or accrued by a related person to which the look-through rules apply is characterized before amounts included from, or paid or distributed by that person and received or accrued by a related person. For purposes of determining the character of income received or accrued by a person from a related person if the payor or another related person also receives or accrues income from the recipient and the look-through rules apply to the income in all cases, the rules of paragraph (k)(2) of this section apply.

(1) \* \* \*

Example (2). The facts are the same as in Example (1) except that instead of earning \$100 of general limitation foreign base company sales income, S earns \$100 of foreign personal holding company income that is passive income. Although the interest payment to T would otherwise be passive income, T is a financial services entity and, under § 1.904-4(e)(1), the income is treated as financial services income in T's hands. Thus, P's entire \$350 section 951 inclusion consists of financial services income.

Example (5). P has a 25 percent interest in partnership PS that he sells to X for \$110. P's basis in his partnership interest is \$35. P recognizes \$75 of gain on the sale of its partnership interest and is subject to no foreign tax. Under paragraph (h)(3) of this section, the gain is treated as passive income.

Example (11). P, a domestic corporation, owns 100 percent of the stock of S, a controlled foreign corporation, and S owns 100 percent of the stock of T, a controlled foreign corporation. P also owns 100 percent of the stock of U, a controlled foreign corporation. In 1991, T earns \$100 of general limitation income that is not subpart F income and distributes the entire amount to S as a dividend. S earns \$100 of passive foreign personal holding company income and the \$100 dividend from T. S pays \$100 of interest to U. U earns \$200 of general limitation income that is foreign base company income and \$100 of interest income from S. This transaction does not involve circular payments and, therefore, the ordering rules of paragraph (k)(2) of this section do not apply. Instead, pursuant to paragraph (k)(1) of this section, income received is characterized first. T's earnings and, thus, the dividend from T to S are characterized first. S includes the \$100 dividend from T in gross income as general limitation income because all of T's earnings are general limitation income. S thus has \$100 of passive foreign personal holding company income and \$100 of general limitation income. The interest payment to U is then characterized as \$100 passive income under paragraph (c)(2)(ii)(C) of this section

(allocation of related person interest to passive foreign personal holding company income). For 1991, U thus has \$200 of general limitation income that is subpart F income, and \$100 of passive foreign personal holding company income. For 1991, P includes in its gross income \$200 of general limitation subpart F income from U, \$100 of passive subpart F income from U (relating to the interest payment from S to U), and \$100 of general limitation subpart F income from S (relating to the dividend from T to S).

(m) \* \* \*  
(2) \* \* \*

For purposes of this paragraph, the value of assets in a separate category is the value of assets as determined under the principles of § 1.861-9T(g). See § 1.861-10T(d)(2) for purposes of determining the value of assets and gross income in a separate category as reduced for indebtedness the interest on which is directly allocated.

(7) *Coordination with treaties*—(i) *Rule.* If any amount of income derived from a United States-owned foreign corporation, as defined in section 904(g)(6), would be treated as derived from sources within the United States under section 904(g) and this paragraph (m) and, pursuant to an income tax convention with the United States, the taxpayer chooses to avail itself of benefits of the convention that treat that amount as arising from sources outside the United States under a rule explicitly treating the income as foreign source, then that amount will be treated as foreign source income. However, sections 904 (a), (b), (c), (d) and (f), 902, 907, and 960 shall be applied separately to amounts described in the preceding sentence with respect to each treaty under which the taxpayer has claimed benefits and, within each treaty, to each separate category of income.

(ii) *Example.* The following example illustrates the application of this paragraph (m)(7).

*Example.* Controlled foreign corporation S is incorporated in Country A and is a wholly-owned subsidiary of P, a domestic corporation. In 1990, S earns \$80 of foreign base company sales income in Country A which is general limitation income and \$40 of U.S. source interest income. S incurs \$20 of expenses attributable to its sales business. S pays P \$40 of interest that is allocated to U.S. source passive income under paragraphs (c)(2)(ii)(C) and (m)(2) of this section. Assume that earnings and profits equal net income. All of S's net income of \$60 is includible in P's gross income under subpart F (section 951(a)(1)). For 1990, P also has \$100 of passive income derived from investments in Country B. Pursuant to section 904(g)(3) and paragraph (m)(2) of this section, the \$40 interest payment from S is United States source income to P because it is attributable to United States source interest income of S.

The United States-Country A income tax treaty, however, treats all interest payments by residents of Country A as Country A sourced and P elects to apply the treaty. Pursuant to section 904(g)(10) and this paragraph (m)(7), the entire interest payment will be treated as foreign source income to P. P thus has \$60 of foreign source general limitation income, \$40 of foreign source passive income from S, and \$100 of other foreign source passive income. In determining P's foreign tax credit limitation on passive income, the passive income from Country A shall be treated separately from any other passive income.

\* \* \* \* \*  
**Par. 5.** Section 1.904-6 is amended as follows:

1. The section heading for § 1.904-6 is revised.

2. The heading for paragraph (a) is revised.

3. Paragraph (a)(1)(ii) is amended by removing the reference "§ 1.861-8" in the three places it now appears and adding in its place "§§ 1.861-8 through 1.861-14T", and by adding the language "and apportioning" after "allocating" and before "such" in the seventh sentence.

4. Paragraph (a)(1)(iv) is added.

5. Paragraph (a)(2) is revised.

6. Paragraph (b)(1), in the last sentence, is amended by removing "of" after "foreign taxes deemed paid" and adding "by".

7. Paragraph (b)(2)(i) is revised.

8. Paragraph (c) is amended by:

a. Removing in *Example (1)*, in the fourth sentence, the reference "§ 1.861-8" and adding in its place "§§ 1.861-8 through 1.861-14T";

b. Removing in *Example (1)*, in the fifth sentence, the language "allocates" and adding "apportions" in its place;

c. Removing the last two sentences in *Example (5)* and adding two new sentences in their place;

d. Removing the language "\$25" in the first parenthetical in *Example (6)* and adding "\$50" in its place; and

e. Revising the introductory text of *Example (8)*.

9. The added and revised provisions read as follows:

**§ 1.904-6 Allocation and apportionment of taxes.**

(a) *Allocation and apportionment of taxes to a separate category or categories of income*—(1) \* \* \*

(iv) *Special rule for base and timing differences.* If, under the law of a foreign country or possession of the United States, a tax is imposed on an item of income that does not constitute income under United States tax principles, that tax shall be treated as imposed with respect to general limitation income. If, under the law of a foreign country or

possession of the United States, a tax is imposed on an item that would be income under United States tax principles in another year, that tax will be allocated to the appropriate separate category or categories as if the income were recognized under United States tax principles in the year in which the tax was imposed.

(2) *Treatment of certain dividends from noncontrolled section 902 corporations.* If a taxpayer receives or accrues a dividend from a noncontrolled section 902 corporation, and if the Commissioner establishes that there is an agreement, express or implied, that such dividend is paid out of the passive earnings or high withholding tax interest income of the foreign corporation, then only the foreign taxes imposed on passive income or high withholding tax interest income of the noncontrolled section 902 corporation will be considered to be taxes related to the dividend. For an illustration of this rule, see paragraph (c) *Example (7)* of this section.

(b) \* \* \*

(2) \* \* \*

(i) Any portion of a distribution received from a first-tier corporation by a domestic corporation or individual that is excluded from the domestic corporation's or individual's income under section 959(a) and § 1.959-1; and

(c) \* \* \*

*Example (5).* \* \* \* For U.S. purposes, the income is not characterized as a dividend but as a repayment of a bona fide debt and, therefore, the \$50 of income is not required to be recognized by R in 1988. The \$10 of tax is treated as a tax paid in 1988 on the \$50 of passive income included by R in 1987 pursuant to the section 482 adjustment rather than as a tax associated with a dividend from a noncontrolled section 902 corporation. The \$10 tax is a tax imposed on passive income under paragraph (a)(1)(iv) of this section.

*Example (8).* Domestic corporation P owns all of the stock of controlled foreign corporation S, which owns all of the stock of controlled foreign corporation T. All such corporations use the calendar year as the taxable year. Assume that earnings and profits are equal to net income and that the income amounts are identical under United States and foreign law principles. In 1987, T earns (before foreign taxes) \$187.50 of net passive income and \$62.50 of net general limitation income and pays \$50 of foreign taxes. S earns no income in 1987 and pays no foreign taxes. For 1987, P is required under section 951 to include in gross income \$175 attributable to the earnings and profits of T for that year. One hundred and fifty dollars (\$150) of the subpart F inclusion is attributable to passive income earned by T, and \$25 of the subpart F inclusion is

attributable to general limitation income earned by T. In 1988, T earns no income and pays no foreign taxes. T pays a \$200 dividend to S, consisting of \$175 from its earnings and profits attributable to amounts required to be included in P's gross income with respect to T and \$25 from its other earnings and profits. Assume that no withholding tax is imposed with respect to the distribution from T to S. In 1988, S earns \$100 of net general limitation income and receives a \$200 dividend from T. S pays \$30 in foreign taxes. For 1988, P is required under section 951 to include in gross income \$22.50 attributable to the earnings and profits of S for such year. The entire subpart F inclusion is attributable to general limitation income earned by S. In 1988, S pays P a dividend of \$247.50, consisting of \$157.50 from its earnings and profits attributable to the amount required under section 951 to be included in P's gross income with respect to T, \$22.50 from its earnings and profits attributable to the amount required under section 951 to be included in P's gross income with respect to S, and \$67.50 from its other earnings and profits. Assume the de minimis rule of section 954(b)(3)(A) and the full inclusion rule of section 954(b)(3)(B) do not apply to the gross amounts of income earned by S and T. The foreign income taxes deemed paid by P for 1987 and 1988 under section 960(a)(1) and section 902(a) are determined as follows on the basis of the following facts and computations.

\* \* \*

Par. 6. Section 1.904-7 is amended as follows:

1. Paragraph (a) is revised as set forth below.
2. Paragraph (c) is amended by removing the reference "453(A)" and adding in its place "453A".
3. Paragraph (d) is amended by removing the reference "\$ 1.904-6(d)" and adding in its place "\$ 1.904-4(d)".

**§ 1.904-7 Transition rules.**

(a) *Characterization of distributions and section 951(a)(1) (A) (ii) and (iii) and (B) inclusions of earnings of a controlled foreign corporation accumulated in taxable years beginning before January 1, 1987, during taxable years of both the payor controlled foreign corporation and the recipient which begin after December 31, 1986—*  
 (1) *Distributions and section 951(a)(1) (A) (ii) and (iii) and (B) inclusions.* Earnings accumulated in taxable years beginning before January 1, 1987, by a foreign corporation that was a controlled foreign corporation when such earnings were accumulated are characterized in that foreign corporation's hands under section 904(d)(1)(A) (separate limitation interest income) or section 904(d)(1)(E) (general limitation income) (prior to their amendment by the Tax Reform Act of 1986 (the Act)) after application of the de minimis rule of former section 904(d)(3)(C) (prior to its amendment by

the Act). When, in a taxable year after the effective date of the Act, earnings and profits attributable to such income are distributed to, or included in the gross income of, a United States shareholder under section 951(a)(1) (A) (ii) or (iii) or (B) (hereinafter in this section "inclusions"), the ordering rules of section 904(d)(3)(D) and § 1.904-5(c)(4) shall be applied in determining initially the character of the income of the distributee or United States shareholder. Thus, a proportionate amount of a distribution described in this paragraph initially will be characterized as separate limitation interest income in the hands of the distributee based on the ratio of the separate limitation interest earnings and profits out of which the dividend was paid to the total earnings and profits out of which the dividend was paid. The distribution or inclusions must then be recharacterized in the hands of the distributee or United States shareholder on the basis of the following principles:

- (i) Distributions and inclusions that initially are characterized as separate limitation interest income shall be treated as passive income;
- (ii) Distributions and inclusions that initially are characterized as old general limitation income shall be treated as general limitation income, unless the taxpayer establishes to the satisfaction of the Commissioner that the distribution or inclusion is attributable to:

(A) Earnings and profits accumulated with respect to shipping income, as defined in section 904(d)(2)(D) and § 1.904-4(f); or

(B) In the case of a financial services entity, earnings and profits accumulated with respect to financial services income, as defined in section 904(d)(2)(C)(ii) and § 1.904-4(e)(1); or

(C) Earnings and profits accumulated with respect to high withholding tax interest, as defined in section 904(d)(2)(B) and § 1.904-4(d).

(2) *Limitation on establishing the character of earnings and profits.* In order for a taxpayer to establish that distributions or inclusions that are attributable to general limitation earnings and profits of a particular taxable year beginning before January 1, 1987, are attributable to shipping, financial services or high withholding tax interest earnings and profits, the taxpayer must establish the amounts of foreign taxes paid or accrued with respect to income attributable to those earnings and profits that are to be treated as taxes paid or accrued with respect to shipping, financial services or high withholding tax interest income, as the case may be, under section

904(d)(2)(I). Conversely, in order for a taxpayer to establish the amounts of general limitation taxes paid or accrued in a taxable year beginning before January 1, 1987, that are to be treated as taxes paid or accrued with respect to shipping, financial services or high withholding tax interest income, as the case may be, the taxpayer must establish the amount of any distributions or inclusions that are attributable to shipping, financial services or high withholding tax interest earnings and profits. For purposes of establishing the amounts of general limitation taxes that are to be treated as taxes paid or accrued with respect to shipping, financial services or high withholding tax interest income, the principles of § 1.904-6 shall be applied.

\* \* \*

**§ 1.905-2 [Amended]**

Par. 7. Section 1.905-2 is amended as follows:

1. Paragraph (c) is removed.
2. Paragraph (d) is redesignated as paragraph (c).

David G. Blattner,

*Acting Commissioner of Internal Revenue.*

Approved: January 24, 1992.

Kenneth W. Gideon,

*Assistant Secretary of the Treasury.*

[FR Doc. 92-8497 Filed 5-13-92; 8:45 am]

BILLING CODE 4830-01-M

**DEPARTMENT OF JUSTICE**

**28 CFR Part 16**

[AAG/A Order No. 66-92]

**Exemption of Records System Under the Privacy Act**

**AGENCY:** Department of Justice.

**ACTION:** Final Rule.

**SUMMARY:** The Department of Justice is exempting a Privacy Act system of records entitled "U.S. Marshals Service Prisoner Processing and Population Management System, JUSTICE/USM-005," from the provisions of 5 U.S.C. 552a(c)(3) and (4), (d), (e)(1), (2), (3), (e)(5) and (e)(8) and (g). The exemptions are necessary to protect the security of prisoners, witnesses and informants, law enforcement personnel, and the public; and to prevent a serious threat to law enforcement activities and law enforcement communications systems.

**EFFECTIVE DATE:** This rule will be effective May 14, 1992.

**FOR FURTHER INFORMATION CONTACT:** Patricia E. Neely (202) 616-0178.

**SUPPLEMENTARY INFORMATION:** A proposed rule with invitation to comment was published in the *Federal Register* on February 3, 1992 (57 FR 3974). The public was given 30 days in which to comment. One public comment favoring the exemptions was received.

This order relates to individuals rather than small business entities. Nevertheless, pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601-612, it is hereby stated that the order will not have a "significant economic impact on a substantial number of small entities."

#### List of Subjects in 28 CFR Part 16

Administrative Practice and Procedure; Courts; Freedom of Information; Privacy; Sunshine Act.

Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General Order 793-78, 28 CFR part 16 is amended as set forth below.

Dated May 1, 1992.

Harry H. Flickinger,  
Assistant Attorney General for  
Administration.

1. The authority for part 16 continues to read as follows:

Authority: 5 U.S.C. 301, 552, 552a, 552b(g), 553; 18 U.S.C. 4203(a)(1); 28 U.S.C. 509, 510, 534; 31 U.S.C. 3717, 9701.

2. 28 CFR 16.101 is amended by redesignating paragraph (q) as paragraph (s)<sup>1</sup> and by adding new paragraphs (q) and (r).

#### § 16.101 Exemption of U.S. Marshals Service (USMS) Systems—limited access, as indicated

(q) The following system of records is exempt from 5 U.S.C. 552a(c)(3) and (4), (d), (e)(1), (2), (3), (e)(5) and (e)(8) and (g):

(1) U.S. Marshals Service Prisoner Processing and Population Management System (JUSTICE/USM-005).

These exemptions apply only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(j)(2).

(r) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) because to release the disclosure accounting would permit the subject of a criminal proceeding to determine the extent or nature of law enforcement authorities' knowledge regarding his/her alleged misconduct or criminal activities. The

disclosure of such information could alert the subject to devise ways in which to conceal his/her activities and/or prevent law enforcement from learning additional information about his/her activities, or otherwise inhibit law enforcement efforts. In addition, where the individual is the subject of an ongoing or potential inquiry/investigation, such release could reveal the nature thereof prematurely, and may also enable the subject to determine the identity of witnesses and informants. Such disclosure could compromise the ongoing or potential inquiry/investigation, endanger the lives of witnesses and informants, or otherwise impede or thwart law enforcement efforts.

(2) From subsection (c)(4) to the extent that the system is exempt from subsection (d).

(3) From subsection (d) because to permit unlimited access would permit the subject of a criminal proceeding to determine the extent or nature of law enforcement authorities' knowledge regarding his/her alleged misconduct or criminal activities. The disclosure of such information could alert the subject to devise ways in which to conceal his/her activities and/or prevent law enforcement from learning additional information about his/her activities, or otherwise inhibit law enforcement efforts. Disclosure would also allow the subject to obtain sensitive information concerning the existence and nature of security measures and jeopardize the safe and secure transfer of the prisoner, the safety and security of other prisoners, informants and witnesses, law enforcement personnel, and the public. In addition, disclosure may enable the subject to learn prematurely of an ongoing or potential inquiry/investigation, and may also permit him/her to determine the identities of confidential sources, informants, or protected witnesses. Such disclosure could compromise the ongoing or potential inquiry/investigation, endanger the lives of witnesses and informants, or otherwise impede or thwart law enforcement efforts. Disclosure may also constitute an unwarranted invasion of the personal privacy of third parties. Further, disclosure would reveal access codes, data entry codes and message routing symbols used in law enforcement communications systems. Access to such codes and symbols would permit the subject to impede the flow of law enforcement communications and compromise the integrity of law enforcement information, and thus present a serious threat to law enforcement activities. To permit

amendment of the records would expose security matters, and would impose an impossible administrative burden by requiring that security precautions, and information pertaining thereto, be continuously reevaluated if contested by the prisoner, or by anyone on his or her behalf. Similarly, to permit amendment could interfere with ongoing or potential inquiries/investigations by requiring that such inquiries/investigations be continuously reinvestigated, or that information collected (the relevance and accuracy of which cannot readily be determined) be subjected to continuous change.

(4) From subsections (e)(1) and (5) because the system may contain investigatory information or information which is derived from information collected during official criminal investigations. In the interest of effective law enforcement and litigation, of securing the prisoner and of protecting the public, it may be necessary to retain information the relevance, necessity, accuracy, timeliness and completeness of which cannot be readily established. Such information may nevertheless provide investigative leads to other Federal or law enforcement agencies, or prove necessary to establish patterns of criminal activity or behavior, and/or prove essential to the safe and secure detention (and movement) of prisoners. Further, the provisions of (e)(1) and (e)(5) would restrict the ability of the USMS in exercising its judgment in reporting information during investigations or during the development of appropriate security measures, and thus present a serious impediment to law enforcement efforts.

(5) From subsection (e)(2) because the requirement to collect information from the subject individual would impede the information collection responsibilities of the USMS which is often dependent upon sources other than the subject individual for verification of information pertaining to security risks posed by the individual prisoner, to alleged misconduct or criminal activity of the prisoner, or to any matter affecting the safekeeping and disposition of the individual prisoner.

(6) From subsection (e)(3) because to inform individuals as required by this subsection could impede the information gathering process, reveal the existence of an ongoing or potential inquiry/investigation or security procedure, and compromise law enforcement efforts.

(7) From subsection (e)(8) because to serve notice would give persons sufficient warning to compromise an ongoing or potential inquiry/investigation and thereby evade and

<sup>1</sup> Paragraph (o) was redesignated as paragraph (q) in a final rulemaking at 57 FR 3283 on January 29, 1992.

impede law enforcement and security efforts.

(8) From subsection (g) to the extent that the system is exempt from subsection (d).

\* \* \* \* \*

[FR Doc. 92-11336 Filed 5-13-92; 8:45 am]

BILLING CODE 4410-01-M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 675

[Docket No. 911172-2018]

#### Groundfish of the Bering Sea and Aleutian Islands Area

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

**ACTION:** Closure to directed fishing.

**SUMMARY:** The Director, Alaska Region, NMFS (Regional Director), has determined that the allowances of prohibited species catch (PSC) of red king crab and *C. bairdi* Tanner crab (Tanner crab) to the pollock/Atka mackerel/"other species" fishery in bycatch limitation zone 1 (Zone 1) and the allowance of PSC of Tanner crab to the Pacific cod fishery in Zone 1 of the Bering Sea and Aleutian Islands Management area (BSAI) have been caught. NMFS is prohibiting directed fishing for pollock by trawl vessels using non-pelagic trawl gear, and Pacific cod by vessels using any trawl gear in Zone 1 of the BSAI. This action is necessary to prevent the bycatch allowances of red king crab and Tanner crab to the pollock/Atka mackerel/"other species" fishery and the bycatch allowance of

Tanner crab to the Pacific cod fishery from being exceeded. This action is to ensure optimum use of groundfish while conserving red king crab and Tanner crab stocks.

**DATES:** Effective 12 noon, Alaska local time (A.l.t.), May 13, 1992, through 12 midnight, A.l.t., December 31, 1992.

**FOR FURTHER INFORMATION CONTACT:**

Andrew N. Smoker, Resource Management Specialist, NMFS, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** The groundfish fishery in the exclusive economic zone within the BSAI is managed by the Secretary of Commerce according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. The FMP is implemented by regulations at 50 CFR 611.93 and parts 620 and 675.

Regulations appearing at 675.21(a) establish PSC limits of red king crab and Tanner crab in specific zones of the Bering Sea subarea (BS). Under §§ 675.21(a) (1) and (2), the PSC limit of red king crab caught while conducting any domestic annual harvest (DAH) trawl fishery for groundfish in Zone 1, as defined at § 675.2, is 200,000 animals. Likewise, the PSC limit of Tanner crab caught while conducting any DAH trawl fishery for groundfish in Zone 1 is 1,000,000 animals. Further, § 675.21(g)(1) provides that the PSC limits of red king crab and Tanner crab be subsequently apportioned into bycatch allowances that are assigned in part to the pollock/Atka mackerel/"other species" fishery and to the Pacific cod fishery under § 675.21(g)(4).

An emergency interim rule (57 FR 11433, April 3, 1992) established the 1992 Zone 1 red king crab allowance for the pollock/Atka mackerel/"other species" fishery at 30,000 animals, the 1992 Zone 1 Tanner crab allowance for the pollock/Atka mackerel/"other species" fishery at 125,000 animals, and the 1992 Zone 1 Tanner crab allowance for the Pacific cod fishery at 75,000 animals.

Under § 675.21(h)(1)(i), the Regional Director has determined that U.S. fishing vessels using trawl gear have caught the 1992 Zone 1 PSC allowances of red king crab and Tanner crab while participating in the pollock/Atka mackerel/"other species" fishery and the 1992 Zone 1 PSC allowance of Tanner crab while participating in the Pacific cod fishery. NMFS is closing Zone 1 in the BSAI to directed fishing for the remainder of the year for: (a) pollock by trawl vessels using non-pelagic trawl gear; and (b) Pacific cod by vessels using trawl gear, from 12 noon, A.l.t., May 13, 1992, through 12 midnight, A.l.t., December 31, 1992.

Directed fishing standards for applicable gear types may be found in the regulations at § 675.20(h) and 57 FR 11433 (April 3, 1992).

#### Classification

This action is taken under 50 CFR 675.21 and complies with E.O. 12291.

#### List of Subjects in 50 CFR Part 675

Fisheries, Reporting and recordkeeping requirements.

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

Joe P. Clem,

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

[FR Doc. 92-11292 Filed 5-13-92; 8:45 am]

BILLING CODE 3510-22-M

# Proposed Rules

Federal Register

Vol. 57, No. 94

Thursday, May 14, 1992

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.

Dated at Bethesda, Maryland, this 4th day of May 1992.

For the Nuclear Regulatory Commission.

Donnie H. Grimsley,

Director, Division of Freedom of Information and Publication Services, Office of Administration.

[FR Doc. 92-11396 Filed 5-13-92; 8:45 am]

BILLING CODE 7590-01-M

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Chapter I

#### Issuance of Quarterly Report on the Regulatory Agenda

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Issuance of Regulatory Agenda.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) has issued the NRC Regulatory Agenda for the third quarter, January through March, of 1992. This agenda provides the public with information about NRC's rulemaking activities. The Regulatory Agenda is a quarterly compilation of all rules on which the NRC has recently completed action, or has proposed action, or is considering action, and of all petitions for rulemaking that the NRC has received that are pending disposition.

**ADDRESSES:** A copy of this report, designated NRC Regulatory Agenda (NUREG-0936) Vol. 11, No. 1, is available for inspection, and copying for a fee, at the Nuclear Regulatory Commission's Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

In addition, the U.S. Government Printing Office (GPO) sells the NRC Regulatory Agenda. To purchase it, a customer may call (202) 512-2303 or (202) 512-2249 or write to the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013-7082.

**FOR FURTHER INFORMATION CONTACT:** Michael T. Lesar, Chief, Rules Review Section, Rules and Directives Review Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: (301) 492-7758, toll-free number (800) 368-5642.

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 821

[Docket No. 91N-0296]

#### Medical Devices; Device Tracking; Correction

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

**ACTION:** Proposed rule; correction.

**SUMMARY:** The Food and Drug Administration (FDA) is correcting a proposed rule that appeared in the Federal Register of March 27, 1992 (57 FR 10702), that proposed regulations to establish a device tracking requirement for certain categories of devices. The document was published with various inadvertent errors. This document corrects those errors.

**DATES:** Written comments by May 26, 1992.

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

**FOR FURTHER INFORMATION CONTACT:** Ronald D. Ross, Center for Devices and Radiological Health (HFZ-84), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4874.

In FR Doc. 92-7074, appearing on page 10702 in the Federal Register of Friday, March 27, 1992, the following corrections are made:

1. On page 10702, in the third column, in the last paragraph, beginning in line 4, "(Refs. 1 through 7)" is corrected to read "(Refs. 7 through 14)".

2. On page 10707, in the second column, under figure 2, in the first complete paragraph, in line 13, "but" is removed, and in line 14, "the" is removed.

3. On page 10708, in the first column, line 31, the phrase "with absence of adequate clinical data" is corrected to read "with the absence of adequate clinical data"; and in the third column, under item "C," in the first paragraph, in the last line, "820.14" is corrected to read "820.121".

4. On page 10711, in the first column, under item "4," in the first paragraph, in line 1, "821.35(d)" is corrected to read "§ 821.25(d)".

5. On page 10713, in the third column, in the second full paragraph, in line 11, the word "them" is added after the word "direct".

#### § 821.1 [Corrected]

6. On page 10714, in the third column, in § 821.1 Scope, in paragraph (e), in the fourth line from the bottom of the paragraph, "501(t)" is corrected to read "502(t)".

Dated: May 7, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92-11270 Filed 5-13-92; 8:45 am]

BILLING CODE 4160-01-F

## DEPARTMENT OF STATE

### Office of the Legal Adviser

#### 22 CFR Part 172

[Public Notice 1624]

#### Litigation: Service of Process; Production of Official Information and Testimony of Department of State Employees as Witnesses

**AGENCY:** Office of the Legal Adviser, DOS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This proposed rule would establish or clarify policies, practices, responsibilities, and procedures for the service of legal process upon the DOS, its officers, and employees and the production of official DOS information and the appearance of and testimony by DOS employees as witnesses in connection with litigation. This rule is procedural in nature. Although not required to do so, the Department of State is voluntarily publishing this proposed rule for public comment.

**DATES:** Written comments must be received on or before June 15, 1992.

**ADDRESSES:** Interested persons are invited to submit comments to: The Office of the Legal Adviser, Department of State, Washington, DC 20520-6310.

**FOR FURTHER INFORMATION CONTACT:** Jim Hergen, Assistant Legal Adviser, [202] 647-3044.

**SUPPLEMENTARY INFORMATION:**

**General**

This proposed rule is intended to clarify DOS policies and practices regarding litigation-related matters such as service of process upon the Department and Department employees and the production of official Department information in litigation. The Department anticipates that the rule, which generally parallels similar rules which have been adopted by numerous other federal agencies, e.g., the Department of Defense (32 CFR part 97), the Department of Justice (28 CFR part 16, subpart B), the Federal Trade Commission (16 CFR part 4), the Nuclear Regulatory Commission (10 CFR part 9, subpart D), will eliminate or reduce current ambiguities regarding such matters for Department of State employees as well as for private attorneys and judicial and quasi-judicial authorities. The Department also expects that this rule will promote consistency in the Agency's assertions of privileges and objections, thereby reducing the potential for both inappropriate, potentially harmful disclosure of protected information and wasteful or inappropriate allocation of agency resources. Although the proposed rule is largely self-explanatory, we describe the general scheme of the several subsections below for the readers' ease of reference.

**Service of Process**

Although 5 CFR part 581 app. A, already establishes the Executive Office of the Office of the Legal Adviser ("L/EX") as the designated office for the service of process upon the Department, the Department believes that it would be helpful to repeat this designation in the new Part relating to litigation-related information requests or demands and to clarify that L/EX's role as the sole Department recipient for litigation-related demands extends beyond civil summonses to all other litigation-related demands, whether civil or criminal, for official Department information, whether oral or documentary, or for other Department action. The proposed rule also clarifies that the Department is not an agent for service on behalf of its employees in respect of purely private

legal disputes, and explains that the Department will counsel its employees not to use their official positions to evade judicial process.

**Compliance with Requests or Demands for Official Information**

Fundamentally, the compliance sections of the proposed rule (§§ 172.4-172.9) simply track, to a greater or lesser degree, similar regulations which have been adopted by other federal agencies (see illustrations *supra*), and which derive from the Supreme Court's decision in *United States ex rel. Touhy v. Ragen*, 340 U.S. 462 (1951). Thus, the principal thrust of the compliance provisions of the proposed rule is that Department of State employees (including former employees) must obtain the approval of the Department's Director General of the Foreign Service and Director of Personnel (M/DGP), the Legal Adviser, or, in specified cases, the Assistant Secretary for Consular Affairs, or the delegates of such Department officials, prior to responding to any subpoenas or other litigation-related requests or demands for Department information, whether classified or unclassified, that relate to the employee's official duties.

Significantly, § 172.5 requires the party who initiates a litigation-related request or demand for official Department information to provide a written statement providing specified information concerning the nature and scope of the demand.

Finally, the proposed rule describes factors, among others, that Department officials shall take into consideration when considering litigation-related requests or demands and specifies that Department employees may ordinarily not provide expert or official testimony on behalf of private parties. 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. This proposed rule imposes no reporting or record-keeping action from the public requiring the approval of the Office of Management and Budget under the Paperwork Reduction Act requirements.

**List of Subjects in 22 CFR Part 172**

Service of Process, Subpoenas, Litigation, Discovery, Expert witnesses.

Accordingly, DOS proposes to amend 22 CFR by adding a new part 172 as follows:

**PART 172—SERVICE OF PROCESS; PRODUCTION OR DISCLOSURE OF OFFICIAL INFORMATION IN RESPONSE TO COURT ORDERS, SUBPOENAS, NOTICES OF DEPOSITIONS, REQUESTS FOR ADMISSIONS, INTERROGATORIES, OR SIMILAR REQUESTS OR DEMANDS IN CONNECTION WITH FEDERAL OR STATE LITIGATION: EXPERT TESTIMONY**

**Sec.**

- 172.1 Purpose and scope; definitions.
- 172.2 Service of summonses and complaints.
- 172.3 Service of subpoenas, court orders, and other demands or requests for official information or action.
- 172.4 Testimony and production of documents prohibited unless approved by appropriate Department officials.
- 172.5 Procedure when testimony or production of documents is sought—general.
- 172.6 Procedure when response to demand is required prior to receiving instructions.
- 172.7 Procedure in the event of an adverse ruling.
- 172.8 Considerations in determining whether the Department will comply with a demand or request.
- 172.9 Prohibition on providing expert or opinion testimony.

**Authority:** 5 U.S.C. 301, 22 U.S.C. 2658, 2664, 3926; 8 U.S.C. 1202(f).

**§ 172.1 Purpose and scope; definitions.**

(a) This Part sets forth the procedures to be followed with respect to:

(1) service of summonses and complaints or other requests or demands directed to the Department of State ("Department") or to any Department employee or former employee in connection with federal or state litigation arising out of or involving the performance of official activities of the Department; and

(2) the oral or written disclosure, in response to subpoenas, orders, or other requests or demands of federal or state judicial or quasi-judicial authority (collectively, "demands"), whether civil or criminal in nature, or in response to requests for depositions, affidavits, admissions, responses to interrogatories, document production, or other litigation-related matters, pursuant to the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, or applicable state rules (collectively, "requests"), of any material contained in the files of the Department, any information relating to material contained in the files of the Department, or any information acquired while the subject of the demand or request is or was an employee of the Department as part of the performance of the person's

duties or by virtue of the person's official status.

(b) For purposes of this part, and except as the Department may otherwise determine in a particular case, the term *employee* includes the Secretary and former Secretaries of State, and all employees and former employees of the Department of State or other federal agencies who are or were appointed by, or subject to the supervision, jurisdiction, or control of the Secretary of State or his Chiefs of Mission, whether residing or working in the United States or abroad, including United States nationals, foreign nationals, and contractors.

(c) For purposes of this part, the term *litigation* encompasses all pre-trial, trial, and post-trial stages of all judicial or administrative actions, hearings, investigations, or similar proceedings before courts, commissions, boards (including the Board of Appellate Review), or other judicial or quasi-judicial bodies or tribunals, whether criminal, civil, or administrative in nature. This part governs, *inter alia*, responses to discovery requests, depositions, and other pre-trial, trial, or post-trial proceedings, as well as responses to informal requests by attorneys or others in situations involving litigation. However, this part shall not apply to any claims by Department of State employees (present or former), or applicants for Department employment, for which jurisdiction resides with the U.S. Equal Employment Opportunity Commission; the U.S. Merit Systems Protection Board; the Office of Special Counsel; the Federal Labor Relations Authority; the Foreign Service Labor Relations Board; the Foreign Service Grievance Board; or a labor arbitrator operating under a collective bargaining agreement between the Department and a labor organization representing Department employees; or their successor agencies or entities.

(d) For purposes of this part, *official information* means all information of any kind, however stored, that is in the custody and control of the Department, relates to information in the custody and control of the Department, or was acquired by Department employees as part of their official duties or because of their official status within the Department while such individuals are employed by or served on behalf of the Department.

(e) Nothing in this part affects disclosure of information under the Freedom of Information Act (FOIA), 5 U.S.C. 552, the Privacy Act, 5 U.S.C. 552a, Executive Order 12356 on national security information (or successor order thereto), the Government in the

Sunshine Act, 5 U.S.C. 552b, the Department's implementing regulations in 22 CFR part 171 or pursuant to congressional subpoena. Nothing in this Part otherwise permits disclosure of information by the Department or its employees except as provided by statute or other applicable law.

(f) This part is intended only to inform the public about Department procedures concerning the service of process and responses to demands or requests and is not intended to and does not create, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law by a party against the Department of the United States.

(g) Nothing in this part affects:

(1) the disclosure of information during the course of legal proceedings in non-United States courts, commissions, boards, or other judicial or quasi-judicial bodies or tribunals, or

(2) the rules and procedures, under applicable U.S. law and international conventions, governing diplomatic and consular immunity.

(h) Nothing in this part affects the disclosure of official information to other federal agencies or Department of Justice attorneys in connection with litigation conducted on behalf or in defense of the United States, its agencies, officers, and employees, or to federal, state, local, or foreign prosecuting and law enforcement authorities in conjunction with criminal law enforcement investigations, prosecutions, or other proceeding, *e.g.*, extradition, deportation.

#### § 172.2 Service of summonses and complaints.

(a) Only the Executive Office of the Office of the Legal Adviser ("L/EX") is authorized to receive and accept summonses or complaints sought to be served upon the Department or Department employees. All such documents should be delivered or addressed to The Executive Office, Office of the Legal Adviser, room 5519, United States Department of State, 2201 C Street, NW, Washington, DC 20520-6310.

(b) In the event any summons or complaint described in § 172.1(a) is delivered to an employee of the Department other than in the manner specified in this part, such attempted service shall be ineffective, and the recipient thereof shall either decline to accept the proffered service or return such document under cover of a written communication which directs the person attempting to make service to the procedures set forth herein.

(c) Except as otherwise provided in §§ 172.2(d) and 173.3(c), the Department is not an authorized agent for service of process with respect to civil litigation against Department employees purely in their personal, non-official capacity. Copies of summonses or complaints directed to Department employees in connection with legal proceedings arising out of the performance of official duties may, however, be served upon L/EX.

(d) Although the Department is not an agent for the service of process upon its employees with respect to purely personal, non-official litigation, the Department recognizes that its employees stationed overseas should not use their official positions to evade their personal obligations and will, therefore, counsel and encourage Department employees to accept service of process in appropriate cases, and will waive applicable diplomatic or consular privileges and immunities when the Department determines that it is in the interest of the United States to do so.

(e) Documents for which L/EX accepts service in official capacity only shall be stamped "Service Accepted in Official Capacity Only". Acceptance of service shall not constitute an admission or waiver with respect to jurisdiction, propriety of service, improper venue, or any other defense in law or equity available under the laws of rules applicable for the service of process.

#### § 172.3 Service of subpoenas, court orders, and other demands or requests for official information or action.

(a) Except in cases in which the Department is represented by legal counsel who have entered an appearance or otherwise given notice of their representation, only L/EX is authorized to receive and accept subpoenas, or other demands or requests directed to the Department, or any component thereof, or its employees, or former employees, whether civil or criminal in nature, for:

(1) Material, including documents, contained in the files of the Department;

(2) Information, including testimony, affidavits, declarations, admissions, response to interrogatories, or informal statements, relating to material contained in the files of the Department or which any Department employee acquired in the course and scope of the performance of his official duties;

(3) Garnishment or attachment of compensation of current or former employees; or

(4) The performance or non-performance of any official Department duty.

(b) In the event that any subpoena, demand, or request is sought to be delivered to a Department employee (including former employees) other than in the manner prescribed in paragraph (a) of this section, such attempted service shall be ineffective. Such employee shall, after consultation with the Office of the Legal Adviser, decline to accept the subpoena, demand or request or shall return them to the server under cover of a written communication referring to the procedures prescribed in this part.

(c) Except as otherwise provided in this part, the Department is not an agent for service, or otherwise authorized to accept on behalf of its employees any subpoenas, show-cause orders, or similar compulsory process of federal or state courts, or requests from private individuals or attorneys, which are not related to the employees' official duties except upon the express, written authorization of the individual Department employee to whom such demand or request is directed.

(d) Acceptance of such documents by L/EX does not constitute a waiver of any defenses that might otherwise exist with respect to service under the Federal Rules of Civil or Criminal Procedure or other applicable rules.

**§ 172.4 Testimony and production of documents prohibited unless approved by appropriate Department officials.**

(a) No employee of the Department shall, in response to a demand or request in connection with any litigation, whether criminal or civil, provide oral or written testimony by deposition, declaration, affidavit, or otherwise concerning any information acquired while such person is or was an employee of the Department as part of the performance of that person's official duties or by virtue of that person's official status, unless authorized to do so by the Director General of the Foreign Service and Director of Personnel (M/DGP) or the Legal Adviser (L), or delegates of either, following consultation between the two bureaus, or as authorized in § 172.4(b).

(b) With respect to the official functions of the Passport Office, the Visa Office and the Office of Citizens Services, the Assistant Secretary of State for Consular Affairs or delegate thereof may, subject to concurrence by the Office of the Legal Adviser, authorize employees to provide oral or written testimony.

(c) No employees shall, in response to a demand or request in connection with any litigation, produce for use at such proceedings any document or any material acquired as part of the

performance of that employee's duties or by virtue of that employee's official status, unless authorized to do so by the Director General of the Foreign Service and Director of Personnel, the Legal Adviser, or the Assistant Secretary of State for Consular Affairs, or the delegates thereof, as appropriate, following consultations between the concerned bureaus.

**§ 172.5 Procedure when testimony or production of documents is sought—general.**

(a) If official Department information is sought, through testimony or otherwise, by a request or demand, the party seeking such release or testimony must (except as otherwise required by federal law or authorized by the Office of the Legal Adviser) set forth in writing, and with as much specificity as possible, the nature and relevance of the official information sought. Where documents or other materials are sought, the party should provide a description using the types of identifying information suggested in 22 CFR 171.10(a) and 171.31. Subject to § 172.7, Department employees may only produce, disclose, release, comment upon, or testify concerning those matters which were specified in writing and properly approved by the appropriate Department official designated in § 172.4. See *United States ex rel. Touhy v. Ragen*, 340 U.S. 462 (1951). The Office of the Legal Adviser may waive this requirement in appropriate circumstances.

(b) To the extent it deems necessary or appropriate, the Department may also require from the party seeking such testimony or documents a plan of all reasonably foreseeable demands, including but not limited to the names of all employees and former employees from whom discovery will be sought, areas of inquiry, expected duration of proceedings requiring oral testimony, and identification of potentially relevant documents.

(c) The appropriate Department official designated in § 172.4 will notify the Department employee and such other persons as circumstances may warrant of its decision regarding compliance with the request or demand.

(d) The Office of the Legal Adviser will consult with the Department of Justice regarding legal representation for Department employees in appropriate cases.

**§ 172.6 Procedure when response to demand is required prior to receiving instructions.**

(a) If a response to a demand is required before the appropriate

Department official designated in § 172.4 renders a decision, the Department will request that either a Department of Justice attorney or a Department attorney designated for the purpose.

(1) appear with the employee upon whom the demand has been made;

(2) furnish the court or other authority with a copy of the regulations contained in this Part;

(3) inform the court or other authority that the demand has been, or is being, as the case may be, referred for the prompt consideration of the appropriate Department official; and,

(4) respectfully request the court or authority to stay the demand pending receipt of the requested instructions.

(b) In the event that an immediate demand for production or disclosure is made in circumstances which would preclude the proper designation or appearance of a Department of Justice or Department attorney on the employee's behalf, the employee shall respectfully request the demanding court or authority for a reasonable stay of proceedings for the purpose of obtaining instructions from the Department.

**§ 172.7 Procedure in the event of an adverse ruling.**

If the court or other judicial or quasi-judicial authority declines to stay the effect of the demand in response to a request made pursuant to § 172.6, or if the court or other authority rules that the demand must be complied with irrespective of the Department's instructions not to produce the material or disclose the information sought, the employee upon whom the demand has been made shall respectfully decline to comply with the demand, citing these regulations and *United States ex rel. Touhy v. Ragen*, 340 U.S. 463 (1951).

**§ 172.8 Considerations in determining whether the Department will comply with a demand or request.**

(a) In deciding whether to comply with a demand or request, Department officials and attorneys shall consider, among others:

(1) Whether such compliance would be unduly burdensome or otherwise inappropriate under the applicable rules of discovery or the rules of procedure governing the case or matter in which the demand arose;

(2) Whether compliance is appropriate under the relevant substantive law concerning privilege or disclosure of information;

(3) The public interest;

(4) The need to conserve the time of Department employees for the conduct of official business;

(5) The need to avoid spending the time and money of the United States for private purposes;

(5) The need to avoid spending the time and money of the United States for private purposes;

(6) The need to maintain impartiality between private litigants in cases where a substantial government interest is not implicated;

(7) Whether compliance would have an adverse effect on performance by the Department of its mission and duties; and,

(8) The need to avoid involving the Department in controversial issues not related to its mission.

(b) Among those demands and requests in response to which compliance will not ordinarily be authorized are those with respect to which, *inter alia*, any of the following factors exist:

(1) Compliance would violate a statute or a rule of procedure;

(2) Compliance would violate a specific regulation or executive order;

(3) Compliance would reveal information properly classified in the interest of national security;

(4) Compliance would reveal confidential commercial or financial information or trade secrets without the owner's consent;

(5) Compliance would reveal the internal deliberative processes of the Executive Branch; or,

(6) Compliance would potentially impede or prejudice an on-going law enforcement investigation.

#### § 172.9 Prohibition on providing expert or opinion testimony.

(a) Except as provided in this section, and subject to 5 CFR 2635.805, Department employees shall not provide opinion or expert testimony based upon information which they acquired in the scope and performance of their official Department duties, except on behalf of the United States or a party represented by the Department of Justice.

(b) Upon a showing by the requestor of exceptional need or unique circumstances and that the anticipated testimony will not be adverse to the interests of the United States, the appropriate Department official designated in § 172.4 may, consistent with 5 CFR 2635.805, in their discretion and with the concurrence of the Office of the Legal Adviser, grant special, written authorization for Department employees to appear and testify as expert witnesses at no expense to the United States.

(c) If, despite the final determination of the appropriate Department official designated in § 172.4, a court of competent jurisdiction or other appropriate authority orders the appearance and expert or opinion testimony of a Department employee, such employee shall immediately inform the Office of the Legal Adviser of such order. If the Office of the Legal Adviser determines that no further legal review of or challenge to the court's order will be made, the Department employee shall comply with the order. If so directed by the Office of the Legal Adviser, however, the employee shall respectfully decline to testify. See *United States ex rel. Touhy v. Ragen*, 340 U.S. 462 (1951).

Dated: April 24, 1992.  
Edwin D. Williamson,  
Legal Adviser.  
[FR Doc. 92-11298 Filed 5-13-92; 8:45 am]  
BILLING CODE 4710-08-M

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[INTL-0001-92]

RIN 1545-AQ43

#### Application of Section 904 to Income Subject to Separate Limitations and Section 864(e) Affiliated Group Expense Allocation and Apportionment Rules

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document contains proposed Income Tax Regulations relating to the section 864(e) (5) and (6) affiliated group interest and other expense allocation and apportionment rules and the section 904(d) foreign tax credit limitation. Changes to the applicable law were made by the Tax Reform Act of 1986 and the Technical and Miscellaneous Revenue Act of 1988. These regulations would provide guidance needed to comply with these changes and would affect individuals and corporations claiming foreign tax credits.

**DATES:** Comments and requests for public hearing must be received by July 13, 1992.

**ADDRESSES:** Send comments and requests for a public hearing to: Internal Revenue Service, Attention: CC:CORP:T:R (INTL-0001-92), room 5228, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

**FOR FURTHER INFORMATION CONTACT:** David F. Bergquist regarding section 864(e)(5), Carl M. Cooper regarding section 864(e)(6), and Caren Silver Shein regarding section 904(d), all of the Office of Associate Chief Counsel (International), within the Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224 (attention: CC:CORP:T:R (INTL-0001-92)) (202-566-6442 (David F. Bergquist), 202-566-6645 (Carl M. Cooper), and 202-566-3452 (Caren Silver Shein), not toll-free calls).

#### SUPPLEMENTARY INFORMATION:

##### Background

On September 14, 1988, the Internal Revenue Service published in the *Federal Register* temporary regulations (53 FR 35467) and a notice of proposed rulemaking by cross-reference to the temporary regulations (53 FR 35525) under section 864(e) of the Internal Revenue Code of 1986. The regulations concern the allocation and apportionment of interest expense and certain other expenses. These regulations propose to amend §§ 1.861-9(h)(5), 1.861-11(d) (1), (2) and (6) and 1.861-14(d) (1) and (2), previously proposed by cross-reference to the temporary regulations. The corresponding temporary regulations remain in effect as published in the *Federal Register* in 1988.

On August 26, 1987, the Internal Revenue Service published in the *Federal Register* proposed amendments to the Income Tax Regulations (26 CFR part 1) under section 904 of the Internal Revenue Code of 1954 (52 FR 32242). On July 18, 1988, the Internal Revenue Service published in the *Federal Register* final regulations under section 904 of the Internal Revenue Code of 1986 (53 FR 27006). The regulations provided rules for determining a taxpayer's foreign tax credit limitations under section 904(d) and conformed the regulations to the Tax Reform Act of 1986 (Pub. L. 99-514, 100 Stat. 2085). The proposed regulations reflected proposed technical corrections. Because the technical corrections bill had not been enacted as of July 18, 1988, portions of the final regulations were reserved. The reserved portions are being added in a separate document (T.D. 8412) to conform the regulations to section 1012 of the Technical and Miscellaneous Revenue Act of 1988 (Pub. L. 100-647, 102 Stat. 3342). Because the reserved sections were proposed in 1987, they are being issued as final regulations, along with clarifying and correcting amendments to the final regulations. Other amendments that were not

proposed in 1987 also are proposed to be made to the final regulations. They are the subject of this notice of proposed rulemaking.

#### Effective Dates

These regulations are proposed to be effective for taxable years beginning after December 31, 1991.

#### Explanation of Provisions

##### *Sections 1.861-9, 1.861-11 and 1.861-14*

Section 864(e)(5) and (6) and the temporary and proposed regulations under section 864(e) provide that a section 936 corporation is a member of the affiliated group (as defined in section 1504(a)) for purposes of allocating and apportioning interest expense and certain other expenses. See §§ 1.861-11T (d)(2) and 1.861-14T (d)(2). Thus, for purposes of apportioning interest on the basis of assets and certain other expenses on the basis of assets (or other measures such as gross income), the assets (or other measures) of the section 936 corporation are taken into account. Because the assets of a section 936 corporation produce primarily foreign source general limitation income, the effect of taking these assets (rather than the stock of the section 936 corporation held by any affiliated U.S. corporation) into account will be to increase the proportion of interest that is apportioned to foreign source general limitation income. See § 1.861-9T (g)(3). Similarly, for purposes of apportioning expenses other than interest on the basis of, for example, gross income pursuant to § 1.861-14T, income earned by the section 936 corporation is taken into account (rather than any dividends paid by the section 936 corporation to an affiliated U.S. corporation). Because a section 936 corporation earns primarily foreign source general limitation income, the effect of taking the section 936 corporation's income into account is to increase the proportion of an expense that is allocated and apportioned to foreign source general limitation income.

Pursuant to section 904(d)(2)(A) and § 1.904-5, dividends paid by a section 936 corporation to an affiliated U.S. corporation are characterized as foreign source passive income. For regular tax purposes, the recipient corporation is entitled to a 100 percent dividends received deduction under section 243. For alternative minimum tax ("AMT") purposes, however, the dividends received deduction is disallowed in computing adjusted current earnings to the extent the dividend is attributable to income of the section 936 corporation that is exempt from U.S. tax by virtue of

the section 936 credit. See section 56(g)(4)(C). Thus, a U.S. corporation that receives dividends from an affiliated section 936 corporation will be required to include all or a substantial portion of such dividends in adjusted current earnings for AMT purposes, and will be required to characterize the dividends as foreign source passive income for purposes of computing the AMT foreign tax credit under section 59(a).

The proposed amendments to §§ 1.861-11 and 1.861-14 exclude a section 936 corporation from the affiliated group solely for purposes of allocating and apportioning interest and certain other expenses for AMT purposes. The proposed amendment to § 1.861-9 clarifies that, as a result of this exclusion, the stock of a section 936 corporation is taken into account as an asset of the affiliated group for purposes of asset-based apportionment (solely for AMT purposes). Further, the section 936 corporation's stock will be characterized (solely for AMT purposes) as an asset that produces foreign source passive income because dividends paid by a section 936 corporation are so characterized under section 904(d)(2)(A) and § 1.904-5. For purposes of apportioning affiliated group expenses other than interest by reference to, for example, gross income under § 1.861-14T, the income that is taken into account by the affiliated group with respect to its ownership of the section 936 corporation stock will be (solely for AMT purposes) the foreign source passive dividends received from the section 936 corporation, rather than any foreign source general limitation income (or other income) earned by the section 936 corporation itself.

The intended result of the proposed amendments is to increase the proportion of interest and certain other expenses apportioned to foreign source passive income, and to reduce the proportion of those expenses apportioned to foreign source general limitation income, in each case solely for AMT purposes. These adjustments are intended to mitigate, for taxpayers subject to the AMT, the effect of the treatment of dividends paid by a section 936 corporation as foreign source passive income.

##### *Section 1.904-4*

A commenter suggested that we expand the active rents and royalties rule in § 1.904-4(b)(2) to include related person payments. The Internal Revenue Service is considering the issue and requests comments.

The grouping rules for purposes of testing passive income to determine whether it is high-taxed are revised. A

new group has been added to § 1.904-4(c)(3) and the scope of the group defined in paragraph (c)(3)(iii) has been revised. Revised paragraph (c)(3)(iii) will apply to income subject to no foreign withholding tax or other foreign tax, while income subject to no foreign withholding tax but subject to a foreign tax other than a withholding tax will fall within new paragraph (c)(3)(iv).

Section 1.904-4(c)(6)(iv) is added to conform the regulations under section 904(d) to section 959(e) and section 960(b). Paragraph (c)(6)(iv) provides grouping rules applicable to increases in tax paid by successors. If an item or income is not considered to be high-taxed in the year the controlled foreign corporation includes it in income and the corporation distributes that income to a person that was not a United States shareholder in the year of inclusion, then any increase in tax paid or accrued by the United States shareholder on the distribution will be grouped under one of two rules. If the United States shareholder is entitled to look-through treatment on pre-acquisition earnings and profits, the taxes will be treated as relating to the general limitation income of the corporation. If the United States shareholder is not entitled to look-through treatment with respect to pre-acquisition earnings and profits, the taxes will be treated as relating to the noncontrolled section 902 income of the corporation. Proposed § 1.904(g)(3) and section 902 and the regulations under that section will govern whether a taxpayer is entitled to look-through treatment with respect to pre-acquisition earnings and profits.

Section 1.904-4(e)(3)(ii) is amended in response to a comment. Currently, the regulations require, for purposes of determining whether an affiliated group as a whole meets the requirements for financial services entity status, that the gross income of all members of the affiliated group (as defined in section 1504(a) without regard to the section 1504(b)(3) exclusion of foreign corporations) be included. A commenter noted that if an affiliated group consists of a foreign parent with chains of U.S. and foreign subsidiaries, it may be difficult to obtain information to determine whether the foreign corporations have active financing income, and if so how much. Therefore, the proposed regulations provide that the affiliated group test shall be applied by counting only those members of the affiliated group that are U.S. corporations and controlled foreign corporations in which members of the affiliated group who are United States

shareholders own at least 80 percent of the stock.

Section 1.904-4(g)(3) is revised to reflect the Technical and Miscellaneous Revenue Act of 1988 amendment to section 904(d)(2)(E)(i). Currently, paragraph (g)(3)(i) provides that a controlled foreign corporation shall be treated as a noncontrolled section 902 corporation with respect to distributions out of periods when the controlled foreign corporation was not a controlled foreign corporation. Proposed paragraph (g)(3)(ii) provides that if a controlled foreign corporation distributes a dividend to an upper-tier controlled foreign corporation or to a United States shareholder that owns directly or indirectly more than 90 percent of the total combined voting power of the controlled foreign corporation at the time of the distribution, and the dividend is attributable to earnings and profits accumulated during a period in which the distributing corporation was a controlled foreign corporation but the more than 90 percent United States shareholder of the corporation, the dividend shall be treated as a dividend from a noncontrolled section 902 corporation. However, the rule does not apply to certain intra-group transfers.

#### Section 1.904-5

The definition of controlled group in § 1.904-5(a)(3) is amended to provide that the controlled group is any member of the affiliated group within the meaning of section 1504(a)(1) except that more than 50 percent is substituted for at least 80 percent in section 1504(a)(2). The change from 50 percent to more than 50 percent is intended to simplify the regulations by coordinating the ownership provisions throughout the section 904(d) regulations and conforming these regulations to the definition of controlled foreign corporation under section 957.

With regard to the definition of "related person", paragraphs (g), (h)(4), and (i)(1) of § 1.904-5 are amended by replacing all of the references to "50 percent or more" and "50 percent" ownership with "more than 50 percent" ownership. These amendments are intended to simplify the regulations and conform the definition of related person for purposes of section 904(d) to the definition of that term in section 954(d)(3).

A new § 1.904-5(i)(3) is added to address a problem caused by the definition of related party in paragraph (i)(1). Under paragraph (i)(1), a United States shareholder owning more than ten percent but not more than fifty percent of a lower-tier controlled foreign corporation is not entitled to look-

through treatment on a dividend distributed through an upper-tier controlled foreign corporation, but can obtain look-through treatment on a subpart F inclusion (including an investment in U.S. property) from the lower-tier controlled foreign corporation. To provide equal treatment for dividends and subpart F inclusions and to eliminate a trap for the unwary, new paragraph (i)(3) provides, solely for purposes of dividend distributions, that a United States shareholder owning more than ten percent of both the controlled foreign corporation paying the dividend and the controlled foreign corporation receiving the dividend will be entitled to look-through treatment.

#### Special Analyses

It has been determined that these proposed rules 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 therefore, an initial Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

#### Comments and Request for Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted timely (preferably a signed original and eight copies) to the Internal Revenue Service. All comments will be available for public inspection and copying. A public hearing will be held upon written request by any person who submits written comments on the proposed rules. Notice of the time and place for the hearing will be published in the *Federal Register*.

#### Drafting Information

The principal authors of the proposed regulations are David F. Bergkuist (regulations under section 864(e)(5)), Carl M. Cooper (regulations under section 864(e)(6)), and Caren Silver Shein (regulations under section 904(d)), all of the Office of Associate Chief Counsel (International), within the Office of Chief Counsel, Internal Revenue Service. Other personnel from the Internal Revenue Service and Treasury Department participated in developing the regulations.

#### List of Subjects in 26 CFR 1.861-1 through 1.907(f)-1A

Aliens, Foreign investment in the U.S., Income taxes, Reporting and recordkeeping requirements, United States investments abroad.

#### Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

#### PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

**Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

**Authority:** 26 U.S.C. 7805 \* \* \* Section 1.861-8 through 1.861-14 also issued under 26 U.S.C. 863(a), 26 U.S.C. 864(e), 26 U.S.C. 865(i), and 26 U.S.C. 7701(f). \* \* \*

**Par. 2.** Section 1.861-9 is proposed to be added. This proposal adds two sentences at the end of paragraph (h)(5). Paragraph (h)(5), as now proposed, is set forth in full to read as follows:

#### § 1.861-9 Allocation and apportionment of interest expense.

(a)-(h)(4) [Reserved].

(h)(5) *Characterizing stock in related persons.* Stock in a related person held by the taxpayer or by another related person shall be characterized on the basis of the fair market value of the taxpayer's pro rata share of assets held by the related person attributed to each statutory grouping and the residual grouping under the stock characterization rules of § 1.861-12T(c)(3)(ii), except that the portion of the value of intangible assets of the taxpayer and related persons that is apportioned to the related person under paragraph (h)(2) of this section shall be characterized on the basis of the net income before interest expense of the related person within each statutory grouping or residual grouping (excluding income that is passive under § 1.904-4(b)). For purposes of characterizing stock in a related section 938 corporation in determining foreign source alternative minimum taxable income within each separate category and the alternative minimum tax foreign tax credit pursuant to section 59(a), the rules of paragraph (g)(3) of this section shall apply and this paragraph (h)(5) shall not apply. Thus, stock in a related section 938 corporation would be characterized as a foreign source passive asset because the stock produces foreign source passive dividend income under section 904

(d)(2)(A) and the regulations under that section.

(h)(6)-(j) [Reserved].

Par. 3. Section 1.861-11 is proposed to be added.

This proposal:

1. Adds a phrase at the end of the first sentence of paragraph (d)(1);
2. Revises paragraph (d)(2)(i);
3. Adds a new heading and introductory text preceding the word "Example" in paragraph (d)(2)(ii);
4. Amends paragraph (d)(2)(ii), paragraph (B) of the *Example* by revising the heading and adding a sentence at the beginning of the text.

5. Adds paragraph (d)(2)(ii), paragraph (C) of the *Example*.

6. Adds a new sentence at the end of the concluding text of paragraph (d)(6).

Paragraphs (d)(1), (d)(2), and the concluding text of paragraph (d)(6), as now proposed, are set forth in full to read as follows:

**§ 1.861-11 Special rules for allocating and apportioning interest expense of an affiliated group of corporations.**

(a)-(c) [Reserved].

(d) *Definition of affiliated group*—(1)

*General rule.* For purposes of this section, in general, the term "affiliated group" has the same meaning as is given that term by section 1504, except that section 936 companies are also included within the affiliated group to the extent provided in paragraph (d)(2) of this section. Section 1504(a) defines an affiliated group as one or more chains of includible corporations connected through 80-percent stock ownership with a common parent corporation which is an includible corporation (as defined in section 1504(b)). In the case of a corporation that either becomes or ceases to be a member of the group during the course of the corporation's taxable year, only the interest expense incurred by the group member during the period of membership shall be allocated and apportioned as if all members of the group were a single corporation. In this regard, assets held during the period of membership shall be taken into account. Other interest expense incurred by the group member during its taxable year but not during the period of membership shall be allocated and apportioned without regard to the other members of the group.

(2) *Inclusion of section 936 corporations*—(i) *Rule*—(A) *In general.* Except as otherwise provided in paragraph (d)(2)(i)(B) of this section, the exclusion from the affiliated group of section 936 corporations (corporations with elections in effect under section 936(a)(1) for the taxable year) under

section 1504(b)(4) does not apply for purposes of this section. Thus, a section 936 corporation that meets the ownership requirements of section 1504(a) is a member of the affiliated group.

(B) *Exception.* The exclusion from the affiliated group of section 936 corporations under section 1504(b)(4) shall be operative for purposes of the application of this section solely in determining the amount of foreign source alternative minimum taxable income within each separate category and the alternative minimum tax foreign tax credit pursuant to section 59(a). Thus, a section 936 corporation that meets the ownership requirements of section 1504(a) is not a member of the affiliated group for purposes of determining the amount of foreign source alternative minimum taxable income within each separate category and the alternative minimum tax foreign tax credit pursuant to section 59(a).

(ii) *Example.* This example illustrates the provisions of paragraph (d)(2)(i) of this section.

*Example*—(A) *Facts.* X is the common parent of Y and Z. XY constitutes an affiliated group of corporations within the meaning of section 1504(a) and uses the tax book value method of apportionment. Y owns all of the stock of Z, a possessions corporation with respect to which an election under section 936 is in effect for the taxable year. Z manufactures widgets in Puerto Rico. Y purchases these widgets and markets them exclusively in the United States. Of the three corporations, only Z has foreign source income, which includes both qualified possessions source investment income and general limitation income. For purposes of section 904, Z's qualified possessions source investment income constitutes foreign source passive income. In computing the section 936 benefit, Y and Z have elected the cost sharing method. Of the three corporations, only X has debt and, thus, only X incurs interest expense.

(B) *Analysis for regular tax.* Assume first that X has no alternative minimum tax liability. As provided in paragraph (b)(2) of this section, section 864(e) (1) and (5) do not apply in the computation of benefits under section 936(h). The effect of including Z in the affiliated group relates to the fact that X, the only debtor corporation in the group, must, under the asset method described in § 1.861-9T(g), apportion a part of its interest expense to foreign source passive income and foreign source general limitation income. This is because the assets of Z that generate qualified possessions source investment income and general limitation income are included in computing the group apportionment fractions. The result is that, under section 904(f), X has an overall foreign loss in both the passive and general limitation categories, which currently offsets domestic income and must be recaptured against any subsequent years' foreign passive

income and general limitation income, respectively, under the rules of that section.

(C) *Analysis for alternative minimum tax.* Assume, alternatively, that X is liable to pay the alternative minimum tax. Pursuant to section 59(a), X must compute its alternative minimum tax foreign tax credit as if section 904 were applied on the basis of alternative minimum taxable income instead of taxable income. For purposes of the apportionment of interest expense in determining alternative minimum taxable income within each separate category, Z is not considered a member of the XY affiliated group. Thus, the stock (and not the assets) of Z is included in computing the group apportionment fractions. Pursuant to section 904(d)(2)(A) and the regulations under that section, dividends paid by a section 936 corporation are foreign source passive income. Thus, under § 1.861-9T(g)(3), the stock of Z must be considered attributable solely to the statutory grouping consisting of foreign source passive income. The effect of excluding Z from the affiliated group is that X must apportion a part of its interest expense to foreign source passive income in computing alternative minimum taxable income within each separate category. If, as a result, under section 904(f), X has a separate limitation loss or an overall foreign loss in the passive category for alternative minimum tax purposes, then that loss must be allocated against X's other income (separate limitation or United States source, as the case may be). The loss must be recaptured in subsequent years under the rules of section 904(f), in each case for alternative minimum tax purposes.

(d) (3)-(d)(6)(ii) [Reserved].

The attribution rules of section 318 shall apply in determining indirect ownership under this paragraph (d)(6). The Commissioner shall have the authority to disregard trust, partnerships, and pass-through entities that break affiliated status. Corporations described in this paragraph (d) (6) shall be considered to constitute members of an affiliated group that does not file a consolidated return and shall therefore be subject to the limitations imposed under paragraph (g) of this section. The affiliated group filing a consolidated return shall be considered to constitute a single corporation for purposes of applying the rules of paragraph (g) of this section. Paragraph (d) (6)(i) of this section shall not apply in determining foreign source alternative minimum taxable income within each separate category and the alternative minimum tax foreign tax credit pursuant to section 59(a) to the extent that such application would result in the inclusion of a section 936 corporation within the affiliated group.

(e)-(g) [Reserved].

Par. 4. Section 1.861-14 is proposed to be added. This proposal adds a phrase at the end of the first sentence of paragraph (d)(1) and revises paragraph

(d)(2). Paragraphs (d)(1) and (d)(2), as now proposed, are set out in full to read as follows:

**§ 1.861-14 Special rules for allocating and apportioning certain expenses (other than interest expense) of an affiliated group of corporations.**

(a)-(c) [Reserved].

(d) *Definition of affiliated group*—(1)

*General rule.* For purposes of this section, the term "affiliated group" has the same meaning as is given that term by section 1504, except that section 936 companies are also included within the affiliated group to the extent provided in paragraph (d)(2) of this section. Section 1504(a) defines an affiliated group as one or more chains of includible corporations connected through 80% stock ownership with a common parent corporation which is an includible corporation (as defined in section 1504(b)). In the case of a corporation that either becomes or ceases to be a member of the group during the course of the corporation's taxable year, only the expenses incurred by the group member during the period of membership shall be allocated and apportioned as if all members of the group were a single corporation. In this regard, the apportionment factor chosen shall relate only to the period of membership. For example, if apportionment on the basis of assets is chosen, the average amount of assets (tax book value or fair market value) for the taxable year shall be multiplied by a fraction, the numerator of which is the number of months of the corporation's taxable year during which the corporation was a member of the affiliated group, and the denominator of which is the number of months within the corporation's taxable year, if apportionment on the basis of gross income is chosen, account shall be taken of gross income generated only during the period of membership. If apportionment on the basis of units sold or sales receipts is chosen, account shall be taken of units sold or sales receipts only during the period of membership. Expenses incurred by the group member during its taxable year, but not during the period of membership, shall be allocated and apportioned without regard to other members of the group.

(2) *Inclusion of section 936 corporations*—(i) *General rule.* Except as otherwise provided in paragraph (d)(2)(ii) of this section, the exclusion from the affiliated group of section 936 corporations (corporations with elections in effect under section 936(a)(1) for the taxable year) under section 1504(b)(4) does not apply for purposes of this section. Thus, a section

936 corporation that meets the ownership requirements of section 1504(a) is a member of the affiliated group.

(ii) *Exception.* The exclusion from the affiliated group of section 936 corporations under section 1504(b)(4) shall be operative for purposes of the application of this section solely in determining the amount of foreign source alternative minimum taxable income within each separate category and the alternative minimum tax foreign tax credit pursuant to section 59(a). Thus, a section 936 corporation that meets the ownership requirements of section 1504(a) is not a member of the affiliated group for purposes of determining the amount of foreign source alternative minimum taxable income within each separate category and the alternative minimum tax foreign tax credit pursuant to section 59(a).

(d)(3)—(j) [Reserved].

Par. 5. Section 1.904-4 is amended as follows:

1. Paragraph (c)(3)(iii) is revised and a new paragraph (c)(3)(iv) is added.
2. Paragraph (c)(6)(iv) is revised.
3. Paragraph (e)(3)(ii) is amended by removing the first sentence and adding four sentences in its place.
4. In paragraph (e)(3)(iv), the text of *Example 2* is added.
5. The text of paragraphs (g)(3)(ii) through (iv) are added.
6. The revised and added provisions read as follows:

**§ 1.904-4 Separate application of section 904 with respect to certain categories of income.**

(c) \* \* \*  
(3) \* \* \*  
(iii) All passive income received during the taxable year that is subject to no withholding tax or other foreign tax shall be treated as one item of income.

(iv) All passive income received during the taxable year that is subject to no withholding tax but is subject to a foreign tax other than a withholding tax shall be treated as one item of income.

(6) \* \* \*  
(iv) *Increase in taxes paid by successors.* If, pursuant to paragraph (c)(6)(i) of this section, an item of income is considered to be high-taxed income in the year of inclusion and earnings and profits attributable to the inclusion are distributed to a person that was not a United States shareholder of the corporation in the year of inclusion, any increase in taxes paid or accrued, or deemed paid or accrued, on that distribution shall be treated as taxes related to general limitation income. If,

however, an item of income is not considered to be high-taxed income in the year of inclusion and earnings and profits attributable to the inclusion are distributed to a person that was not a United States shareholder of the corporation in the year of inclusion, any increase in taxes paid or accrued, or deemed paid or accrued, on that distribution shall be treated as taxes related to a separate category under the following rules—

(A) In the case of a United States shareholder entitled to look-through treatment with respect to pre-acquisition earnings and profits, the increase in taxes shall be treated as taxes related to the general limitation income of the corporation; and

(B) In the case of a United States shareholder not entitled to look-through treatment with respect to the pre-acquisition earnings and profits, the increase in taxes shall be treated as taxes related to the noncontrolled section 902 corporation income of the corporation.

For this purpose, pre-acquisition earnings and profits are earnings and profits earned when the United States shareholder was not a United States shareholder in the corporation. For rules concerning when a shareholder is entitled to look-through treatment with respect to pre-acquisition earnings and profits, see paragraph (g)(3) of this section and section 902 and the regulations under that section.

(e) \* \* \*  
(3) \* \* \*  
(ii) \* \* \* In the case of any corporation that is not a financial services entity under paragraph (e)(3)(i) of this section, but is a member of an affiliated group, such corporation will be deemed to be a financial services entity if the affiliated group as a whole meets the requirements of section (e)(3)(i) of this section. For purposes of this paragraph (e)(3)(ii), affiliated group means an affiliated group as defined in section 1504(a) without regard to section 1504(b)(3). In counting the income of the group for purposes of determining whether the groups meets the requirements of paragraph (e)(3)(i) of this section, however, only the income of group members that are United States corporations or foreign corporations that are controlled foreign corporations in which United States members of the affiliated group own, directly or indirectly, at least 80 percent of the stock shall be included. For purposes of this paragraph (a)(3)(ii), indirect ownership shall be determined under

section 318 and the regulations under that section. \* \* \*

(iv) \* \* \*

*Example 2.* Foreign corporation A, which is not a controlled foreign corporation, owns 100 percent of the stock of domestic corporation B, which owns 100 percent of the stock of domestic corporation C. A also owns 100 percent of the stock of foreign corporation D. D owns 100 percent of the stock of domestic corporation E, which owns 100 percent of the stock of controlled foreign corporation F. All of the corporations are members of an affiliated group within the meaning of section 1504(a) without regard to section 1504(b)(3). Pursuant to paragraph (e)(3)(ii) of this section, however, only the income of B, C, E and F is counted in determining whether the group meets the requirements of paragraph (e)(3)(i) of this section. For the 1992 taxable year, B's income consists of 95 of active financing income and 5 of passive non-active financing income. C has 40 of active financing income and 20 of passive non-active financing income. E has 70 of active financing income and 15 of passive non-active financing income. F has 10 of passive income. B and E qualify as financial services entities under the entity test of paragraph (e)(3)(i) of this section. Therefore, B and E are financial services entities without regard to whether the group as a whole is a financial services entity and all of the income of B and E shall be treated as financial services income. C and F do not qualify as a financial services entities under the entity test of paragraph (e)(3)(i) of this section. However, under the affiliated group test of paragraph (e)(3)(ii) of this section, C and F are financial services entities because at least 80 percent of the group's total income consists of active financing income (205 of active financing income is 80.4 percent of 255 total income). B's and E's passive income is not treated as active financing income for purposes of the affiliated group test of paragraph (e)(3)(ii) of this section even though it is treated as financial services income without regard to whether the group satisfies the affiliated group test. Once C and F are determined to be financial services entities under the affiliated group test, however, all of the passive income of the group is treated as financial services income. Thus, 100 percent of the income of B, C, E and F for 1992 is financial services income.

(g) \* \* \*

(3) \* \* \*

(ii) *Dividend distributions out of earnings and profits for a year during which a shareholder that is currently a more-than-90-percent United States shareholder was not a United States shareholder*—(A) If the following conditions are met, the rule in paragraph (g)(3)(ii)(B) of this section shall apply:

(1) The dividend is distributed by a controlled foreign corporation attributable to earnings and profits of a taxable year during which it was a controlled foreign corporation;

(2) The distribution is received by an upper-tier controlled foreign corporation or a United States shareholder that owns directly or indirectly at the time of the distribution, more than 90 percent of the total combined voting power of all classes of stock entitled to vote of the distributing controlled foreign corporation; and

(3) The more than 90 percent United States shareholder was not a United States shareholder at the time the distributed earnings and profits were accumulated (the "pre-acquisition period").

(B) If the foregoing conditions are met, a dividend shall be treated as a dividend from a noncontrolled section 902 corporation and the look-through rules of section 904 (d)(3) and § 1.904-5 shall not apply.

(C) If, however, the dividend recipient is a member of an affiliated group within the meaning of section 1504(a) without regard to section 1504(b)(3) and acquired its interest in the controlled foreign corporation from a member or members of the affiliated group, and the previous owner or owners were entitled to look-through treatment on distributions from the controlled foreign corporation, then the dividend recipient also shall be entitled to look-through treatment on distributions out of pre-acquisition earnings and profits. For purposes of determining whether the United States shareholder meets the requisite ownership requirements, the indirect stock ownership rules of sections 958 and 318 and the regulations under those sections shall apply.

(iii) *Ordering rule.* The determination whether a distribution from a controlled foreign corporation is attributable to earnings profits accumulated before the corporation was a controlled foreign corporation or during the pre-acquisition period shall be made on a last-in first-out (LIFO) basis. Thus, for example, a distribution shall be deemed made from the pool of earnings and profits attributable to the period after the recipient of the dividend acquired more than 90 percent ownership (post-acquisition undistributed earnings) to the extent of the earnings in that pool, and then from the most recently accumulated pre-acquisition earnings and profits. Earnings and profits accumulated in the taxable year in which the corporation became a controlled foreign corporation or the recipient of the dividend became a United States shareholder described in paragraph (g)(3)(ii) of this section of the controlled foreign corporation shall be considered earnings and profits accumulated after the corporation became a controlled foreign corporation

or the recipient of the dividend became a more than 90 percent United States shareholder.

(iv) *Examples.* The following examples illustrate the application of this paragraph (g)(3):

*Example 1.* P, a domestic corporation, owns 100 percent of the stock of U, a controlled foreign corporation. In 1992, P sells 100 percent of the stock of U to T, an unrelated domestic corporation. U pays a dividend to T in 1992 out of earnings and profits attributable to prior years. T is not related to P and P's ownership of U will not be attributed to T. The dividend to T in 1992 thus will be treated as a dividend from a noncontrolled section 902 corporation. In 1993, U pays a dividend to T out of current earnings and profits. T will be entitled to look-through treatment on the dividend.

*Example 2.* S is a foreign corporation formed in 1980. S is not a controlled foreign corporation. In 1992, P, a domestic corporation, acquires 60 percent of the stock of S. Thus for 1992 and subsequent years, S is a controlled foreign corporation. In 1992, S has no income and pays a dividend out of prior years' earnings and profits. Pursuant to paragraph (g)(3)(i) of this section, because S was not a controlled foreign corporation before 1992, the dividend to P will be treated as a dividend from a noncontrolled section 902 corporation.

*Example 3.* Domestic corporation P owns 95 percent of the stock of S, a controlled foreign corporation. Domestic corporation R owns the remaining 5 percent of the stock of S. In 1992, an unrelated domestic corporation, T, acquires P's 95 percent interest in S. In 1992, S has no income and pays a dividend out of prior years' earnings and profits. Pursuant to paragraph (g)(3)(ii) of this section, because T was not a United States shareholder of S before 1992, the dividend will be treated as a dividend from a noncontrolled section 902 corporation. The dividend to R will be treated as passive income because R owns less than 10 percent of the stock of S and, therefore, is not entitled to look-through treatment.

*Example 4.* Since its organization in 1980, S, a controlled foreign corporation, has been owned 60 percent by domestic corporation P and 40 percent by domestic corporation R. In 1992, T acquires R's 40 percent interest in the stock of S. S has no income in 1992 and pays a dividend out of prior years' earnings and profits. Paragraph (g)(3)(ii) of this section does not apply because T acquired less than 90 percent of the stock of S. Thus, T is entitled to look-through treatment on the dividend payment out of pre-1992 earnings and profits.

**Par. 6.** Section 1.904-5 is amended as follows:

1. Paragraph (a)(3) is amended by removing the language "50 percent" in the last sentence and adding in its place "more than 50 percent".

2. Paragraph (g) is amended by removing the language "50 percent or more" and "50 percent" each place that

language appears and adding in its place "more than 50 percent".

3. Paragraph (h)(4) the second sentence is amended by removing the language "50 percent" both times it appears and adding in its place "more than 50 percent".

4. Paragraph (i)(1) the third sentence is amended by removing the language "50 percent or more" both times it appears and adding in its place "more than 50 percent".

5. Paragraph (i)(3) is revised as set forth below.

6. Paragraph (i)(4) *Example (2)* is added as set forth below.

**§ 1.904-5 Look-through rules as applied to controlled foreign corporations and other entities.**

\* \* \* \* \*

(i) \* \* \*

(3) *Special rule for dividends.* Solely for purposes of dividend payments between controlled foreign corporations, two controlled foreign corporations shall be considered related look-through entities if the same United States shareholder owns, directly or indirectly, at least 10 percent of the total voting power of all classes of stock of each controlled foreign corporation.

(4) \* \* \*

*Example (2).* The facts are the same as in *Example (1)* except that instead of an interest payment, U pays a dividend of \$50 to T in 1992, which is subpart F income to P and V. P owns more than 10 percent of both T and U. Therefore, pursuant to paragraph (i)(3) of this section, the look-through rules of section 904(d)(3) and this section apply to characterize the dividend as general limitation income to P.

\* \* \* \* \*

David G. Blattner,

Acting Commissioner of Internal Revenue.

[FR Doc. 92-8499 Filed 5-13-92; 8:45 am]

BILLING CODE 4830-01-M

**DEPARTMENT OF TRANSPORTATION**

**Coast Guard**

**33 CFR Part 165**

[CGD1 92-024]

**Safety Zone: East Passage, Narragansett Bay, RI**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish a temporary moving safety zone around the "Tall Ships Newport" parade of sail on July 20, 1992, between the hours of 11 a.m. and 4 p.m. The safety zone is needed to protect the tall ships, other vessels, and spectator craft

from the risk of collision and damage, or personal injury to persons onboard, due to the limited maneuverability of these vessels.

**DATES:** Comments must be received on or before June 29, 1992.

**ADDRESSES:** Comments should be mailed to the Commanding Officer, Marine Safety Office Providence, John O'Pastore Federal Building, Providence, Rhode Island, 02903-1790, or may be delivered to room 217 at the above address between 7:30 a.m. and 4 p.m., Monday through Friday, except federal holidays. The telephone number is (401) 528-5335. The Marine Safety Office Providence maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 217, Marine Safety Office Providence.

**FOR FURTHER INFORMATION CONTACT:** LTJG Tina Burke at (401) 528-5335.

**SUPPLEMENTARY INFORMATION:**

**Request for Comments**

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their name and address, identify this rulemaking (CGD1 92-024) and the specific section of this proposal to which each comment applies, and give a reason for each comment. Persons wanting acknowledgment of receipt of comments should enclosed a stamped, self addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Marine Safety Office at the address under "ADDRESSES." If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the *Federal Register*.

**Drafting Information:** The principal persons involved in drafting this document are LTJG T. Burke, Project Manager, and LCDR J. Astley, Project Counsel, District Legal Office.

**Background and Purpose**

Nine tall ships and other large sailing vessels will be participating in a parade of sail on Monday, July 20, 1992, for the "Tall Ships Newport '92" celebration. The parade of sail is the grand finale event to complete the "Tall Ships Newport '92" celebration, which is a

large celebration encompassing events throughout the entire weekend of July 17, 18, 19, and 20, 1992. The parade of sail is necessary to allow the public to view the tall ships under sail for the last time before they depart the Newport area. The parading vessels will transit outbound from Newport Harbor, then north through the East Passage, Narragansett Bay, underneath the Newport Bridge, westward around Gould Island, and then southbound out to sea. The actual parade will last approximately three hours, from 12 p.m. on July 20, 1992, until 3 p.m. on July 20, 1992. The sponsor of "Tall Ships Newport '92" notified the Coast Guard on January 22, 1992, and submitted an application for a marine event permit on March 12, 1992. Four hundred (400) to five hundred (500) spectator vessels are expected.

The Coast Guard proposes to establish a temporary moving safety zone around this parade of sail, two hundred yards ahead of the lead vessel to two hundred yards astern of the last vessel in the parade, and two hundred yards abeam of each parading vessel. For this event, the parade route encompasses a significant portion of the East Passage main shipping channel from Newport to Halfway Rock. The zone will be in effect from 11 a.m. on July 20, 1992, until 4 p.m. on July 20, 1992. The safety zone is needed because each of the tall ships is an historic treasure, which warrants protection from damage due to collision. In addition, these tall ships have limited maneuvering capability while under sail, which makes likelihood of collision and subsequent damage greater. A safety zone is needed to protect the tall ships themselves, as well as other vessels such as large commercial traffic and pleasure craft, from the risk of collision that is inherent when a parade of sail transits a major shipping channel. The safety zone is necessary to prohibit spectator craft from getting too close to the parading vessels and also to prevent large commercial vessel traffic from trying to transit the channel during the parade.

On February 13, 1992, a Marine Safety Information Bulletin describing the planned events, as well as the proposed closure of the navigable channel, was distributed to all shipping agents and facility managers in the Captain of the Port Providence zone in order to give them as much advance notice as possible. With such timely notice, the personnel responsible for scheduling ship transits through Narragansett Bay should be able to schedule commercial vessel transits around "Tallship

Newport '92' events and channel closures with minimal problems.

### Regulatory Evaluation

This proposal is not major under Executive Order 12291 and not significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a Regulatory Evaluation is unnecessary. Although the proposed safety zone affects a large portion of the main shipping channel through the East Passage of Narragansett Bay, the impact is expected to be minimal for several reasons. First, the large commercial vessel traffic interests that would normally use the affected waterway have been given five months advance notice of the event and the pending safety zone/channel closure. This is more than sufficient time for these entities to schedule commercial ship transits around the safety zone time period. Second, the other interests to be affected, the recreational vessels, spectator craft, small passenger vessels, and perhaps fishing vessels, will not endure any undue hardship due to the proposed safety zone because they all have alternate routes available to them for navigational purposes. These types of vessels are not restricted to navigation in the main shipping channel; they are able to transit the waters and conduct operations outside of the main channel and therefore will not be impacted by the moving safety zone through the channel. Lastly, the impact of the proposed safety zone on any particular area of the waterway will be of limited duration due to the nature of a moving safety zone. Once the moving zone has passed, vessels desiring to use the channel will have the opportunity to transit.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). For the reasons outlined under Regulatory Evaluation, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business qualifies as a small entity and that this

proposal will have a significant economic impact on your business, please submit a comment (see "ADDRESSES") explaining why you think your business qualifies and in what way and to what degree this proposal will economically affect your business.

### Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

### Federalism

The Coast Guard has analyzed this proposal in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

### Environment

The Coast Guard considered the environmental impact of this proposal and concludes that under section 2.B.2.c of Commandant Instruction M16475.1B, this proposal is categorically excluded from further environmental documentation. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under "ADDRESSES."

### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Vessels, Waterways.

### Proposed Regulations

In consideration of the foregoing, part 165 of title 33, Code of Federal Regulations, is proposed to be amended as follows:

### PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-6, and 160.5.

2. A new § 165.T0124 is added to read as follows:

**165.T0124 Safety Zone: Rhode Island; Lower Narragansett Bay, East Passage.**

(a) *Location.* The following area is a safety zone:

(1) A moving safety zone 200 yards ahead of the lead vessel in the parade, 200 yards astern of the last vessel in the parade, and 200 yards abeam of each vessel participating in the "Tall Ships Newport '92" parade of sail. The parade of sail route extends through the East

Passage of Narragansett Bay and is comprised of a lane centered on the line passing through the following points:

Latitude	Longitude
41-30-18N	71-20-58W
41-31-43N	71-20-00W
41-33-29N	71-19-14W
41-33-29N	71-20-55W
41-32-19N	71-21-12W
41-28-45N	71-20-45W
41-27-44N	71-22-24W

(b) *Effective Dates.* This regulation is effective between the hours of 11 a.m. and 4: p.m. on July 20, 1992, unless terminated sooner by the Captain of the Port.

(c) *Regulations.* The general regulations governing safety zones contained in § 165.23 apply.

Dated: April 22, 1992.

H.D. Robinson,

Captain, U.S. Coast Guard, Captain of the Port, Providence, RI.

[FR Doc. 92-11332 Filed 5-13-92; 8:45 am]

BILLING CODE 4910-14-M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 228

### Taking of Ringed Seals Incidental to On-Ice Seismic Activity

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

**ACTION:** Notice of receipt of request for an incidental take of marine mammals.

**SUMMARY:** NMFS is requesting comments on a petition that it has received from a group of energy exploration companies for the renewal of regulations that would allow a take of marine mammals incidental to on-ice seismic activities in the Beaufort Sea offshore Alaska.

**DATES:** Comments should be received by June 15, 1992.

**ADDRESSES:** Dr. Nancy Foster, Director, Office of Protected Resources, 1335 East-West Highway, Silver Spring, MD 20910. A copy of the request may be obtained by writing to this address or by telephoning the contacts listed below.

**FOR FURTHER INFORMATION CONTACT:** Margaret C. Lorenz, Office of Protected Resources, NMFS, (301) 713-2322 or Ron Morris, Western Alaska Field Office, (907) 271-5006.

### SUPPLEMENTARY INFORMATION:

#### Background

Section 101(a)(5) of the Marine Mammal Protection Act directs the Secretary of Commerce to allow, on

request, the incidental, but not intentional, taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and regulations are issued.

Permission may be granted for periods of 5 years or less if the Secretary finds that the taking will have a negligible impact on the species or stock and will not have an unmitigable adverse impact on the availability of the species or stock for subsistence uses. On May 18, 1982, NMFS issued general regulations implementing the 1981 amendments to the MMPA that allowed this incidental take. These regulations also included specific regulations governing the take of ringed seals incidental to on-seismic activity from 1982 to 1986. The specific regulations were renewed in 1987 for a 5-year period.

On September 29, 1989, NMFS and the U.S. Fish and Wildlife Service published a final rule implementing amendments made to the MMPA in 1986 that allow a take of depleted as well as non-depleted marine mammals and also changed the conditions under which an incidental take is allowed.

#### Summary of Request

On April 8, 1992, NMFS received a petition from BP Exploration (Alaska), Chevron U.S.A. Inc., Halliburton Geophysical Services, Inc. and Western Geophysical Company to renew the incidental take regulations in 50 CFR part 228, Subpart B, that governed the taking of ringed seals incidental to seismic activities on the ice offshore Alaska for a period of 5 years. The petitioners state that while they do not anticipate any incidental takings of ringed seals as the result of on-ice seismic activities, if takings do occur, they are not likely to be lethal. The scope of the petition is limited to pre-lease and post-lease seismic exploration activities on state waters and the Outer Continental Shelf in the Beaufort Sea offshore Alaska during the ice covered season. Operations are usually confined from January through May. These seismic surveys will be conducted using two types of energy sources: (1) Vibroseis, which uses large trucks with vibrators mounted on them which systematically put variable frequency energy into the earth and (2) waterguns or airguns carried by a sleigh or other vehicle. Over the next 5-year period, the petitioners expect that on-ice seismic activity will cover from 1,000 to 3,000 line miles (200 to 600 miles in any given year). Any takings of ringed seals are anticipated to result from short-term disturbance by noise and physical

activity associated with the seismic operations.

Dated: May 11, 1992.

Charles Karnella,

Acting Director, Office of Protected Resources.

[FR Doc 92-11411 Filed 5-13-92; 8:45 am]

BILLING CODE 3510-22-M

#### 50 CFR Part 646

#### South Atlantic Fishery Management Council (Council); Sea Bass Trap Fishery Regulations; Public Hearings

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

**ACTION:** Notice of public hearings and request for comments.

**SUMMARY:** The Council will hold public hearings and provide a comment period to solicit public input on changes to existing regulations affecting the sea bass trap fishery.

**DATES:** Written comments must be received by June 5, 1992. The public hearings are scheduled to begin at 1 p.m., as follows:

1. Monday, May 18, 1992, in Jacksonville Beach, Florida;
2. Tuesday, May 19, 1992, in Charleston, South Carolina; and
3. Thursday, May 21, 1992, in Morehead City, North Carolina.

**ADDRESSES:** Comments should be addressed to Robert K. Mahood, Executive Director, South Atlantic Fishery Management Council, One Southpart Circle, suite 306, Charleston, SC 29407-4699. (FAX 803-769-4520).

The hearings will be held at the following locations:

1. Jacksonville Beach—Holiday Inn Ocean Front, 1617 First Street, N., Jacksonville Beach, Florida (904-249-9071).
2. Charleston—South Carolina Wildlife and Marine Resources Department, 240 Fort Johnson Road, Charleston, South Carolina (803-795-6350).
3. Morehead City—North Carolina Division of Marine Fisheries, Conference Room, 3411 Arendell Street, Morehead City, North Carolina (919-726-7021).

**FOR FURTHER INFORMATION CONTACT:** Carrie Knight, Public Information Officer, South Atlantic Fishery Management Council, 803-571-4366.

**SUPPLEMENTARY INFORMATION:** Regulations implementing Amendment 4 to the Snapper-Grouper Fishery Management Plan, effective in January 1992 (published at 56 FR 56016, October 31, 1992), have resulted in the following

unanticipated negative impacts on fishermen who use sea bass traps:

(1) Confusion over the minimum dimensions specified for meshsizes for sea bass traps.

(2) When using sea bass traps, fishermen are limited to the bag limit for species other than black, bank, and rock sea bass, and for species with no bag limit, no retention is allowed. This prevents multi-gear trips where fishermen fish sea bass traps during the day and bandit gear at night, and trips where sea bass traps are deployed and bandit gear fished while the traps are soaking. Preventing these multi-gear trips (sea bass traps, bandit gear, and bottom longline gear outside 50 fathoms) results in significant economic losses to the fishermen. This level of impact was not anticipated during Council deliberations and did not surface during Amendment 4 public hearings.

(3) While fishing sea bass traps, fishermen are limited to the bag limit for species other than black, bank, and rock sea bass, and for species with no bag limit, no retention is allowed. This results in economic losses from having to discard the catch of other species (e.g., pink porgy and white grunt) while trap fishing.

Preferred option being taken to public hearings: Define sea bass traps in terms of physical dimensions and not in terms of catch composition as is currently the case. The current definition of a sea bass trap is a trap, other than a crustacean trap, that contains at any time no more than 25 percent, by number, of fish in the snapper-grouper fishery other than bank, rock, and black sea bass.

The new definition of sea bass trap would mean a trap limited in shape to a rectangle with no dimensions (other than the diagonal) exceeding 25 inches. An additional requirement that would bring this definition into conformance with Florida's regulations is to define sea bass trap throat dimensions with the narrowest end not to exceed 5 inches (12.70 cm) in height and 2 inches (5.08 cm) in width. This requirement may apply just to Florida or to the entire area under sea bass trap regulations (Cape Hatteras, North Carolina, to Cape Canaveral, Florida). In addition, the Council may modify this throat size requirement after public hearings.

With this definition of sea bass traps, the Council is proposing to drop any additional requirements on bycatch and allow use of multiple gears on the same trip. This would allow retention of all fish that meet the minimum sizes that are harvested with a sea bass trap or

from a trip on which sea bass traps were used.

In addition, the minimum mesh-size specification is to be modified by either reducing the diagonal measurement of hexagonal mesh from 1.9 to 1.6 inches or dropping the diagonal measurement entirely.

The Council is considering implementing these changes by emergency action—to request the changes be implemented as soon as possible and follow with permanent changes through the framework procedure. The Council is requesting input on this approach based on the level of impact on fishermen.

Dated: May 8, 1992.

Joe P. Clem,

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

[FR Doc. 92-11274 Filed 5-8-92; 4:59 pm]

BILLING CODE 3510-22-M

# Notices

Federal Register

Vol. 57, No. 94

Thursday, May 14, 1992

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Forms Under Review by Office of Management and Budget

May 8, 1992.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

- (1) Agency proposing the information collection;
- (2) Title of the information collection;
- (3) Form number(s), if applicable;
- (4) How often the information is requested;
- (5) Who will be required or asked to report;
- (6) An estimate of the number of responses;
- (7) An estimate of the total number of hours needed to provide the information;
- (8) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404-W Admin. Bldg., Washington, DC 20250, (202) 690-2118.

#### Revision

##### ● *Agricultural Stabilization and Conservation Service*

7 CFR Part 1427—Upland Cotton First Handler and Domestic User/Exporter Agreement and Payment Program.

CCC-1044, 1045, 1045-1.

On occasion; Weekly.

Farms; Small businesses or organizations; 29,000 responses; 14,500 hours.

Janice Zygmunt (202) 720-6734.

#### Extension

##### ● *Agricultural Stabilization and Conservation Service*

7 CFR Parts 729 and 1446—Poundage Quota and Marketing Regulations for the 1991 through 1995 Crops of Peanuts. ASCS-278, 101, 1008, 1002, 1007, 1030, 1010, 1011, 1012, 1017, 1006, 1006-1, and CCC-1042.

Recordkeeping; On occasion; Annually.

Farms; Small businesses or organization; 644,205 responses; 337,800 hours.

Paul Kume (202) 720-9003.

##### ● *Agricultural Stabilization and Conservation Service*

Financial Statement.

ASCS-398.

On Occasion.

Farms; 4,000 responses; 4,000 hours.

Beverly Pritts (202) 720-8374.

##### ● *Agricultural Stabilization and Conservation Service*

7 CFR Parts 1413 and 1414—Forms for Participation in Price Support and Production Adjustment Programs.

CCC-447, 447 Appendix, 477A, 477B, 505, 507A, 406, 406 appendix, ASCS-503,658-1.

Annually.

Farms; 1,723,999 responses; 425,5000.

Bruce Hiatt (202) 245-4798.

#### New Collection

##### ● *Food Safety and Inspection Service*

Regulations Governing Poultry Inspection Addendum 1—Irradiation of Poultry Products.

FSIS 7234-1, FSIS-5200-2.

Recordkeeping; On occasion.

Businesses or other for-profit; Small businesses or organizations; 12 responses; 7 hours.

Roy Purdie (202) 720-5372.

##### ● *Forest Service*

National Survey on Recreation and the Environment.

On Occasion.

Individuals or household; 39,000 responses; 19,929 hours.

H. Ken Cordell (202) 546-2451.

##### ● *Agricultural Marketing Service*

Recordkeeping Requirements for Certified Applicators of Federally

Restricted Use Pesticides (7 CFR part 110).

Recordkeeping.

State or local governments; Farms; Federal agencies or employees; 982,000 recordkeepers; 78,560 hours.

Craig A. Reed (202) 720-5231.

Larry K., Roberson,

Deputy Departmental Clearance Officer.

[FR Doc. 92-11381 Filed 5-13-92; 8:45 am]

BILLING CODE 3410-01-M

#### Forest Service

**Travel Management Map Revision, Sawtooth National Forest, Blaine, Camas, Cassia, Custer, Elmore, Oneida, Power, and Twin Falls Counties, Idaho, and Box Elder County, Utah**

AGENCY: Forest Service, USDA.

**ACTION:** Notice of intent to prepare an environmental impact statement.

**SUMMARY:** The Forest Service will prepare a Draft Environmental Impact Statement for revision of the current Travel Management Program and map for the Sawtooth National Forest. The proposed action is to implement management practices needed to resolve problems concerning environmental degradation; resource conflicts, and/or user conflicts on specifically identified areas, trails and roads; to make corrections to the current map; and to identify new roads, trails and roads; to make correction to the current map; and to identify new roads, trails and areas open to travel.

**DATES:** Comments concerning the scope of the analysis, issues, and alternatives should be received by June 15, 1992.

**ADDRESSES:** Send written comments to Jack E. Bills, Forest Supervisor, Sawtooth National Forest, 2647 Kimberly Road East, Twin Falls, Idaho 83301-7976.

**FOR FURTHER INFORMATION CONTACT:** Cecil R. Armstrong, Planning Staff Officer, Sawtooth National Forest, 2647 Kimberly Road East, Twin Falls, Idaho 83301-7976. Phone: (208) 737-3223.

#### SUPPLEMENTARY INFORMATION:

##### Background

The current travel map for the Sawtooth National Forest became effective December 1, 1979. The Forest

Land and Resource Management Plan, completed in 1987, requires that the Travel Map be updated when necessary (p. IV-17). Scoping to update the Travel Map was done in the summer of 1989. Eleven public meetings were held and 265 letters were received from the public. Based on the issues identified in 1989, analysis continued and a proposed Travel Map was circulated for public comment during the summer of 1990. Two public meetings were in 1990 and over 1,000 letters were received. Public comments varied greatly with little or no agreement on travel management in the Boulder-White Cloud Mountains and the Smoky Mountains. In an effort to reach consensus, another meeting was held on April 20-21, 1991, in Shoshone, Idaho. Consensus was not reached but some additional modifications were identified.

The decision was made to prepare an Environmental Impact Statement rather than an environmental assessment in 1991. The decision to prepare an Environmental Impact Statement was based on the potential for the Travel Map decision to concurrently modify the Forest Land and Resource Management Plan, and the potential for uncertainty over environmental effects.

All the information the Forest Service has received from scoping in 1989 through the consensus session in 1991 will be used in completing the Draft Environmental Impact Statement and need not be submitted again during this scoping period. There will be public involvement opportunities on the Draft Environmental Impact Statement, including holding open houses and receiving written comments.

#### Proposed Action

The proposed action is to establish type and levels of use for areas, roads, and trails on the Sawtooth National Forest. The current map displays several roads and trails that do not exist. These roads and trails will be removed from the revised map. The current map also does not show all the existing roads and trails, particularly those that have been constructed since the current map was completed. The revised map will display the complete system of existing roads and trails. The revised map will also include new areas, roads, and trails to be opened to travel; and existing areas, roads, and trails that may require temporary or permanent closures, partial or complete relocation, and/or seasonal or user type restrictions.

#### Decision To Be Made

There are two parts to the decision that must be made from this analysis. The first decision will consist of the identification of those trails, areas, and

roads that are experiencing unacceptable environmental degradation, resource conflicts, and/or user conflicts; and the identification of new roads, trails, and areas that could be opened to travel. Secondly, the decision will consist of a determination of the type(s) of management practices that must be implemented on new areas opened to travel; and the management practices needed to resolve the conflicts and degradation problems on the identified existing trails, roads, and areas, on a trail by trail, area by area, or road by road basis.

#### Issues Identified to Date

Six issues have been identified to date as a result of scoping and analysis. The following is a brief description of these issues:

##### 1. Recreation

This issue includes concerns over the potential for increases in Off Highway Vehicle (OHV) restrictions as well as decreases in OHV restrictions, mechanized cross country travel, conflicts between mechanized and non-mechanized users, noise conflicts associated with motorized users, user safety concerns, variety of available mechanized use experiences, and the ability to maintain existing roads and trails.

##### 2. Social/Economic Issue

This issue includes concerns over the potential for discrimination against physically challenged and older citizens, revenues generated by motorized users, and the effects of motorized trail use on the tourism industry.

##### 3. Wildlife/Fish Issue

This issue includes potential conflicts between critical wildlife areas, such as big game winter range, wolverine, big horn sheep and mountain goat habitat, and mechanized use; road, area and trail closures during hunting season; over harvesting of native cutthroat trout during spawning season because of increased accessibility; and potential impacts of a variety of travel methods on threatened and endangered plants and animal species.

##### 4. Soil/Water Quality Issue

This issue includes concerns over increased soil erosion from both mechanized and non-mechanized uses and water quality degradation from road and trail related erosion.

##### 5. Proposed Wilderness Area Issue

This issue involves the debate as to whether motorized use should be allowed in proposed wilderness areas or

not, and the potential impact of motorized use on designation of proposed wilderness areas.

#### 6. Law Enforcement Issue

This issue includes concerns over the ability to enforce additional permanent and seasonal closures and use restrictions.

#### Possible Alternatives

The Draft Environmental Impact Statement will analyze alternatives for the revision of the Travel Management Map. One alternative that will be analyzed is the No Action Alternative. Under this alternative, existing roads, trails, and areas will continue to be managed in accordance with the Travel Map dated April 7, 1989.

#### Scoping process

There has been considerable public involvement already. (See the background section above.) The records of all previous meetings, together with approximately 1400 letters received by the Forest to date, will be considered in the analysis and formulation of the Draft Environmental Impact Statement. After the Draft Environmental Impact Statement has been published, the Forest Service will be actively seeking information, comments and assistance from Federal, State and local agencies and from individuals and organizations who may be interested in, or affected by the proposed action. It is very important that those interested in this proposed action participate at that time.

This scoping process will allow 30 days after publication of this notice for submitting additional comments concerning the scope of the analysis, issues, and alternatives. Those comments previously submitted should not be resubmitted.

As stated above, the Forest Service will be actively seeking public input after the draft has been published. There will be a formal comment period on the draft and open houses will be held to discuss the draft.

Jack E. Bills, Forest Supervisor, Sawtooth National Forest is the responsible official.

Dated: May 4, 1992.

Jack E. Bills,

Forest Supervisor.

[FR Doc. 92-11341 Filed 5-13-92; 8:45 am]

BILLING CODE 3410-11-M

**Alaska Pulp Corporation Long-Term Timber Sale, Southeast Chichagof Project Area; Tongass National Forest, Chichagof Island, Alaska**

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of public hearings for subsistence testimony.

**SUMMARY:** The Forest Service will hold Open house and Public Hearings for subsistence testimony regarding the Draft Environmental Impact Statement (DEIS) for Southeast Chichagof June 15 through 19, 1992. The Hearings are intended to meet Subsistence Evaluation requirements outlined in section 810, Alaska National Interest Lands Conservation Act (ANILCA).

**DATES AND LOCATIONS:** An Open House and Public Hearing will be held in Sitka, Haines, Skagway, Tenakee Springs, and Angoon Alaska. The Sitka Hearing will be held Monday June 15, 1992 at the University of Alaska SE, Sitka Campus Room 133. The Haines hearing will be held Tuesday June 16, 1992 at the Chilkat Center lobby. The skagway hearing will be held Wednesday June 17, 1992 at the City Hall, Council Chambers. The Tenakee Springs hearing will be held Thursday June 18, 1992 at the Community Hall. The Angoon hearing will be held Friday June 19, 1992 at the Community Center. All hearings will be held from 7 to 9 pm.

An Open House will precede the hearing to allow participants an opportunity to review and discuss the seven alternatives for the Southeast Chichagof Project Area presented in the DEIS. The Open Houses will be held from 3 to 6 pm.

Community	Date	Location
Sitka.....	June 15, 1992.	University of Alaska SE, Sitka Room 133 (on Japonski Island).
Haines.....	June 16, 1992.	Chilkat Center, Lobby.
Skagway.....	June 17, 1992.	City Hall, Council Chambers.
Tenakee Springs.....	June 18, 1992.	Community Hall.
Angoon.....	Friday June 19, 1992.	Community Center.

Send requests for further information or written testimony to Gordon Anderson, Planning Team Leader, USDA Forest Service, 204 Siginaka Way, Sitka, Alaska, 99835. Written testimony must be received by 4:30 pm., June 22, 1992.

**SUPPLEMENTARY INFORMATION:** The ANILCA section 810 subsistence evaluation for the Southeast Chichagof DEIS produced a finding of a significant possibility of a significant restriction on the subsistence use of deer in the Project Area for the communities of Angoon, Haines, Sitka, Skagway, and Tenakee Springs. The evaluation and findings are detailed in the DEIS. The DEIS was

released on May 8, 1992 and comments concerning the DEIS must be received by June 22, 1992. Copies of the DEIS are available from Gordon Anderson, Planning Team Leader, 204 Siginaka Way, Sitka, Alaska, 99835. The Hearings are designed to receive oral or written testimony from individuals, agencies, and organizations on the alternatives proposed in the DEIS for the Southeast Chichagof Project Area, and how these alternatives may potentially affect users of subsistence resources of the Southeast Chichagof area.

Dated: May 6, 1992.

Gary A. Morrison,

Forest Supervisor, Chatham Area-Tongass NF.

[FR Doc 92-11275 Filed 5-13-92; 8:45 am]

BILLING CODE 3410-11-M

## COMMISSION ON CIVIL RIGHTS

### Arizona Advisory Committee; Agenda and Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that the Arizona Advisory Committee to the Commission will convene at 1 p.m. and adjourn at 3 p.m. on June 18, 1992, at the Embassy Suites Hotel, 2333 East Thomas Road, Phoenix, Arizona. The purpose of the meeting is to discuss the San Luis Report and plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Advisory Committee Chairperson, Manuel Pena or Philip Montez, Director of the Western Regional Division (213) 894-3437, (TDD 213/894-0508). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, May 7, 1992.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 92-11348 Filed 5-13-92; 8:45 am]

BILLING CODE 6335-01-M

### Georgia Advisory Committee; Agenda and Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Georgia Advisory Committee to the Commission will

convene at 2 p.m. and adjourn at 5 p.m. on Friday, June 5, 1992, at the NationsBank Tower, 600 Peachtree Street, 47th Floor Conference Room, Atlanta, Georgia 30308. The purpose of this meeting is:

(1) To discuss the status of the SACs and the Commission;

(2) To hear a report on civil rights progress and/or problems in the State and Nation; and

(3) To discuss the Affirmative Action (AA) and Equal Opportunity (EO) plans of the Atlanta Committee for the Olympic Games (ACOG) as they relate to minorities and women.

Persons desiring additional information, or planning a presentation to the Committee should contact Georgia Chairperson, Dale M. Schwartz 404/657-8097 or Bobby D. Doctor, Regional Director, Southern Regional Office of the U.S. Commission on Civil Rights at (404/730-2476, TDD 404/730-2481). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Southern Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, May 7, 1992.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 92-11349 Filed 5-13-92; 8:45 am]

BILLING CODE 6335-01-M

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

[Order No. 564]

#### Resolution and Order Approving the Application of the Colorado Springs Foreign-Trade Zone, Inc., for Special-Purpose Subzone Status; Apple Computer, Inc., Plant, Fountain, Co

Proceedings of the Foreign-Trade Zones Board, Washington, DC.

#### Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Colorado Springs Foreign-Trade Zone, Inc., grantee of FTZ 112, filed with the

Foreign-Trade Zones Board (the Board) on September 12, 1991, requesting special-purpose subzone status at the electronic data processing and communications equipment manufacturing plant of Apple Computer, Inc., in Fountain, Colorado. The Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the FTZ Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

Approval is subject to the FTZ Act of the FTZ Board's regulations (as revised, 56 FR 50790-50808, 10/8/91), including § 400.28. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

**Grant of Authority for Subzone Status  
Apple Computer, Inc., Plant Fountain,  
CO**

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment \* \* \* of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and where a significant public benefit will result;

Whereas, the Colorado Springs Foreign-Trade Zone, Inc., grantee of FTZ 112, has made application (filed 9/12/91, FTZ Docket 52-91, 56 FR 48156, 9/24/91) to the Board for authority to establish a special-purpose subzone at the electronic data processing and communications equipment manufacturing plant of Apple Computer, Inc., in Fountain, Colorado;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations have been satisfied and that the proposal is in the public interest;

Now, Therefore, the Board hereby authorizes the establishment of a subzone at the Apple Computer, Inc., plant in Fountain, Colorado, designated on the records of the Board as Foreign-Trade Subzone 112A, at the location described in the application, subject to the Act and the Board's Regulations (as revised, 56 FR 50790-50808, 10/8/91), including Section 400.28.

Signed at Washington, DC., this 5th day of May, 1992, pursuant to Order of the Board.

Alan M. Dunn,

*Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates Foreign-Trade Zones Board.*

Attest:

John J. Da Ponte, Jr.,  
*Executive Secretary.*

[FR Doc. 92-11405 Filed 5-11-92; 8:45 am]

BILLING CODE 3510-DS-M

**[Order No. 567]**

**Expansion of Subzone Status;  
International Business Machines Corp.  
Plant Charlotte, NC**

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Resolution and Order:

Whereas, the North Carolina Department of Economic and Community Development, grantee of FTZ subzone 57A at the International Business Machines Corporation plant in Charlotte, North Carolina, has made application (filed 7-8-91, FTZ Docket 41-91, 56 FR 34172, 7-26-91) to the Board for authority to expand the subzone and the scope to manufacturing under zone procedures to include a wider range of information processing and communications equipment;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations have been satisfied and that the proposal is in the public interest;

Now, therefore, the Board hereby orders that the Grantee is authorized to expand Subzone 57A and the scope of manufacturing authority at the International Business Machines Corporation plant in Charlotte, North Carolina, in accordance with the application, subject to the Act and the Board's Regulations (as revised, 56 FR 50790-50808, 10/8/91), including Section 400.28.

Signed at Washington, DC, this 5th day of May, 1992, pursuant to Order of the Board.

Alan M. Dunn,

*Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates Foreign-Trade Zones Board.*

Attest:

John J. Da Ponte, Jr.,  
*Executive Secretary.*

[FR Doc. 92-11404 Filed 5-13-92; 8:45 am]

BILLING CODE 3510-DS-M

**[Order No. 568]**

**Resolution and Order Approving the  
Application of the Triangle J Council  
of Governments for Special-Purpose  
Subzone Status; International  
Business Machines Corporation Plant;  
Raleigh/Durham, NC, Area**

Proceedings of the Foreign-Trade Zones Board, Washington, DC.

**Resolution and Order**

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Triangle J Council of Governments, grantee of FTZ 93, filed with the Foreign-Trade Zones Board (the Board) on July 8, 1991, requesting special-purpose subzone status at the information processing and communications equipment manufacturing plant of International Business Machines Corporation, in the Raleigh/Durham, North Carolina, area, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the FTZ Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

Approval is subject to the FTZ Act and the FTZ Board's regulations (as revised, 56 FR 50790-50808, 10/8/91), including § 400.28. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

**Grant of Authority for Subzone Status;  
International Business Machines  
Corporation Plant, Raleigh/Durham, NC,  
Area**

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment \* \* \* of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and where a significant public benefit will result;

Whereas, the Triangle J Council of Governments, grantee of FTZ 93, has made application (filed 7-8-91, FTZ Docket 40-91, 56 FR 34173, 7-26-91) to

the Board for authority to establish a special-purpose subzone at the information processing and communications equipment manufacturing plant of the International Business Machines Corporation located in the Raleigh/Durham, North Carolina, area;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations have been satisfied and that the proposal is in the public interest;

Now, therefore, the Board hereby authorizes the establishment of a subzone at the International Business Machines Corporation plant in the Raleigh/Durham, North Carolina, area, designated on the records of the Board as Foreign-Trade Subzone 93A, at the location described in the application, subject to the Act and the Board's Regulations (as revised, 56 FR 50790-50808, 10/8/91), including § 400.28.

Signed at Washington, DC, this 5th day of May, 1992, pursuant to Order of the Board.

Alan M. Dunn,

*Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates Foreign-Trade Zones Board.*

Attest:

John J. Da Ponte, Jr.,  
*Executive Secretary.*

## National Oceanic and Atmospheric Administration

### Incidental Take of Marine Mammals

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

**ACTION:** Notice of receipt of request for a letter of authorization.

**SUMMARY:** NMFS has received a request from ARCO Alaska, Inc. for a Letter of Authorization that would allow a take of marine mammals (by harassment) incidental to exploration activities in the Beaufort Sea during the 1992 open-water drilling season.

**DATES:** Comments should be received by June 15, 1992.

**ADDRESSES:** Dr. Nancy Foster, Director, Office of Protected Resources 1335 East-West Highway, Silver Spring, MD 20910. A copy of the request may be obtained by writing to this address or by telephoning the contacts listed below.

**FOR FURTHER INFORMATION CONTACT:** Margaret C. Lorenz, Office of Protected Resources, NMFS, (301) 713-2322 or Ron Morris, Western Alaska Field Office, (907) 271-5006.

## SUPPLEMENTARY INFORMATION:

### Background

Regulations governing the taking of marine mammals incidental to oil and exploration activities in Alaska were published July 18, 1990 (55 FR 29214). The regulations are based on section 101(a)(5) of the Marine Mammal Protection Act and NMFS' determination that the taking of six species of marine mammals (bowhead, gray and beluga whales and bearded, ringed and spotted seals) incidental to exploratory activity in the Beaufort and Chukchi Seas will have a negligible impact on the species or stocks and will not have an unmitigable adverse impact on the availability of the species or stock for subsistence uses. The regulations include permissible methods of taking, and require exploration companies to monitor the effects of their activities on marine mammals and to cooperate with the Alaska native communities to ensure that marine mammals are available for subsistence.

A Letter of Authorization must be requested annually by each group or individual conducting an exploratory activity where there is the likelihood of taking any of the six species of marine mammals identified in the regulations. NMFS grants the Letters based on a determination that the total level of taking by all applicants in any one year is consistent with the estimated level of activity used to make a finding of negligible impact and a finding of no unmitigable adverse impacts.

The regulations require the applicant to submit a request for a Letter of Authorization at least 90 days before the activity is scheduled to begin. NMFS must publish notices of each request in the *Federal Register* with an opportunity for public comment.

Requests for Letters of Authorization must include a plan of cooperation that identifies what measures have been and will be taken to minimize any adverse effects on the availability of marine mammals for subsistence uses. It must include a description of the activity including the methods to be used, the dates and duration of the activity, and the specific location. Also, it must include a site-specific plan to monitor the effects on marine mammals that are present during exploratory activities.

### Summary of Request From ARCO, Alaska, Inc.

On April 15, 1992, NMFS received a request from ARCO Alaska, Inc. for a Letter of Authorization that would allow non-lethal takes of marine mammals incidental to oil and gas exploration activities at its Kuvlum Project in the

Beaufort Sea. The project will be drilled using floating drilling unit which will be towed to the site from McKinley Bay, Canada about August 1. The project, which is expected to be completed about October 31, is located about 45 miles west of the Kaktovik whaling grounds and 75 miles east of the Cross Island whaling camps of the Nuiqsut whalers. Included in the request is a description of planned contacts with Beaufort Sea whaling communities and ARCO's intended activities to keep the communities informed of its operations. ARCO will conduct a bowhead whale monitoring program during the fall 1992 migration. The monitoring program will be reviewed by qualified scientists both from within and outside the Federal Government.

Dated: May 11, 1992.

Charles Karnella,  
*Acting Director, Office of Protected Resources.*

[FR Doc. 92-11410 Filed 5-13-92; 8:45 am]  
BILLING CODE 3510-22-M

## Pacific Fishery Management Council; Public Meeting

**AGENCY:** National Marine Fisheries Service, NOAA, Commerce.

The Pacific Fishery Management Council's (Council) Groundfish Management Team (GMT), and the Groundfish Subcommittee of the Scientific and Statistical Committee (SSC) will hold a public meeting beginning at 1 p.m. on May 28, 1992, and ending no later than 4:30 p.m. on May 28, 1992. The meeting will be held at the National Fisheries Service, Southwest Fishery Center Laboratory conference room, 3150 Paradise Drive, Tiburon, CA.

The GMT and the Groundfish Subcommittee of the SSC will review preliminary stock assessment reports for seven groundfish species, including sablefish and Pacific whiting, and prepare recommendations to the authors. The Council will receive a report on these assessments at its July meeting in Portland, Oregon, and the assessments may be used as the scientific basis for changes to harvest levels set for the 1993 fishing year.

For more information contact Lawrence D. Six, Executive Director, Pacific Fishery Management Council, Metro Center, suite 420, 2000 SW. First Avenue, Portland, OR 97201; telephone: (503) 326-6352.

Dated: May 8, 1992

Joe P. Clem,

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

[FR Doc. 92-11291 Filed 5-13-92; 8:45 am]

BILLING CODE 3510-22-M

### Pacific Fishery Management Council; Public Meeting

**AGENCY:** National Marine Fisheries  
Service, NOAA, Commerce.

The Pacific Fishery Management  
Council's Coastal Pelagic Species Plan  
Development Team (Team) will hold a  
public meeting on May 15, 1992,

beginning at 10 a.m. The meeting will be  
held in the small conference room at the  
National Marine Fisheries Service,  
Southwest Fisheries Science Center,  
8604 La Jolla Shores Drive, La Jolla, CA.

The purpose of the meeting is to (1)  
Review the work in progress on the  
fishery description, inshore-offshore  
allocation, gill and trammel net issue,  
and U.S.-Mexico management; (2)  
discuss future work on the definition of  
overfishing and optimum yield and  
quota formulae; and (3) discuss new  
issues, such as northern stocks of  
anchovy and sardine and U.S. processor  
boats and joint ventures with vessels  
from the inshore fishery.

For more information contact Patricia  
Wolf from California Department of Fish  
and Game at (213) 590-5117 or Larry  
Jacobsen from the National Marine  
Fisheries Service at (619) 546-7117.

Dated: May 8, 1992.

Joe P. Clem,

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

[FR Doc. 92-11290 Filed 5-13-92; 8:45 am]

BILLING CODE 3510-22-M

### COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

#### Adjustment of Import Limits for Certain Cotton Textile Products Produced or Manufactured in Sri Lanka

May 8, 1992.

**AGENCY:** Committee for the  
Implementation of Textile Agreements  
(CITA).

**ACTION:** Issuing a directive to the  
Commissioner of Customs adjusting  
limits.

**EFFECTIVE DATE:** May 15, 1992.

**FOR FURTHER INFORMATION CONTACT:**  
Kim-Bang Nguyen, International Trade

Specialist, Office of Textiles and  
Apparel, U.S. Department of Commerce,  
(202) 377-4212. For information on the  
quota status of these limits, refer to the  
Quota Status Reports posted on the  
bulletin boards of each Customs port or  
call (202) 343-6580. For information on  
embargoes and quota re-openings, call  
(202) 377-3715.

#### SUPPLEMENTARY INFORMATION:

**Authority:** Executive Order 11651 of March  
3, 1972, as amended; section 204 of the  
Agricultural Act of 1956, as amended (7  
U.S.C. 1854).

The current limit for Category 369-S is  
being increased by application of swing,  
reducing the limit for Category 369-D to  
account for the increase.

A description of the textile and  
apparel categories in terms of HTS  
numbers is available in the  
**CORRELATION:** Textile and Apparel  
Categories with the Harmonized Tariff  
Schedule of the United States (see  
Federal Register notice 56 FR 60101,  
published on November 27, 1991). Also  
see 56 FR 29232, published on June 26,  
1991.

The letter to the Commissioner of  
Customs and the actions taken pursuant  
to it are not designed to implement all of  
the provisions of the bilateral  
agreement, but are designed to assist  
only in the implementation of certain of  
its provisions.

Ronald I. Levin,

Acting Chairman, Committee for the  
Implementation of Textile Agreements.

**Committee for the Implementation of Textile  
Agreements**

May 8, 1992.

Commissioner of Customs,

Department of the Treasury, Washington, DC  
20229.

Dear Commissioner: This directive amends,  
but does not cancel, the directive issued to  
you on June 21, 1991, by the Chairman,  
Committee for the Implementation of Textile  
Agreements. That directive concerns imports  
of certain cotton, wool and man-made fiber  
textile products and silk blend and other  
vegetable fiber apparel, produced or  
manufactured in Sri Lanka and exported  
during the twelve-month period which began  
on July 1, 1991 and extends through June 30,  
1992.

Effective on May 15, 1992, you are directed  
to amend further the directive dated June 21,  
1991 to adjust the current limits for the  
following categories, as provided under the  
terms of the current bilateral agreement  
between the Governments of the United  
States and Sri Lanka:

Category	Adjusted twelve-month limit <sup>1</sup>
369-D <sup>2</sup> .....	513,910 kilograms.
369-S <sup>3</sup> .....	593,716 kilograms.

<sup>1</sup> The limits have not been adjusted to account for  
any imports exported after June 30, 1991.

<sup>2</sup> Category 369-D: only HTS numbers  
6302.60.0010, 6302.91.0005 and 6302.91.0045.

<sup>3</sup> Category 369-S: only HTS number  
6307.10.2005.

The Committee for the Implementation of  
Textile Agreements has determined that  
these actions fall within the foreign affairs  
exception to the rulemaking provisions of 5  
U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the  
Implementation of Textile Agreements.

[FR Doc. 92-11323 Filed 5-13-92; 8:45 am]

BILLING CODE 3510-DR-F

### Amendment of Export Visa Requirements for Certain Cotton Textile Products Produced or Manufactured in Sri Lanka

May 8, 1992.

**AGENCY:** Committee for the  
Implementation of Textile Agreements  
(CITA).

**ACTION:** Issuing a directive to the  
Commissioner of Customs amending  
visa requirements.

**EFFECTIVE DATE:** May 15, 1992.

**FOR FURTHER INFORMATION CONTACT:**  
Kim-Bang Nguyen, International Trade  
Specialist, Office of Textiles and  
Apparel, U.S. Department of Commerce,  
(202) 377-4212.

#### SUPPLEMENTARY INFORMATION:

**Authority:** Executive Order 11651 of March  
3, 1972, as amended; section 204 of the  
Agricultural Act of 1956, as amended (7  
U.S.C. 1854).

The existing export visa arrangement  
between the Governments of the United  
States and Sri Lanka is being amended  
to eliminate the visa requirement for  
cotton textile products in part-  
Categories 338-S, 338-O, 339-S and 339-  
O. Merchandise shipped in Categories  
338 and 339 which is exported from Sri  
Lanka on and after July 1, 1991 should  
be visaed either as 338, 339 or 338/339.

A description of the textile and  
apparel categories in terms of HTS  
numbers is available in the  
**CORRELATION:** Textile and Apparel  
Categories with the Harmonized Tariff  
Schedule of the United States (see  
Federal Register notice 56 FR 60101,  
published on November 27, 1991). Also

see 53 FR 34573, published on September 7, 1988.

Ronald I. Levin,

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

**Committee for the Implementation of Textile Agreements**

May 8, 1992.

Commissioner of Customs,

*Department of the Treasury, Washington, DC 20229.*

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on September 1, 1988, as amended, by the Chairman, Committee for the Implementation of Textile Agreements. That directive directed you to prohibit entry of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Sri Lanka which were not properly visaed by the Government of Sri Lanka.

Effective on May 15, 1992, you are directed to no longer require a visa for cotton textile products in part-Categories 338-S<sup>1</sup>, 338-O<sup>2</sup>, 339-S<sup>3</sup> and 339-O<sup>4</sup>, produced or manufactured in Sri Lanka and exported from Sri Lanka on and after July 1, 1991.

Merchandise in Categories 338 and 339 shall be visaed either as 338, 339 or 338/339.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 92-11324 Filed 5-13-92; 8:45 am]

BILLING CODE 3510-DR-F

**DEPARTMENT OF DEFENSE**

**Department of the Air Force**

**USAF Scientific Advisory Board; Meeting**

The USAF Scientific Advisory Board's Committee on Technology Options for Global Reach—Global Power: 1995-2020 (Mobility Panel) will meet on 9-10 June

<sup>1</sup> Category 338-S: only HTS numbers 6103.22.0050, 6105.10.0010, 6105.10.0030, 6105.90.3010, 6109.10.0027, 6110.20.1025, 6110.20.2040, 6110.20.2065, 6110.90.0068, 6112.11.0030 and 6114.20.0005.

<sup>2</sup> Category 338-O: all HTS numbers except 6103.22.0050, 6105.10.0010, 6105.10.0030, 6105.90.3010, 6109.10.0027, 6110.20.1025, 6110.20.2040, 6110.20.2065, 6110.90.0068, 6112.11.0030 and 6114.20.0005 (Category 338-S)

<sup>3</sup> Category 339-S: only HTS numbers 6104.22.0060, 6104.29.2049, 6106.10.0010, 6106.10.0030, 6106.90.2010, 6106.90.3010, 6109.10.0070, 6110.20.1030, 6110.20.2045, 6110.20.2075, 6110.90.0070, 6112.11.0040, 6114.20.0010 and 6117.90.0022.

<sup>4</sup> Category 339-O: all HTS numbers except 6104.22.0060, 6104.29.2049, 6106.10.0010, 6106.10.0030, 6106.90.2010, 6106.90.3010, 6109.10.0070, 6110.20.1030, 6110.20.2045, 6110.20.2075, 6110.90.0070, 6112.11.0040, 6114.20.0010 and 6117.90.0022 (Category 339-S).

1992, at HQ MAC, Scott AFB, IL, 8 a.m. to 5 p.m.

The purpose of this meeting is to receive briefings and gather information for the study.

The meeting will be closed to the public in accordance with section 552b(c) of title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697-4811.

Patsy J. Conner,

*Air Force Federal Register Liaison Officer.*

[FR Doc. 92-11358 Filed 5-13-92; 8:45 am]

BILLING CODE 3910-01-M

**Department of the Army**

**Army Science Board; Closed Meeting**

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

*Name of the Committee:* Army Science Board (ASB).

*Dates/Time of Meeting:* 8-9 June 1992.

*Time:* 0800-1700 hours daily.

*Place:* White Sands Missile Range, NM.

*Agenda:* The Land Warfare Combat Identification 1992 Summer Study Panel of the Army Science Board will meet for classified discussions focused on: Combat ID technology vulnerabilities at the Vulnerability Assessment Laboratory, White Sands Missile Range, NM; Combat ID technologies of Air Defense at Fort Bliss, TX; and observe a classified demonstration of Combat ID technologies and receive proprietary briefings, Gregor Range, White Sands Missile Range, NM. This meeting will be closed to the public in accordance with section 552b(c) of title 5, U.S.C., specifically subparagraph (1) and (4) thereof, and title 5, U.S.C., appendix 2, subsection 10(d). The classified, unclassified matters and proprietary information to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (703) 695-0781/0782.

Sally W. Warner,

*Administrative Officer, Army Science Board.*

[FR Doc. 92-11346 Filed 5-13-92; 8:45 am]

BILLING CODE 3710-08-M

**Department of the Navy**

**Intent To Prepare an Environmental Impact Statement for Proposed Development of Activities at Navy and Air Force Installations on Guam, Mariana Islands**

Pursuant to section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969 as implemented by the

Council on Environmental Quality regulations (40 CFR parts 1500-1508), the Department of the Navy, in cooperation with the Department of the Air Force, announces its intent to prepare an Environmental Impact Statement (EIS) for the relocation of Navy activities from Subic Bay, Philippines, to Navy installations on the territory of Guam.

As a result of the closure of U.S. Navy facilities at Subic Bay by December 31, 1992, certain operations and support functions must be provided on Guam to effectively support the Department of the Navy's mission. Naval units and commands will be relocated to the Naval Station/Apra Harbor Complex, Naval Magazine, Andersen Air Force Base, and Naval Air Station Agana. Staff at other Naval commands including Naval Hospital will be increased. Approximately 1,400 military personnel and an estimated 1,300 dependents will be relocated to Guam. To accommodate the initial relocation, most of the military personnel will be temporarily located in existing facilities as available. Some facility renovation and alternation, as well as the construction of temporary facilities, will handle the overflow of personnel and specific operations. The relocation into temporary facilities is taking place due to the short time available for withdrawal from the Philippines. Construction of permanent facilities to support the relocation is proposed to begin in 1993, and includes the following major projects which will be addressed in the EIS:

*Andersen Air Force Base:*

- New hangar/apron/washrack
- Naval Station/Apra Harbor Complex:*
  - Family housing
  - Wastewater treatment plant expansion
  - Maintenance dredging of inner Apra Harbor
  - Waterfront utilities
  - Warehousing and storage facilities

*Naval Magazine:*

- New magazines
- New storage facilities

The following alternatives are being considered: Various locations on Guam for both activities and facilities, renovation of existing military facilities on Guam, leasing off-base facilities, and no action. The loss of U.S. facilities at Subic Bay, operational requirements, and the continuing need to implement U.S. strategic policy mandate that these activities be relocated to Guam. The EIS will assess as the no action alternative the continued use of temporary facilities on Guam and constructing no permanent facilities for the relocated activities.

The EIS will discuss environmental impacts resulting from the proposed

action associated with the construction and operation of new facilities and the increase of civilian/military personnel working and living in the area. Environmental issues to be addressed will include but not be limited to construction and activity operations on cultural resources, terrestrial habitat, aquatic habitats, and the socioeconomic environment. Noise, air quality, community services, infrastructure, traffic, habitat loss, and water quality will also be evaluated.

The Navy will initiate a scoping process to identify the significant issues related to the proposed actions and to identify and notify all interested and affected parties of the preparation of the EIS. Two public scoping meetings will be held on Thursday, May 28, 1992, one beginning at 2 p.m. and a second meeting at 7 p.m. The meetings will be held in the Cabinet Conference Room at the Executive Building in Adalup, Guam. These meetings will be advertised in the Pacific Daily News and the Guam Tribune.

A short presentation will precede requests for public comment. Navy representatives will be available at this meeting to receive comments from the public regarding issues of concern. It is important that federal, state and local agencies and interested individuals take this opportunity to identify environmental concerns that should be addressed during preparation of the EIS. In the interest of time, each speaker will be asked to limit their oral comments to five minutes.

Agencies and the public are also invited and encouraged to provide written comment in addition to, or in lieu of, oral comments at the public meeting. To be most helpful, scoping comments should clearly describe specific issues or topics which the commenter believes the EIS should address. Written statements and or questions regarding the scoping process should be mailed no later than June 12, 1992, to Mr. Stanly Uehara (Code 232), Pacific Division, Naval Facilities Engineering Command, Pearl Harbor, HI 96860; telephone (808) 471-9338; fax (808) 471-5870.

Dated: May 8, 1992.

Wayne Baucino,

Lieutenant, JAGC, USNR, Department of the Navy, Federal Register Liaison Officer.

[FR Doc. 92-11273 Filed 5-13-92; 8:45 am]

BILLING CODE 3810-AE-M

#### Naval Research Advisory Committee, Closed Meeting

Notice was published April 23, 1992, at 57 FR 14831 that the Naval Research

Advisory Committee Panel on S&T Techbase Strategy in the Year 2010 will meet on May 11 and 12, 1992 at the Office of the Chief of Naval Research, 800 North Quincy Street, Arlington, Virginia. Scheduling difficulties which impact upon panel requirements necessitate a change in the date of the meeting. The meeting will be held on May 21 and 22, 1992. All other information in the previous notice remains effective. In accordance with 5 U.S.C. section 552b(e)(2), the meeting change is publicly announced at the earliest practical time.

Dated: May 8, 1992.

Wayne T. Baucino

Lieutenant, JAGC, U.S. Naval Reserve, Alternate Federal Register Liaison Officer.

FR Doc. 92-11366 Filed 5-13-92; 8:45 am]

BILLING CODE 3810-AE-F

#### Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given that the Naval Research Advisory Committee Panel on Delivery of Artificial Blood to the Military will meet on June 2 and 3, 1992. The meeting will be held at the Office of the Chief of Naval Research, 800 North Quincy Street, room 915, Arlington, Virginia. The meeting will commence at 8:30 a.m. and terminate at 5 p.m. on June 2; and commence at 8 a.m. and terminate at 4:30 p.m. on June 3, 1992. All sessions of the meetings will be closed to the public.

The purpose of the meeting is to provide the Navy with an evaluation of the opportunities to accelerate availability of artificial blood (erythrocyte) substitute products for implementation into military use, through testing, development of manufacturing methods or other developmental support where warranted; and to develop a strategy and plan that identify a development framework, timetable and investment recommendation for the Committees on Armed Services of the Senate (SASC) and House of Representatives (HASC) by 31 July 1992. The agenda will include briefings, discussions, and technical examination of information involving confidential commercial proprietary data and agency protected information from the Food and Drug Administration (FDA). Public disclosure of this information will be likely to reveal commercial trade secrets and significantly frustrate implementation of any proposed FDA agency actions

related to artificial blood substitute products. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meetings be closed to the public because they will be concerned with matters listed in section 552b(c)(4), and (9)(B) of title 5, United States Code.

For further information concerning this meeting contact: Commander John Hrenko, USN, Office of the Chief of Naval Research, 800 North Quincy Street, Arlington, VA 22217-5000. Telephone: (703) 696-4870.

Dated: May 8, 1992.

Wayne T. Baucino

Lieutenant, JAGC, U.S. Naval Reserve, Alternate Federal Register Liaison Officer.

[FR Doc. 92-11345 Filed 5-13-92; 8:45 am]

BILLING CODE 3810-AE-F

#### Government-owned Inventions; Intent to Grant Exclusive License

AGENCY: Department of the Navy

ACTION: Intent to Grant Exclusive License; Westinghouse Electric Corporation

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to Westinghouse Electric Corporation a revocable, nonassignable, exclusive license to practice the Government-owned inventions described in U.S. Patent No. 4,143,400 "Real-Time Optical Mapping System", issued March 6, 1979, and U.S. Patent No. 4,270,142, "Adaptive Slant Range Compensator for Remote Optical Mapping System", issued May 28, 1981, in the field of underwater search systems.

Anyone wishing to object to the grant of this license has 60 days from the date of this notice to file written objections along with supporting evidence, if any. Written objections are to be filed with the office of the Chief of Naval Research (Code OCCCIP), Arlington, Virginia 22217-5000.

FOR FURTHER INFORMATION CONTACT: Mr. R.J. Erickson, Staff Patent Attorney, Office of the Chief of Naval Research (Code OCCCIP), 800 North Quincy Street, Arlington, Virginia 22217-5000, Telephone (703) 696-4001.

Dated: May 7, 1992.

Wayne T. Baucino

Lieutenant, JAGC, U.S. Naval Reserve, Alternate Federal Register Liaison Officer.

[FR Doc. 92-11360 Filed 5-13-92; 8:45 am]

BILLING CODE 3810-AE-F

## DELAWARE RIVER BASIN COMMISSION

### Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, May 20, 1992. The hearing will be part of the Commission's regular business meeting which is open to the public and scheduled to begin at 10:30 a.m. in the Goddard Conference Room of the Commission's offices at 25 State Police Drive, West Trenton, New Jersey.

An informal conference among the Commissioners and staff will be open for public observation at 9:30 a.m. at the same location and will include reports on the upper Delaware ice jam project, amendment of Compact Section 15.1(b) to fund the F.E. Walter Reservoir project, Water Conservation Advisory Committee initiatives and possible inclusion of the White Clay Creek Scenic Rivers Study Area in the Comprehensive Plan.

The Commission's hearing on the following subjects will begin at 1 p.m.:

*Current Expense and Capital Budgets.* A proposed current expense budget for the fiscal year beginning July 1, 1992, in the aggregate amount of \$2,644,100 and a capital budget for the same period in the amount of \$1,617,500 in revenue and \$1,266,100 in expenditures. Copies of the current expense and capital budget are available from the Commission on request by contacting Richard C. Gore.

*Applications for Approval of the Following Projects Pursuant to Article 10.3, Article 11 and/or Section 3.8 of the Compact:*

1. *Holdover Project: Vic Mead Hunt Club D-90-34.* A surface water withdrawal project for purposes of golf course irrigation. The applicant will withdraw a combined total of up to 0.45 mgd from Pond Nos. 1 and 2 with the average 30-day withdrawal not to exceed 0.33 mgd. The water will be applied to a 37-acre portion of the golf course and restricted to seasonal use between March 1st and November 1st only. The total yearly withdrawal will be 20.1 mg. The project ponds are located on an unnamed tributary to Wilson Run (a tributary of Brandywine Creek), just east of Adams Dam Road near Centerville, New Castle County, Delaware. This hearing is deferred from that of April 22, 1992.

2. *Holdover Project: Brandywine Country Club D-90-65.* A surface water withdrawal project to provide water from a golf course pond for irrigation of approximately 25 acres of the applicant's golf course. A well is also

used to augment pond storage and can withdraw water at up to 2.0 mg/30 days (0.067 mgd). Water will be withdrawn from the pond at up to 7.0 mg/30 days (0.233 mgd) for seasonal irrigation. The project site is located just east of the Concord Pike (Route 202) and north of Talleyville in New Castle County, Delaware. This hearing is deferred from that of April 22, 1992.

3. *Fawn Lake Forest Water Company D-81-61 CP RENEWAL-2.* An application for the renewal of a ground water withdrawal project to supply up to 4.5 mg/30 days of water to the applicant's distribution system from Well Nos. 1-5. Commission approval on May 27, 1987 was limited to five years and will expire unless renewed. The applicant requests that the total withdrawal from all wells be increased from 3.3 mg to 4.5 mg/30 days. The project is located in Lackawaxen Township, Pike County, Pennsylvania.

4. *Mount Laurel Municipal Utilities Authority D-85-9 CP.* An application for approval of a ground water withdrawal project to supply up to 105 mg/30 days of water to the applicant's distribution system from Well Nos. 6 and 7, and to increase the existing withdrawal limit from all wells from 89.4 to 120 mg/30 days. The project is located in Mount Laurel Township, Burlington County, New Jersey.

5. *Cavalier's Country Club D-90-64.* A surface water withdrawal project to provide a combined total maximum of 8.15 mg/30 days for seasonal irrigation of approximately 35 acres of a 45-acre golf course. The applicant utilizes surface water from a man-made pond on the golf course site and from an adjacent intake on the Christina River. The project is located just south of the I-95 and Churchmans Road Interchange in New Castle County, Delaware.

6. *Ed "Porky" Oliver Golf Club D-90-66.* A surface water withdrawal project to provide 8.0 mg/30 days of water for seasonal irrigation of approximately 30 acres of the applicant's golf course. The pond is on the golf course grounds and is at the headwaters of an unnamed intermittent tributary of Little Mill Creek, a tributary of the Christina River. The project site is located just west of the City of Wilmington and south of State Route 52 in New Castle County, Delaware.

7. *Playtex Family Products Corporation D-90-106.* An application for approval of a ground water withdrawal project to supply up to 12 mg/30 days of water to the applicant's product processing facility from existing Well Nos. 1-NE and 2-SE, and to limit withdrawal from all wells to 12 mg/30

days. The project is located in the City of Dover, Kent County, Delaware.

8. *Town of Newton D-90-111 CP.* An application for approval of a ground water withdrawal project to supply up to 8.64 mg/30 days of water to the applicant's distribution system from new Well No. PW-1, and to limit the withdrawal from all wells to 8.64 mg/30 days. The project is located in the Town of Newton, Sussex County, New Jersey.

9. *American Mirrex Corp. D-91-35.* An industrial wastewater treatment plant project (IWTP) to provide treatment for an average monthly flow of 50,400 gallons per day to serve the applicant's rigid polyvinyl-chloride film manufacturing plant. The plant site is located just off School House Road in New Castle County, Delaware and north of the Delaware City corporate boundary. The proposed IWTP will discharge directly to the Delaware River in Water Quality Zone 5 via an existing outfall sluiceway.

10. *North American Silica Co. D-91-71.* A project to modify and upgrade the applicant's existing 0.41 mgd industrial wastewater treatment plant (IWTP) which will continue to treat an average monthly flow of 0.41 mgd. The IWTP will serve only the applicant's precipitated silica manufacturing facilities and is located adjacent to the Delaware River, to which the treated wastewater will continue to discharge, off Front Street in the Chester, Delaware County, Pennsylvania. The modifications are to be undertaken in anticipation of a future expansion and will enable the IWTP to handle a maximum flow of 0.869 mgd.

11. *Wagner Lighting Division, Cooper Industries, Inc. D-91-83.* An application for approval of a ground water remediation project consisting of withdrawal of up to 6.5 mg/30 days (0.217 mgd) from 16 decontamination wells, and to limit the withdrawal from all wells to 6.5 mg/30 days. The applicant will treat the ground water via an air stripper and discharge up to 0.144 mgd to Black Creek on an average monthly basis. The project is located in Weatherly Borough, Carbon County, Pennsylvania.

12. *Stabler Land Company D-92-7.* An application for approval of a Surface water withdrawal of up to 0.3 mgd from Lake Lindy, in the Saucon Creek watershed, to serve the applicant's irrigation needs at its Center Valley Club golf course located just south of East Saucon Valley Road and west of Camp Meeting Road in Upper Saucon Township, Lehigh County, Pennsylvania.

13. *Lehigh County Authority — Western Lehigh Service Area D-92-13*

CP. An application for approval of a ground water withdrawal project to supply up to 86.4 mg/30 days of water to the applicant's Central Division distribution system from new Well Nos. 17 and 18, and to increase the existing withdrawal limit of all wells from 188 mg/30 days to 201 mg/30 days. The project is located in Upper Macungie Township, Lehigh County, Pennsylvania.

14. *Whitehall Township Authority D-92-28 CP.* An application for approval of a ground water withdrawal project to supply up to 9.5 mg/30 days of water to the applicant's distribution system from the new Kennedy Well, and to retain the existing withdrawal limit from all wells of 73 mg/30 days. The project is located in Whitehall Township, Lehigh County, Pennsylvania.

Documents relating to these items may be examined at the Commission's offices. Preliminary dockets are available in single copies upon request. Please contact George C. Elias concerning docket-related questions. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the hearing.

#### Public Briefing Scheduled

The Delaware River Basin Commission will hold a public briefing on proposed water quality criteria for toxic pollutants for Zones 2 through 5 (Trenton, NJ to Delaware Bay) of the tidal Delaware River. The briefing will be held on June 29, 1992 from 2 to 5 p.m. and 7 to 9 p.m. at the Days Inn, 4101 Island Avenue, Philadelphia, Pennsylvania (near Philadelphia International Airport). The recommendations include specific numerical criteria for metals, pesticides, polychlorinated biphenyls (PCBs), pentachlorophenol, whole effluent toxicity and volatile and non-volatile organics to protect aquatic life in the estuary as well as human health based on consumption of water or fish taken from the estuary. The briefing will present discussions of the need for uniform criteria for the estuary, the bases of the recommended criteria and the ultimate use of the criteria in developing wasteload allocations and effluent limitations for toxic pollutants in NPDES permits. It is the Commission's intent to analyze all comments received at this public briefing before proposing the adoption of revisions to Commission regulations. Public hearings on such proposed water quality criteria and the policies and procedures to develop wasteload allocations and effluent limitations are tentatively planned for the spring of 1993. For further information and copies of the report entitled "Recommended

Water Quality Criteria for Toxic Pollutants for the Delaware River Estuary", January 1992, please contact Christopher Roberts, Public Information Officer, at (609) 883-9500.

Dated: May 5, 1992.

Susan M. Weisman,  
Secretary.

[FR Doc 92-11289 Filed 5-13-92; 8:45 am]

BILLING CODE 6360-01-M

#### DEPARTMENT OF ENERGY

##### Financial Assistance Award; Intent To Award Grant to Breeden, Inc.

**AGENCY:** U.S. Department of Energy.

**ACTION:** Notice of unsolicited financial assistance award.

**SUMMARY:** The Department of Energy announces that pursuant to 10 CFR 600.6(a)(2), it is making a discretionary financial assistance award based on acceptance of an unsolicited application meeting the criteria of 10 CFR 600.14(e)(1) to Breeden, Inc. under Grant No. DE-FG01-92CE15524. The proposed grant will provide Government funding in the estimated amount of \$99,409 for Breeden, Inc. and grantee funding in the amount of \$15,000 for a combined total of \$114,409 to develop an improved design for a slant-leg oil well platform that will allow for drilling in much more hazardous environments than is possible at the present time. This platform when applied to the offshore oil industry could result in hundreds of millions of presently inaccessible barrels of oil to become available for consumption.

In accordance with 10 CFR 600.14(e)(1), it has been determined that this project represents a unique idea that is not eligible for financial assistance under a recent, current, or planned solicitation. The design proposed is a unique energy saving technology which has been recommended by the National Institute of Standards and Technology (NIST). John Breeden, Inc. will be the principal investigator. He is the inventor of the slant leg design and holds the patent for this invention. His unique knowledge and experience is critical to the project.

The Energy-Related Inventions Program (ERIP) has been structured, since its beginning in 1975, to operate without competitive solicitations, because the legislation directs ERIP to provide support for worthy ideas submitted by the public. The proposed technology has a strong possibility of allowing for future reductions in the United States dependence on foreign oil. The program has never issued and has

no plans to issue a competitive solicitation.

The anticipated term of the proposed grant shall be 18 months from the effective date of award.

**FURTHER INFORMATION CONTACT:** U.S. Department of Energy, Office of Placement and Administration, ATTN: John Windish, PR-322.2, 1000 Independence Avenue, S.W., Washington, DC 20585.

Thomas S. Keefe,

Director, Operations Division "B", Office of Placement and Administration.

[FR Doc. 92-11406 Filed 5-13-92; 8:45 am]

BILLING CODE 6450-01-M

##### Acceptance of an Unsolicited Application; Institute for College Research Development and Support

**AGENCY:** Oak Ridge Field Office; Department of Energy (DOE).

**ACTION:** Notice.

**SUMMARY:** DOE announces that pursuant to 10 CFR 600.14, it intends to award on a noncompetitive basis a grant to the Institute for College Research Development and Support. The grant will (1) provide fellowship training for minority institution faculty in competing for mainline research grants and contracts, and (2) provide training for the comprehensive operation of an Office of Sponsored Research. DOE support is estimated at \$1,999,068, for a thirty-three month period.

**FOR FURTHER INFORMATION CONTACT:** Rufus H. Smith, DOE Project Manager, Office of Manager, U.S. Department of Energy, P.O. Box 2001, Oak Ridge, TN 37831, (615) 576-4988.

**SUPPLEMENTARY INFORMATION:** The anticipated objectives to be achieved include the following:

- To develop an administrative infrastructure model which will serve as the basis for the training program, and which can be used at the institutions of the selected faculty upon their return from the fellowship program;
- To increase the awareness and knowledge of the select fellows regarding the various organizations and their missions within the Department of Energy and within other related Federal Executive Departments;
- To provide the select fellows with "hands-on" experiences in the principles and processes of promotion and marketing of the capacities of their institutions to conduct research

projects in energy science and energy related sciences;

- To provide "hands-on" experiences to the select fellows in the processes for development and production of print and video materials which might promote the capacities of their institutions to conduct research in the energy sciences and energy related sciences;
- To provide "hands-on" experiences for the select fellows in the methodology for use in the systematic preparation of technical proposals for contract and grant solicitations in the energy and energy related sciences, so that competitive responses might be produced which maximize the chances for funding of these submissions; and

To provide "hands-on" experiences in the processes and "tools" required for efficient administration of sponsored research contracts and grants received by the institutions of the select fellows.

Issue in Oak Ridge, Tennessee on May 6, 1992.

**Charles D. Crowe,**

*Acting Director, Procurement and Contracts Division, Oak Ridge Field Office.*

[FR Doc 92-11409 Filed 5-13-92; 8:45 am]

BILLING CODE 6450-01-M

#### **Financial Assistance Award; Intent To Award Grant to Sayles Enterprises, Inc.**

**AGENCY:** U.S. Department of Energy.

**ACTION:** Notice of unsolicited financial assistance award.

**SUMMARY:** The Department of Energy announces that pursuant to 10 CFR 600.6(a)(2), it is making a discretionary financial assistance award based on acceptance of an unsolicited application meeting the criteria of 10 CFR 600.14(e)(1) to Sayles Enterprises, Inc. under Grant No. DE-FG01-92CE15974. The proposed grant would provide Government funding in the estimated amount of \$34,376 to establish a database for conductive paints. The total for this grant is estimated to be \$118,060. These paints when applied to solar cells have a potential energy savings of at 3.5 million barrels of oil.

In accordance with 10 CFR 600.14(e)(1), it has been determined that the application submitted by Sayles Enterprises, Inc. is meritorious based on the general evaluation required by 10 CFR 600.14(d) and that the proposed project represents a unique idea that would not be eligible for financial assistance under a recent, current, or planned solicitation. The application proposes a unique energy saving

technology which has been recommended by the National Institute of Standards and Technology (NIST). Dr. Delbert Sayles, the inventor of these patented paints, has many years of experience developing and testing alternative paint formulations. His unique knowledge and experience is critical to the project.

The Energy-Related Inventions Program (ERIP) has been instructed, since its beginning in 1975, to operate without competitive solicitations, because the legislation directs ERIP to provide support for worthy ideas submitted by the public. The proposed technology has a strong possibility of allowing for future reductions in the United States dependence on foreign oil. The program has never issued and has no plans to issue a competitive solicitation.

The anticipated term of the proposed grant shall be 24 months from the effective date of award.

**FOR FURTHER INFORMATION CONTACT:**

U.S. Department of Energy, Office of Placement and Administration, Attn: John Windish, PR-322.2, 1000 Independence Avenue SW, Washington, DC 20585.

**Thomas S. Keefe,**

*Director, Operations Division "B", Office of Placement and Administration.*

[FR Doc. 92-11407 Filed 5-13-92; 8:45 am]

BILLING CODE 6450-01-M

#### **Financial Assistance Award; Intent To Award Grant to S-Cal Research Corp.**

**AGENCY:** U.S. Department of Energy.

**ACTION:** Notice of unsolicited financial assistance award.

**SUMMARY:** The Department of Energy announces that pursuant to 10 CFR 600.6(a)(2), it is making a discretionary financial assistance award based on acceptance of an unsolicited application meeting the criteria of 10 CFR 600.14(e)(1) to S-Cal Research Corporation under Grant No. DE-FG01-92CE15553. The proposed grant will provide Government funding in the estimated amount of \$99,945 for S-Cal Research Corporation to develop the technology to inject steam and produce oil from the same well bore through a process of value switching between two end regions of the same oil reservoir. This process will enable the recovery of hundreds of millions of barrels of additional oil and provide a substantial energy savings in the search for heavy oil.

In accordance, with 10 CFR 600.14(e)(1), it has been determined that this project represents a unique idea

that is not eligible for financial assistance under a recent, current, or planned solicitation. The process proposed in the application is a unique energy saving technology which has been recommended by the National Institute of Standards and Technology (NIST). Dr. Michael Gondouin, principal investigator, is the inventor of this process and has a patent pending. His experience is critical and essential for successful completion of the grant.

The Energy-Related Inventions Program (ERIP) has been structured, since its beginning in 1975, to operate without competitive solicitations, because the legislation directs ERIP to provide support for worthy ideas submitted by the public. The proposed technology has a strong possibility of allowing for future reductions in the energy consumption of the United States. The program has never issued and has no plans to issue a competitive solicitation.

The anticipated term of the proposed grant shall be 24 months from the effective date of award.

**FOR FURTHER INFORMATION CONTACT:**

U.S. Department of Energy, Office of Placement and Administration, ATTN: John Windish, PR-322.2, 1000 Independence Avenue SW., Washington, DC 20585.

**Thomas S. Keefe,**

*Director, Operations Division "B", Office of Placement and Administration.*

[FR Doc 92-11408 Filed 5-13-92; 8:45 am]

BILLING CODE 6450-01-M

#### **Federal Energy Regulatory Commission**

[Docket Nos. ER91-527-001, et al.]

#### **Duke Power Company, et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings**

Take notice that the following filings have been made with the Commission:

##### **1. Duke Power Co.**

[Docket No. ER91-527-001]

May 5, 1992.

Take notice that on April 14, 1992, pursuant to the Commission's order issued on March 31, 1992, Duke Power Company tendered for filing its compliance filing in the above-referenced docket.

*Comment date:* May 18, 1992, in accordance with Standard Paragraph E at the end of this notice.

**2. Bechtel Power Corp.**

[Docket No. EL92-23-000]

May 6, 1992.

Take notice that on April 13, 1992, Bechtel Power Corporation (Bechtel) tendered for filing a petition for a declaratory order disclaiming jurisdiction under section 201(e) of the Federal Power Act, 16 U.S.C. 824(e) (1988), over Bechtel by virtue of the performance by Bechtel of its obligations under an operation and maintenance agreement with respect to the Doswell Project.

*Comment date:* May 21, 1992, in accordance with Standard Paragraph E at the end of this notice.

**3. Union Electric Co.**

[Docket No. ER84-560-034]

May 6, 1992.

Take notice that on April 24, 1992, Union Electric Company tendered for filing its refund report in the above-referenced docket.

*Comment date:* May 20, 1992, in accordance with Standard Paragraph E end of this notice.

**4. New England Power Co.**

[Docket No. ER92-484-000]

May 6, 1992.

Take notice that on April 27, 1992, New England Power Company (NEP) tendered for filing Notices of Termination Under FERC Electric Tariff, Original Volume No. 3.

*Comment date:* May 20, 1992, in accordance with Standard Paragraph E at the end of this notice.

**5. Citizens Utilities Co.**

[Docket No. ES92-37-000]

May 5, 1992.

Take notice that on April 24, 1992, Citizens Utilities Company filed an application with the Federal Energy Regulatory Commission under section 204 of the Federal Power Act requesting authorization for a 3-for-2 split of its common stock.

*Comment date:* May 26, 1992, in accordance with Standard Paragraph E at the end of this notice.

**6. Richard M. Chapman**

[Docket No. ID-2689-000]

May 6, 1992.

Take notice that on April 23, 1992, Richard M. Chapman, (Applicant) tendered for filing an application under section 305(b) of the Federal Power Act to hold the following positions:

Vice President—Vermont Electric Transmission Company, Inc.  
Vice President—Vermont Electric Power Company, Inc.

*Comment date:* May 21, 1992, in accordance with Standard Paragraph E at the end of this notice.

**7. Virginia Electric and Power Co.**

[Docket No. EC92-12-000]

May 5, 1992.

Take notice that on March 27, 1992, Virginia Electric and Power Company (VEPCO) tendered for filing an application pursuant to section 203(a) of the Federal Power Act and part 33 of the Regulations under the Federal Power Act for approval of the sale by VEPCO to Edgecombe-Martin County Electric Membership Corporation of various electrical facilities.

*Comment date:* May 18, 1992, in accordance with Standard Paragraph E at the end of this notice.

**8. Main Public Service Co.**

[Docket No. ER92-463-000]

May 6, 1992.

Take notice that on April 13, 1992, Maine Public Service Company (MPS), in compliance with the Commission's March 18, 1992 order herein, Maine Public Service Company (MPS) tendered for filing the Assignment of Transmission Agreement From Alternative Energy, Inc. To Northeast Empire Limited Partnership #2.

*Comment date:* May 20, 1992, in accordance with Standard Paragraph E at the end of this notice.

**9. ACME Power Co., Inc.**

[Docket No. QF92-28-000]

May 6, 1992.

On April 28, 1992, ACME Power Company, Inc. tendered for filing an amendment to its filing in this docket.

The amendment provides additional information pertaining to the primary energy source and ownership structure of its small power production facility. No determination has been made that the submittal constitutes a complete filing.

*Comment date:* May 27, 1992, in accordance with Standard Paragraph E end of this notice.

**10. City of Lebanon, Ohio v. The Cincinnati Gas & Electric Co.**

[Docket No. EL92-22-000]

May 6, 1992.

Take notice that on April 8, 1992, the City of Lebanon, Ohio tendered for filing a complaint against the Cincinnati Gas & Electric Company requesting an order directing compliance with filed rate and refund of past overcharges.

*Comment date:* June 5, 1992, in accordance with Standard Paragraph E at the end of this notice.

**11. System Energy Resources, Inc.**

[Docket No. ER89-678-001]

May 6, 1992.

Take notice that on May 4, 1992, System Energy Resources, Inc. (System Energy) tendered for filing revised billing format sheets that specify the accounts that are included in its Unit Power Sales Agreement (UPSA) formula rate, in accordance with Article IV.3 of the settlement agreement that was reached in this proceeding and filed on June 14, 1991. The Commission accepted the settlement agreement by letter order dated September 6, 1991. System Energy states that this filing supplements its original settlement compliance filing dated October 15, 1991.

*Comment date:* May 21, 1992, in accordance with Standard Paragraph E at the end of the Notice.

**12. Valley Cogen, L.P.**

[Docket No. QF92-137-000]

May 6, 1992.

On April 24, 1992, Valley Cogen, L.P. of 7201 Hamilton Boulevard, Allentown, Pennsylvania 18195-1501, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207(b) of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located at Knouse Foods in Adams County, Pennsylvania. This facility will consist of one combustion turbine generator, one heat recovery steam generator and one steam turbine generator. The useful thermal output of the facility will be used for refrigeration and food processing at Knouse Foods. The net electric power production capacity will be 216.5 MW. The construction of the facility is expected to commence by the summer of 1995.

*Comment date:* 30 days from publication in the Federal Register in accordance with Standard Paragraph E at the end of this notice.

**Standard Paragraphs**

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make

protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-11313 Filed 5-13-92; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 1473-005 Montana]

**Availability of Environmental Assessment; Granite County, MT**

May 8, 1992.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for major license for the proposed Flint Creek Hydroelectric Project located on Flint Creek in Granite and Deer Lodge Counties, near Philipsburg, Montana and has prepared an Environmental Assessment (EA) for the proposed project. In the EA, the Commission's staff has analyzed the potential environmental impacts of the proposed project and has concluded that approval of the proposed project would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, room 3009, of the Commission's Office at 941 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 92-11307 Filed 5-13-92; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2423-000 New Hampshire]

**James River-New Hampshire Electric, Inc.; Availability of Environmental Assessment**

May 8, 1992.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for a major new license for the existing and proposed new capacity at the Riverside Project located on the Androscoggin River in the town of Berlin, Coos County, New Hampshire, and has prepared an Environmental

Assessment (EA) for the project. In the EA, the Commission's staff has analyzed the potential environmental impacts of the project and has concluded that approval of the project, with appropriate mitigative measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, room 3308, of the Commission's offices at 941 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 92-11308 Filed 5-13-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM92-7-48-000]

**ANR Pipeline Co.; Proposed Changes in FERC Gas Tariff**

May 8, 1992.

Take notice that ANR Pipeline Company ("ANR"), on April 30, 1992 tendered for filing as part of its FERC Gas Tariff, six copies the following tariff sheets which ANR proposes to be effective May 1, 1992:

*Original Volume No. 1*  
Sixty-Second Revised Sheet No. 18

*Original Volume No. 1-A*  
Sixteen Revised Sheet No. 6

*Original Volume No. 2*  
Fifteenth Revised Sheet No. 16  
Fifteenth Revised Sheet No. 17  
Fifteenth Revised Sheet No. 18  
Fifteenth Revised Sheet No. 19  
Seventeenth Revised Sheet No. 20  
Sixteen Revised Sheet No. 21  
Thirteenth Revised Sheet No. 22

*Original Volume No. 3*  
Tenth Revised Sheet No. 5

ANR states that the referenced tariff sheets are being submitted to adjust ANR's Volumetric Buyout Buydown Surcharge to reflect the actual volume data as reflected in ANR's 1991 FERC Form No. 2.

ANR states that each of its Volumes 1, 1-A, 2 and 3 customers and interested State Commissions has been appraised of this filing via U.S. Mail.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Commission, 825 N. Capitol Street, NW., Washington, DC 20426 by May 15, 1992, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure 18 CFR 385.211, 385.214. 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 application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-11397 Filed 5-13-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-131-002 and RP87-86-020]

**K N Energy, Inc.; Proposed Changes in FERC Gas Tariff**

May 8, 1992.

Take notice that on February 28, 1992, K N Energy, Inc. (K N) made its restatement filing pursuant to § 154.303(e) of the Commission's Regulations, 18 CFR 154.303(e), and in accordance with the Commission's Letter Order issued April 24, 1990, in Docket No. RP87-86, *et al.*

On March 30, 1992, the Commission issued its Order Accepting and Suspending Tariff Sheets Subject to Refund and Establishing A Hearing. Ordering Paragraph (C) stated that "K N is directed to grant Midwest's December 20, 1992, request to renominate its D2 demand levels and to file revised tariff sheets reflecting these D2 levels within 30 days of the date of issuance of this order."

Take notice, that on April 30, 1992, under protest, K N hereby transmitted for filing the following tariff sheets to K N's FERC Gas Tariff:

Fourth Revised Volume No. 1:  
Ninth Revised Sheet No. 4  
Ninth Revised Sheet No. 4B  
First Revised Volume No. 1-A:  
Fourth Revised Sheet No. 4  
First Revised Volume No. 1-B  
Second Revised Sheet No. 66

K N states that it has filed Second Revised Tariff Sheet No. 66 under protest; Tariff Sheet No. 66 reflects the allowance of D2 renominations for Midwest Energy Inc. In addition, Ninth Revised Tariff Sheets Nos. 4 and 4B and Fourth Revised Tariff Sheet No. 4 were filed under protest; these tariff sheets are necessary to keep K N revenue neutral if Midwest's Energy Inc.'s D2 renominations are allowed.

K N states that on April 29, 1992, K N filed for rehearing to request that the Commission revisit the March 30th Order and retract Ordering Paragraph (C) which directed K N to grant Midwest's December 20, 1991 request to renominate its D2 demand levels and further to request clarification, or in the

alternative, rehearing that K N will remain revenue neutral and will not have any refund exposure as a result of complying with Ordering Paragraph (C).

K N states that copies of the filing were served upon K N's jurisdictional customers, and interested public bodies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before May 15, 1992. 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. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,  
Secretary.

[FR Doc. 92-11398 Filed 5-13-92; 8:45 am]

BILLING CODE 8717-01-M

[Docket No. TQ92-2-27-000]

**North Penn Gas Co.; Proposed Changes in FERC Gas Tariff**

May 8, 1992.

Take notice that North Penn Gas Company (North Penn) on May 5, 1992, tendered for filing Twelfth Revised Sheet No. 3A to its FERC Gas Tariff, First Revised Volume No. 1.

North Penn states that the revised tariff sheet is being filed pursuant to Section 14 of the General Terms and Conditions of North Penn's FERC Gas Tariff to reflect changes in the cost of gas for the period June 1, 1992 through August 31, 1992 and is proposed to be effective June 1, 1992. The proposed change reflects an increase in the average cost of gas for the G-1 Rate Schedule of \$1.64273 per Mcf.

While North Penn believes that no other waivers are necessary in order to permit this filing to become effective June 1, 1992, as proposed, North Penn respectfully requests waiver of any of the Commission's Rules and Regulations as may be required to permit this filing to become effective June 1, 1992.

North Penn states that copies of this letter of transmittal and all enclosures are being mailed to each of North Penn's jurisdictional customers and state commissions shown on the attached service list.

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, NW., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before May 15, 1992. 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. 92-11399 Filed 5-13-92; 8:45 am]

BILLING CODE 8717-01-M

[Docket No. RP92-169-000]

**Northern Border Pipeline Co.; Proposed Changes in FERC Gas Tariff**

May 8, 1992.

Take notice that on May 6, 1992, Northern Border Pipeline Company tendered the following tariff sheets for filing in the captioned docket as part of its FERC Gas Tariff, Original Volume No. 1:

Fourth Revised Sheet Number 253  
Original Sheet Number 253A  
Original Sheet Number 253B

With these tariff sheets, Northern Border is proposing an immediate revision to the procedure for permanent release of firm transportation capacity in order to satisfy a release request from a Canadian shipper in Northern Border's ongoing expansion/extension project. Northern Border states that a Canadian shipper in the project has asked the Company to permit the release of a portion of its contracted firm capacity and has designated another Canadian entity as its replacement shipper to receive the release capacity. Northern Border alleges that it is important that the tariff sheets submitted in this filing be approved promptly in order that the procedural steps set forth in Order No. 636 can be implemented by the Company to complete the release of this firm capacity before the commencement of the transportation service made possible by the construction currently underway.

Northern Border states that the current approach to capacity reassignment under section 27 is to provide a prospective shipper who is interested in obtaining capacity on the Northern Border pipeline a method of replacing a current firm shipper. Northern Border proposes to retain the procedure of matching prospective

shippers in the firm transportation queue or through a non-discriminatory public offering with existing firm shippers that want to transfer their capacity rights and obligations. However, Northern Border maintains, the revised section 27 will implement provisions of Order No. 636 that give to current firm shippers the convenience and flexibility to designate replacement shippers for their capacity. Revised Sheet Number 253 and Original Sheet Number 253A incorporating direct assignment and release will, Northern Border asserts, allow its firm shippers to reallocate their Northern Border capacity to other parties in transactions where the Northern Border capacity may be only one segment in a chain of interdependent supply and capacity transactions.

Northern Border has requested that the revised tariff sheets be effective June 15, 1992. Copies of this filing have been sent to all of Northern Border's contracted shippers.

Any person desiring to be heard or to protest the subject filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214, 385.211. All such motions or protests must be filed by May 15, 1992. Protests will be considered by the Commission in determining the appropriate action to 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. 92-11400 Filed 5-13-92; 8:45 am]

BILLING CODE 8717-01-M

**ENVIRONMENTAL PROTECTION AGENCY**

[FRL-4133-3]

**Proposal To Grant a Variance From Land Disposal Restrictions to Exxon Company, U.S.A., Billings, MT; Extension of Comment Period**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed notice of decision; extension of comment period.

**SUMMARY:** The Environmental Protection Agency (EPA or Agency) is extending the comment period on the proposed no-migration variance decision for Exxon Company, U.S.A., Billings, Montana, which appeared in the *Federal Register* on March 26, 1992 (see 57 FR 10478). This extension of the comment period is provided to allow commenters an opportunity to finalize their review efforts and responses to the Agency's proposed decision.

**DATES:** EPA will accept public comments on the proposed decision until June 10, 1992. Comments postmarked after the close of the extended comment period will be stamped late.

**ADDRESSES:** Send three copies of your comments to EPA. Two copies should be sent to the RCRA Docket, Office of Solid Waste (OS-343), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. A third copy should be sent to Allyson Ugarte, Permits and State Programs Division, Office of Solid Waste (OS-343), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Identify your comments at the top with the regulatory docket number F-92-NEBP-FFFFF.

The RCRA regulatory docket where this information can be viewed is located at the U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, and is available for viewing from 9 a.m. to 4 p.m., Monday through Friday, except Federal holidays. Call (202) 260-9327 for appointments. Up to 100 pages may be copied free of charge from any one regulatory docket. Additional copies are \$0.15 per page.

A copy of the supporting record is also available to the public in Helena, Montana, at the EPA Region VIII, Montana Operations Office, Federal Building, 301 South Park. The public may make arrangements to view the documents by calling Stephanie Wallace at (406) 499-5414. This docket is available for inspection from 8 a.m. to 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** For general information, contact the RCRA Hotline at (800) 424-9346 toll free or at (703) 920-9810 in the Washington, DC area. For technical information concerning this notice, contact Athena Rodbell, Office of Solid Waste (OS-343), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, at (202) 260-4519.

**SUPPLEMENTARY INFORMATION:** On March 26, 1992, EPA proposed to grant a no-migration petition submitted by

Exxon Company, U.S.A. (Exxon), Billings, Montana, pursuant to 40 CFR 268.6, to allow Exxon to conduct the land treatment of hazardous wastes generated at the Billings refinery. See 57 FR 10478 for a more detailed explanation of why the Agency proposed to grant Exxon's petition.

Since publication, the Agency has received several requests from commenters to extend the comment period because additional time is needed to review the extensive administrative record for this first proposal to grant a no-migration variance for any type of surface land disposal unit. In addition, one commenter stated that the public docket did not contain certain relevant documents and that a number of pages were missing from documents attached to the petition.

The Agency considered the commenters' requests and has decided to extend the comment period for 30 days to allow commenters additional time to review the entire record. The specific materials identified as missing have been placed in the docket for this notice and are available for public review.

The public comment period for the proposed notice to grant a no-migration variance was originally scheduled to end on May 11, 1992. Today's notice extends the public comment period for the proposed notice to allow commenters and opportunity to finalize their review and responses to the Agency's proposed decision.

Dated: May 8, 1992.

Sylvia K. Lowrance,  
Director, Office of Solid Waste.  
[FR Doc 92-11388 Filed 5-13-92; 8:45 am]

BILLING CODE 6560-50-M

## FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-943-DR]

### California; Major Disaster and Related Determinations

**AGENCY:** Federal Emergency  
Management Agency (FEMA).

**ACTION:** Notice.

**SUMMARY:** This is a notice of the Presidential declaration of a major disaster for the State of California (FEMA-943-DR), dated May 4, 1992, and related determinations.

**EFFECTIVE DATE:** May 4, 1992.

**FOR FURTHER INFORMATION CONTACT:**  
Pauline C. Campbell, Disaster  
Assistance Programs, Federal

Emergency Management Agency,  
Washington, DC 20472, (202) 646-3606.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that, in a letter dated May 4, 1992, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of California, resulting from earthquakes and continuing aftershocks commencing on April 25, 1992, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of California.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Public Assistance in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Richard Buck of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of California to have been affected adversely by this declared major disaster:

Humboldt County for Individual Assistance and Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Wallace E. Stickney,

Director.

[FR Doc 92-11356 Filed 5-13-92; 8:45 am]

BILLING CODE 6716-02-M

### Advisory Committee for the National Urban Search and Rescue System; Open Meeting

**AGENCY:** Federal Emergency  
Management Agency (FEMA).

**ACTION:** Notice of open meeting.

**SUMMARY:** In accordance with section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. 2 *et seq.*, FEMA announces the following committee meeting:

**NAME:** Advisory Committee for the National Urban Search and Rescue System (Advisory Committee).

**DATES OF MEETING:** May 29-30, 1992.

**PLACE:** The Point on South Mountain, 7777 South Point Parkway, Phoenix, AZ 85044, (602) 438-9000.

**TIME:** May 29—9 a.m. to 5 p.m.; May 30—8:30 a.m. to 5 p.m.

**PROPOSED AGENDA:** The Advisory Committee will discuss: (1) A draft white paper on the state of the Federal Urban Search and Rescue (US&R) program; (2) the development of a 5-year plan for program activities; (3) updates on the FEMA US&R development program; (4) status report on organizational US&R activities; (5) subcommittee activities, including upcoming US&R task force training; and (6) a report on telecommunications interoperability.

**SUPPLEMENTARY INFORMATION:** The meeting will be open to the public with approximately 10 seats available on a first-come, first-served basis. Members of the general public who plan to attend the meeting must contact Mrs. Kimberly S. Caulfield Vasoconez, FEMA, Operations Planning and Response Branch, 202-646-4335, no later than May 20.

Minutes of the meeting will be prepared and will be available for public viewing in Operations Planning and Response Branch (SL-OE-FR-OP), Federal Emergency Management Agency, 500 C Street, SW., room 613, Washington, DC 20472. Copies of the minutes will be available upon request 30 days after the final day of the meeting.

Grant C. Peterson,

Associate Director, State and Local Programs and Support Directorate.

[FR Doc. 92-11402 Filed 5-13-92; 8:45 am]

BILLING CODE 6718-01-M

**FEDERAL MARITIME COMMISSION****Agreement(s) Filed**

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street,

NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

**Agreement No.:** 224-003158-009.

**Title:** Port Authority of New York and New Jersey/Ecuadorian Line Terminal Agreement.

**Parties:**

Port Authority of New York and New Jersey ("Port")  
Ecuadorian Line, Inc. ("EL, Inc.")

**Synopsis:** The amendment increases the space EL, Inc. leases from the Port. All other terms of the Leasing Agreement remain in effect.

**Agreement No.:** 224-200385-001.

**Title:** Port of Seattle/American President Lines, Ltd. Terminal Agreement.

**Parties:**

Port of Seattle ("Port")  
American President Lines, Ltd.  
("APL")

**Synopsis:** The Agreement modification expands the amount of land available to APL at the Port by 237,472 square feet.

**Agreement No.:** 224-200656.

**Title:** North Carolina State Ports Authority/Polish Ocean Lines Leasing Agreement.

**Parties:**

The North Carolina State Ports Authority  
Polish Ocean Lines

**Synopsis:** The Agreement provides for the Port to lease to Polish eleven acres at the Wilmington Terminal at a rate of \$14,000.00 per acre per year. The term of the lease is for two years.

**Agreement No.:** 224-200657.

**Title:** Kodiak/Sea-Land Terminal Agreement.

**Parties:**

City of Kodiak ("Kodiak")  
Sea-Land Service, Inc. ("Sea-Land")

**Synopsis:** The Agreement provides that Sea-Land will lease approximately 31,410 square feet of space from Kodiak for the storage of containers and related equipment used by Sea-Land in connection with its operations. The agreement has an initial term of five years.

**Agreement No.:** 224-200658.

**Title:** Alabama State Docks/Southern Cargo Handlers Terminal Agreement.

**Parties:**

Alabama State Docks Department  
("Department")  
Southern Cargo Handlers, Inc.  
("Southern Cargo")

**Synopsis:** The Agreement permits Southern Cargo to provide cargo and freight handling services at the Department's facilities at the Port of Mobile in accordance with applicable Department tariffs.

Dated: May 8, 1992.

By Order of the Federal Maritime Commission.

Joseph C. Polking,  
Secretary.

[FR Doc. 92-11296 Filed 5-13-92; 8:45 am]

BILLING CODE 6730-01-M

**[Docket No. 92-23]**

**Revenue Protection Services, as Agent for Frota Amazonica, S.A. v. U.S. Hardwood International, Inc; Filing of Complaint and Assignment**

Notice is given that a complaint filed by Revenue Protection Services, as agent for Frota Amazonica, S.A. ("Complainant") against U.S. Hardwood International, Inc. ("Respondent") was served May 7, 1992. Complainant alleges that Respondent engaged in violations of section 10(a)(1) of the Shipping Act of 1984, 46 U.S.C. 1709(a)(1), by refusing to pay the lawful ocean freight and other charges on two shipments of southern yellow pine from Mobile, Alabama to Port Au Prince, Haiti in October 1989 and April 1990.

This proceeding has been assigned to Administrative Law Judge Norman D. Kline ("Presiding Officer"). Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the Presiding Officer in this proceeding shall be issued by May 7, 1993, and the final decision of the

Commission shall be issued by September 6, 1993.

Joseph C. Polking,  
Secretary.

[FR Doc. 92-11297 Filed 5-13-92; 8:45 am]  
BILLING CODE 6730-01-M

## FEDERAL RESERVE SYSTEM

### CB&T Financial Corp., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than June 5, 1992.

**A. Federal Reserve Bank of Richmond**  
(Lloyd W. Bostian, Jr., Vice President)  
701 East Byrd Street, Richmond, Virginia  
23261:

1. **CB&T Financial Corp.**, Fairmont, West Virginia; to acquire 100 percent of the voting shares of The Westover Bank, Westover, West Virginia.

**B. Federal Reserve Bank of Atlanta**  
(Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia  
30303:

1. **Crossroads Bancshares, Inc.**, Perry, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Crossroads Bank of Georgia, Perry, Georgia.

**C. Federal Reserve Bank of Chicago**  
(David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois  
60690:

1. **AMCORE Financial, Inc.**, Rockford, Illinois; to acquire 100 percent of the

voting shares of Dixon Bancorp, Inc., Dixon, Illinois, and thereby indirectly acquire The Dixon National Bank, Dixon, Illinois.

Board of Governors of the Federal Reserve System, May 8, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-11334 Filed 5-13-92; 8:45 am]  
BILLING CODE 6210-01-F

### Valley Bancorporation, et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than June 5, 1992.

**A. Federal Reserve Bank of Chicago**  
(David S. Epstein, Vice President) 230

South LaSalle Street, Chicago, Illinois  
60690:

1. **Valley Bancorporation**, Appleton, Wisconsin; to acquire United Savings and Loan Association, Sheboygan, Wisconsin, and thereby engage in operating a savings association pursuant to § 225.25(b)(9) of the Board's Regulation Y.

**B. Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55460:

1. **Norwest Corporation**, Minneapolis, Minnesota, Norwest Financial, Inc., Des Moines, Iowa, and Norwest Financial Services, Inc., Des Moines, Iowa; to acquire AIC Financial Services, Inc., Memphis, Tennessee, and thereby engage in consumer finance activities pursuant to § 225.25(b)(1) of the Board's Regulation Y, and the sale of credit life and credit accident and health insurance and property and credit-related casualty insurance pursuant to § 225.25(b)(8) of the Board's Regulation Y and § 4(c)(8)(G) of the Bank Holding Company Act. These activities will be conducted in Alabama, Mississippi, Kentucky, Tennessee, and South Carolina.

Board of Governors of the Federal Reserve System, May 8, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-11335 Filed 5-13-92; 8:45 am]  
BILLING CODE 6210-01-F

## GENERAL SERVICES ADMINISTRATION

### Federal Travel Regulation

[GSA Bulletin FTR 5]

### Reimbursement of Subsistence Expenses; Oshkosh, WI

April 30, 1992

To: Heads of Federal agencies.  
Subject: Reimbursement of higher actual subsistence expenses for travel to Oshkosh (Winnebago County), Wisconsin.

1. **Purpose.** This bulletin informs agencies of the establishment of a special actual subsistence expense ceiling for official travel to Oshkosh (Winnebago County), Wisconsin. This special rate is applicable to claims for reimbursement covering travel during the period July 31, 1992, through August 6, 1992.

2. *Background.* The Federal Travel Regulation (FTR) (41 CFR 301-8) permits the Administrator of General Services to establish a higher maximum daily rate for the reimbursement of actual subsistence expenses of Federal employees on official travel to an area within the continental United States. The head of an agency may request establishment of such a rate when special or unusual circumstances result in an extreme increase in subsistence costs for a temporary period.

3. *Maximum rate and effective date.* The Administrator of General Services, pursuant to 41 CFR 301-8.3(c), has increased the maximum daily amount of reimbursement that may be approved for actual and necessary subsistence expenses for official travel to Oshkosh (Winnebago County), Wisconsin for travel during the period July 31, 1992, through August 6, 1992. Agencies may approve actual subsistence expense reimbursement not to exceed \$141 (\$115 maximum for lodging and a \$26 allowance for meals and incidental expenses) for travel to Oshkosh (Winnebago County), Wisconsin, during this time period.

4. *Expiration date.* This bulletin expires on September 30, 1992.

5. *For further information contact.* Jane E. Groat, General Services Administration, Transportation Management Division (FBX), Washington, DC 20406, telephone FTS or commercial (703) 305-5253.

By delegation of the Commissioner, Federal Supply Service.

Allan W. Beres,

Assistant Commissioner, Transportation and Property Management.

[FR Doc. 92-11166 Filed 5-13-92; 8:45 a.m.]

BILLING CODE 6820-24-F

## Federal Travel Regulation

[GSA Bulletin FTR 4]

### Reimbursement of Subsistence Expenses; Augusta, GA

April 30, 1992

To: Heads of Federal agencies.

Subject: Reimbursement of higher actual subsistence expenses for travel to Augusta (Richmond County), Georgia.

1. *Purpose.* This bulletin informs agencies of the establishment of a special actual subsistence expense

ceiling for official travel to Augusta (Richmond County), Georgia. This special rate is applicable to claims for reimbursement covering travel during the period April 7, 1992, through April 14, 1992.

2. *Background.* The Federal Travel Regulation (FTR) (41 CFR 301-8) permits the Administrator of General Services to establish a higher maximum daily rate for the reimbursement of actual subsistence expenses of Federal employees on official travel to an area within the continental United States. The head of an agency may request establishment of such a rate when special or unusual circumstances result in an extreme increase in subsistence costs for a temporary period.

3. *Maximum rate and effective date.* The Administrator of General Services, pursuant to 41 CFR 301-8.3(c), has increased the maximum daily amount of reimbursement that may be approved for actual and necessary subsistence expenses for official travel to Augusta (Richmond County), Georgia for travel during the period April 7, 1992, through April 14, 1992. Agencies may approve actual subsistence expense reimbursement not to exceed \$127 (\$101 maximum for lodging and a \$26 allowance for meals and incidental expenses) for travel to Augusta (Richmond County), Georgia, during this time period.

4. *Expiration date.* This bulletin expires on September 30, 1992.

5. *For further information contact.* Jane E. Groat, General Services Administration, Transportation Management Division (FBX), Washington, DC 20406, telephone FTS or commercial (703) 305-5253.

By delegation of the Commissioner, Federal Supply Service.

Allan W. Beres,

Assistant Commissioner, Transportation and Property Management.

[FR Doc. 92-11167 Filed 5-13-92; 8:45a.m.]

BILLING CODE 6820-24-F

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Alcohol, Drug Abuse, and Mental Health Administration

#### National Institute on Alcohol Abuse and Alcoholism; Meetings

Pursuant to Public Law 92-463, notice

is hereby given of the meetings of the advisory committees of the National Institute on Alcohol Abuse and Alcoholism for June 1992.

The initial review groups will be performing review of applications for Federal assistance; therefore, portions of these meetings will be closed to the public as determined by the Acting Administrator, ADAMHA, in accordance with 5 U.S.C. 552b(c)(6) and 5 U.S.C. app. 2 10(d).

Summaries of the meetings and rosters of committee members may be obtained from: Ms. Diana Widner, NIAAA Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration, Parklawn Building, room 16C-20, 5600 Fishers Lane, Rockville, MD 20857 (Telephone 301-443-4375).

Substantive program information may be obtained from the contacts whose names, room numbers, and telephone numbers are listed below.

*Committee Name:* Biochemistry, Physiology, and Medicine Subcommittee of the Alcohol Biomedical Research Review Committee.

*Meeting Dates:* June 1-2, 1992.

*Place:* Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.

*Open:* June 1, 9 a.m.-10:15 a.m.

*Closed:* Otherwise.

*Contact:* Ronald F. Suddendorf, Ph.D., rm. 16C-26 Parklawn Bldg., Phone (301) 443-6106.

*Committee Name:* Clinical and Treatment Subcommittee of the Alcohol Psychosocial Research Review Committee.

*Meeting Dates:* June 1-3, 1992.

*Place:* The River Inn, 924 25th Street, NW., Washington, DC 20037.

*Open:* June 1, 9 a.m.-10 a.m.

*Closed:* Otherwise.

*Contact:* Thomas D. Sevy, M.S.W., rm. 16C-26, Parklawn Bldg., (301) 443-6106.

*Committee Name:* Epidemiology and Prevention Subcommittee of the Alcohol Psychosocial Research Review Committee.

*Meeting Dates:* June 10-12, 1992.

*Place:* La Jolla Village Inn, 3299 Holiday Court, La Jolla, CA 92037.

*Open:* June 10, 9 a.m.-10 a.m.

*Closed:* Otherwise.

*Contact:* Lenore S. Radloff, rm. 16C-26, Parklawn Bldg., (301) 443-6106.

*Committee Name:* Neuroscience and Behavior Subcommittee of the Alcohol Biomedical Research Review Committee.

*Meeting Dates:* June 10-12, 1992.

*Place:* La Jolla Village Inn, 3299 Holiday Court, La Jolla, CA 92037.

*Open:* June 10, 9 a.m.-11 a.m.

*Closed:* Otherwise.

*Contact:* Antonio Noronha, Ph.D., rm. 16C-

20, Parklawn Bldg., (301) 443-4375.

Dated: May 8, 1992.

Peggy W. Cockrill,

*Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.*

[FR Doc. 92-11352 Filed 5-13-92; 8:45 am]

BILLING CODE 4160-20-M

### Alcohol, Drug Abuse and Mental Health Administration

#### Office for Substance Abuse Prevention; Meetings

Pursuant to Public Law 92-463, notice is hereby given of the meetings of the advisory committees of the Office for Substance Abuse Prevention for June 1992.

The initial review groups will be performing review of applications for Federal assistance; therefore, portions of these meetings will be closed to the public as determined by the Acting Administrator, ADAMHA, in accordance with 5 U.S.C. 552b(c)(6) and 5 U.S.C. app. 210(d).

Summaries of the meetings and rosters of committee members may be obtained from: Ms. Dee Herman, OSAP Committee Management Officer, Alcohol, Drug Abuse and Mental Health Administration, Rockwall II, room 630, 5600 Fishers Lane, Rockville, MD 20857 (telephone: 301-443-4783).

Substantive program information may be obtained from the contacts whose names, room numbers, and telephone numbers are listed below.

*Committee Names:* High Risk Youth Review Committee, Subcommittees 1-4. Pregnant and Postpartum Women and Infants, Review Committee, Subcommittees 1 and 2.

*Meeting Date:* June 1-4, 1992.

*Place:* Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

*Open:* June 1, 8:30 a.m.-11:30 a.m., Closed-Otherwise.

#### Contact:

High Risk Youth Review Committee, Subcommittee 1, Mrs. Dorothy West, Telephone: (301) 443-5062.

High Risk Youth Review Committee, Subcommittee 2, Beverlie Fallik, Ph.D., Telephone: (301) 443-9136.

High Risk Youth Review Committee, Subcommittee 3, Frederick C. Depp, Ph.D., Telephone: (301) 443-9540.

High Risk Youth Review Committee, Subcommittee 4, Thomas W. Granzow, Ph.D., Telephone: (301) 443-5062.

Pregnant and Postpartum Women and Infants, Review Committee, Subcommittee 1, Ms. Elizabeth A. Breckinridge, Telephone: (301) 443-9136.

Pregnant and Postpartum Women and Infants, Review Committee,

Subcommittee 2, Ms. Sandra E. Stephens, Telephone: (301) 443-9540.

Dated: May 8, 1992.

Peggy W. Cockrill,

*Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.*

[FR Doc. 92-11351 Filed 5-13-92; 8:45 am]

BILLING CODE 4160-20-M

### Food and Drug Administration [Docket No. 92N-0148]

#### Montgomery Plasma Center, Inc.; Revocation of U.S. License No. 684

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

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the revocation of the establishment license (U.S. License No. 684) and the product license issued to Montgomery Plasma Center, Inc., for the manufacture of Source Plasma. In a letter to FDA dated August 20, 1991, the firm requested that its establishment and product licenses be revoked and thereby waived an opportunity for a hearing.

**DATES:** The revocation of the establishment license (U.S. License No. 684) and the product license became effective October 25, 1991.

**FOR FURTHER INFORMATION CONTACT:** Stephen Ripley, Center for Biologics Evaluation and Research (HFB-130), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20892, 301-295-8186.

**SUPPLEMENTARY INFORMATION:** FDA has revoked the establishment license (U.S. License No. 684) and the product license issued to Montgomery Plasma Center, Inc., doing business as Hunter Laboratories, located at 41 Carol Villa Dr., Montgomery, AL 36109, for the manufacture of Source Plasma. The mailing address for Montgomery Plasma Center, Inc., is in care of Hunter Laboratories, 440 North Beach St., Daytona Beach, FL 32114.

FDA inspected Hunter Laboratories from April 10 through 13, 1990. FDA issued a notice of adverse findings to the firm on August 23, 1990. The Responsible Head responded in a letter to FDA dated September 12, 1990, promising corrective actions.

FDA conducted another inspection of Hunter Laboratories from March 19, 1991 through April 3, 1991, prompted by a complaint from a former employee. This inspection and a concurrent investigation revealed serious

deviations from the applicable Federal regulations. These deviations included, but were not limited to, the following: (1) Inadequate recordkeeping, which involved: (a) No record of the red blood cell immunization of a potential plasma donor with respect to the identification of the antigen, dosage, and amount of administration; (b) no records to document the identity or receipt of immunizing red blood cells transported from a separately licensed facility to Montgomery Plasma Center, Inc.; (c) donor history records lacking documentation of the answers to medical history questions, required signatures, or dates; and (d) incomplete informed consent records; (2) failure to assure final product safety, purity, and potency because donor suitability was not always determined; (3) failure to complete testing of Source Plasma for hepatitis B surface antigen and the antibody to the human immunodeficiency virus (HIV), type 1, prior to shipment; and (4) failure to report important changes in location, labeling, equipment, personnel, and manufacturing methods to the agency before they were implemented.

FDA inspections and investigation revealed serious deviations from Federal regulations that constituted a danger to health. FDA suspended the firm's licenses by letter dated June 10, 1991. The firm requested, by letter dated June 12, 1991, that the revocation be held in abeyance. In a letter to Montgomery Plasma Center, Inc., dated August 19, 1991, FDA denied the request based on the seriousness and willfulness of the violations outlined above and an inadequate response from the firm regarding corrective actions. In the same letter to Montgomery Plasma Center, Inc., FDA issued notice of intent to revoke U.S. License No. 684 and announced its intent to offer an opportunity for hearing. In a letter to FDA dated August 20, 1991, Montgomery Plasma Center, Inc., voluntarily requested that its licenses be revoked and thereby waived its opportunity for a hearing. The agency granted the licensee's request by letter to the firm dated October 25, 1991, which revoked the establishment license (U.S. License No. 684) and the product license for the manufacture of Source Plasma.

FDA has placed copies of the letters relevant to the license revocations on file under the docket number found in brackets in the heading of this document with the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420

Parklawn Dr., Rockville, MD 20857.

These documents are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Accordingly, under 21 CFR 601.5, section 351 of the Public Health Service Act (42 U.S.C. 262), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Biologics Evaluation and Research (21 CFR 5.68), the establishment license (U.S. License No. 684) and the product license issued to Montgomery Plasma Center, Inc., for the manufacture of Source Plasma were revoked, effective October 25, 1991.

This notice is issued and published under 21 CFR 601.8 and the redelegation at 21 CFR 5.67.

Dated: May 6, 1992.

Gerald V. Quinnan, Jr.,

Acting Director, Center for Biologics Evaluation and Research.

[FR 92-11372 Filed 5-13-92; 8:45 a.m.]

BILLING CODE 4160-01-F

### Request for Nominations for Members on Public Advisory Committees

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

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is requesting nominations for members to serve on certain public advisory committees in the Center for Biologics Evaluation and Research. Nominations will be accepted for current vacancies and vacancies that will or may occur on the committees during the next 12 months. FDA has a special interest in ensuring that women, minority groups, and the physically handicapped are adequately represented on advisory committees and, therefore, extends particular encouragement to nominations for appropriately qualified female, minority, and physically handicapped candidates. Final selection from among qualified candidates for each vacancy will be determined by the expertise required to meet specific agency needs and in a manner to ensure appropriate balance of membership.

**DATES:** Because scheduled vacancies occur on various dates throughout each year, no cutoff date is established for receipt of nominations.

**ADDRESSES:** All nominations for membership, except for consumer-nominated members, should be sent to Jack Gertzog (address below). All nominations for consumer-nominated members should be sent to Phyllis Weller (address below)

### FOR FURTHER INFORMATION CONTACT:

Regarding all nominations for membership, except for consumer-nominated members: Jack Gertzog, Center for Biologics Evaluation and Research (HFB-5), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20892, 301-295-8226.

Regarding all nominations for consumer-nominated members: Phyllis Weller, Office of Consumer Affairs (HFE-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5006.

**SUPPLEMENTARY INFORMATION:** FDA is requesting nominations of members for the following four advisory committees for vacancies listed below. Individuals should have expertise in the activity of the committee.

1. *Allergenic Products Advisory Committee:* Three vacancies occurring August 31, 1992.

2. *Biological Response Modifiers Advisory Committee:* Three vacancies occurring March 31, 1993.

3. *Blood Products Advisory Committee:* Three vacancies occurring September 30, 1992, including that of the consumer-nominated member.

4. *Vaccines and Related Biological Products Advisory Committee:* Three vacancies occurring January 31, 1993.

The functions of the four committees listed above are to review and evaluate available scientific, technical, and medical data concerning the safety, effectiveness, and appropriate use of allergenic products, blood and products derived from blood and serum, vaccines, immunological products, biological response modifiers, and other biological products intended for use in the diagnosis, prevention, or treatment of human diseases; and to make appropriate recommendations to the Commissioner. These four committees also review and evaluate intramural research programs.

### Criteria for Members

Persons nominated for membership on the committees described above must have adequately diversified research and/or clinical experience appropriate to the work of the committee in such fields as allergenic products, internal medicine, cytokines, lymphokines, molecular biology, rDNA technology, infectious diseases, viral oncology, cellular kinetics, epidemiology, statistics, hematology, immunology, blood banking, virology, bacteriology, pediatrics, microbiology, nuclear biology, and biochemistry, or other appropriate areas of expertise.

The specialized training and experience necessary to qualify the

nominee as an expert suitable for appointment is subject to review, but may include experience in medical practice, teaching, research, and/or public service relevant to the field of activity of the committee. The term of office is 4 years.

### Criteria for Consumer-Nominated Members

FDA currently attempts to place on each of the committees described above one voting member who is nominated by consumer organizations. These members are recommended by a consortium of 12 consumer organizations which has the responsibility for screening, interviewing, and recommending consumer-nominated candidates with appropriate scientific credentials. Candidates are sought who are aware of the consumer impact of committee issues, but who also possess enough technical background to understand and contribute to the committee's work. This would involve, for example, an understanding of research design, benefit/risk, and the legal requirements for safety and efficacy of the products under review, and considerations regarding individual products. The agency notes, however, that for some advisory committees, it may require such nominees to meet the same technical qualifications and specialized training required of other expert members of the committee. The term of office for these members is 4 years. Nominations for all committees listed above are invited for consideration for membership as openings become available.

### Nomination Procedure

Any interested person may nominate one or more qualified persons for membership on one or more of the advisory committees. Nominations shall specify the committee for which the nominee is recommended. Nominations shall state that the nominee is aware of the nomination, is willing to serve as a member of the advisory committee, and appears to have no conflict of interest that would preclude committee membership. Potential candidates will be asked by FDA to provide detailed information concerning such matters as financial holdings, consultancies, and research grants or contracts in order to permit evaluation of possible sources of conflict of interest.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. App. 2) and 21 CFR part 14, relating to advisory committees.

Dated: May 7, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92-11367 Filed 5-13-92; 8:45 a.m.]

BILLING CODE 4160-01-F

### Request for Nominations for Voting Members on Public Advisory Panels or Committees

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

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is requesting nominations for voting members to serve on certain device panels of the Medical Devices Advisory Committee and other committees in the Center for Devices and Radiological Health. Nominations will be accepted for current vacancies and those that will or may occur during the next 12 months and beyond. FDA has a special interest in ensuring that women, minority groups, and the physically handicapped are adequately represented on advisory committees and, therefore, extends particular encouragement to nominations for appropriately qualified female, minority, and physically handicapped candidates.

**DATES:** Because scheduled vacancies occur on various dates throughout each year, no cutoff date is established for the receipt of nominations. However, when possible, nominations should be received at least 6 months before the date of scheduled vacancies for each year, as indicated in this notice.

**ADDRESSES:** All nominations and curricula vitae for the panels shall be sent to Gordon C. Johnson, Center for Devices and Radiological Health (HFZ-70), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850.

All nominations and curricula vitae for the Device Good Manufacturing Practice Advisory Committee shall be sent to Sharon Kalokerinos, Center for Devices and Radiological Health (HFZ-332), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850.

All nominations and curricula vitae for the Technical Electronic Product Radiation Safety Standards Committee shall be sent to Frank Mischo, Center for Devices and Radiological Health (HFZ-83), Food and Drug Administration, 12720 Twinbrook Pkwy., Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:**

Kay Levin, Center for Devices and Radiological Health (HFZ-20), Food and Drug Administration, 12720 Twinbrook

Pkwy., Rockville, MD 20857, 301-443-4016.

**SUPPLEMENTARY INFORMATION:** FDA is requesting nominations of voting members for vacancies listed below. If specific expertise is not indicated, individuals should have expertise relevant to the field of activity of the committee or panel.

1. *Anesthesiology and Respiratory Therapy Devices Panel:* One vacancy occurring immediately; 2 vacancies occurring December 1, 1992; general anesthesiologists, anesthesiologists with a specialty in regional anesthesia, or pulmonary physicians.

2. *Clinical Chemistry and Clinical Toxicology Devices Panel:* One vacancy occurring March 1, 1993; doctors of medicine or philosophy experienced with clinical chemistry, clinical toxicology, therapeutic drug monitoring, or genetic disease diagnostic devices.

3. *Dental Products Panel:* Two vacancies occurring November 1, 1992; individuals with expertise in dental devices and/or materials, or oral microbiology.

4. *Device Good Manufacturing Practice Advisory Committee:* Two vacancies occurring June 1, 1993; one representative from Federal, State, or local government and one health professional. Areas of committee interest include quality assurance in medical device manufacturing including application of the current good manufacturing practice (CGMP) regulation to the production of computerized devices and in vitro diagnostics, as well as problems associated with the use of medical devices.

5. *Ear, Nose, and Throat Devices Panel:* Two vacancies occurring November 1, 1992; audiologists or otolaryngologists with knowledge of cochlear implants, implantable hearing aids, ear, nose, and throat prosthetic devices, and/or auditory physiology.

6. *Gastroenterology and Urology Devices Panel:* One vacancy occurring January 1, 1993; gastroenterologists, nephrologists, or urologists with experience in the diagnosis and treatment of impotence, incontinence, and prostatism.

7. *General and Plastic Surgery Devices Panel:* One vacancy occurring immediately, two vacancies occurring September 1, 1992; rheumatologists, epidemiologists, and wound management specialists, with strong academic and clinical research experience.

8. *General Hospital and Personal Use Devices Panel:* Two vacancies occurring January 1, 1993; neurosurgeons or

surgical oncologists with experience in the use of implanted drug infusion devices (e.g., pumps, ports), general practitioners or internists, or geriatric physicians.

9. *Hematology and Pathology Devices Panel:* Two vacancies occurring March 1, 1993; individuals involved in the practice of medicine or clinical laboratory science familiar with clinical hematology and biotechnology.

10. *Immunology Devices Panel:* Three vacancies occurring immediately, one vacancy occurring March 1, 1993; immunologists with experience in allergies and tumor markers, or medical oncologists with experience in tumor diagnosis and treatment.

11. *Microbiology Devices Panel:* Two vacancies occurring March 1, 1993; disease clinicians or individuals with expertise in antimicrobial susceptibility testing devices, and/or virology testing devices, and/or biotechnology.

12. *Neurological Devices Panel:* Four vacancies occurring December 1, 1992; neurosurgeons, biomedical engineers, neuroradiologists, or clinical psychiatrists with interest in neurological devices.

13. *Obstetrics and Gynecology Devices Panel:* Two vacancies occurring February 1, 1993; individuals with expertise in contraception, laparoscopy, hysteroscopy, or infertility, and/or instrumentation used during these procedures.

14. *Ophthalmic Devices Panel:* Three vacancies occurring November 1, 1992; ophthalmologists or optometrists.

15. *Orthopedic and Rehabilitation Devices Panel:* Two vacancies occurring September 1, 1992; orthopedic surgeons with expertise in joint structure and function, joint biomechanics and implants, or spinal instrumentation; or orthopedic pathologists.

16. *Radiological Devices Panel:* Two vacancies occurring February 1, 1993; individuals with expertise in diagnostic ultrasound, hyperthermia for cancer therapy, magnetic resonance imaging, or radiology.

17. *Technical Electronic Product Radiation Safety Standards Committee:* One vacancy occurring January 1, 1993; employee of a governmental agency, including State or Federal governments.

### Functions

#### Medical Devices and Dental Products Panels

The functions of the panels are to: (1) Review and evaluate available data concerning the safety and effectiveness of marketed and investigational devices; (2) advise the Commissioner of Food

and Drugs regarding recommended classification of these devices into one of three regulatory categories; (3) recommend the assignment of a priority for the application of regulatory requirements for devices classified in the standards or premarket approval category; (4) advise on any possible risks to health associated with the use of devices; (5) advise on formulation of product development protocols and review premarket approval applications for those devices classified in the premarket approval category; (6) review classification of devices to recommend changes in classification as appropriate; (7) recommend exemption of certain devices from the application of portions of the Federal Food, Drug, and Cosmetic Act; (8) advise on the necessity to ban a device; and (9) respond to requests from the agency to review and make recommendations on specific issues or problems concerning the safety and effectiveness of devices.

The Dental Products Panel will also function at times as a nonprescription drug advisory panel. As such, the panel reviews and evaluates available data concerning the safety and effectiveness of active ingredients, and combinations thereof, of various currently marketed nonprescription drug products for human use, the adequacy of their labeling, and advises the Commissioner of Food and Drugs on the promulgation of monographs establishing conditions under which these drugs are generally recognized as safe and effective and not misbranded. The panel also evaluates and recommends whether various prescription drug products should be changed to over-the-counter status. The panel also evaluates data and makes recommendations concerning the approval of new drug products for human use.

#### *Device Good Manufacturing Practice Advisory Committee*

The function of the Device Good Manufacturing Practice Advisory Committee is to review regulations for promulgation regarding CGMP's governing the methods used in, and the facilities and controls used for, the manufacture, packing, storage, and installation of devices, and make recommendations regarding the feasibility and reasonableness of those proposed regulations. The committee also reviews and makes recommendations on proposed guidelines (e.g., "Guideline on General Principles of Process Validation"), developed to assist the medical device industry in meeting the CGMP requirements, and provides advice with

regard to any petition submitted by a manufacturer for an exemption or variance from CGMP regulations.

#### *Technical Electronic Product Radiation Safety Standards Committee*

The function of the Technical Electronic Product Radiation Safety Standards Committee is to provide advice and consultation on the technical feasibility, reasonableness, and practicability of performance standards for electronic products to control the emission of radiation from such products. The committee may recommend electronic product radiation safety standards for consideration.

#### **Qualifications**

##### *Medical Devices and Dental Products Panels*

Persons nominated for membership on the panels shall have adequately diversified experience appropriate to the work of the panel in such fields as clinical and administrative medicine, engineering, biological and physical sciences, statistics, and other related professions. The nature of specialized training and experience necessary to qualify the nominee as an expert suitable for appointment may include experience in medical practice, teaching, and/or research relevant to the field of activity of the panel. The particular needs at this time for each panel are shown above. The term of office is up to 4 years, depending on the appointment date.

##### *Device Good Manufacturing Practice Advisory Committee*

Persons nominated for membership on the Device Good Manufacturing Practice Advisory Committee should have expertise in any one or more of the following areas: Quality assurance concerning manufacturing of medical devices and/or sterilization of medical devices during the manufacturing process. In addition, nominees should have experience with the use and application of medical devices. The particular needs for this committee are shown above. The term of office is up to 4 years, depending on the appointment date.

##### *Technical Electronic Product Radiation Safety Standards Committee*

Persons nominated for the Technical Electronic Product Radiation Safety Standards Committee must be technically qualified by training and experience in one or more fields of science or engineering applicable to electronic product radiation safety. The

particular needs for this committee are identified above. The term of office is up to 4 years, depending on the appointment date.

#### **Nomination Procedures**

Any interested person may nominate one or more qualified persons for membership on one or more of the advisory committees or panels. Self-nominations are also accepted. Nominations shall include a complete curriculum vitae of each nominee, current business address and telephone number, and shall state that the nominee is aware of the nomination, is willing to serve as a member, and appears to have no conflict of interest that would preclude membership. FDA will ask the potential candidates to provide detailed information concerning such matters as financial holdings, employment, and research grants and/or contracts to permit evaluation of possible sources of conflict of interest.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. App. 2) and 21 CFR Part 14 relating to advisory committees.

Dated: May 7, 1992.

Michael R. Taylor,

*Deputy Commissioner for Policy.*

[FR Doc. 92-11368 Filed 5-13-92; 8:45 a.m.]

BILLING CODE 4160-01-F

#### **Request for Nominations for Representatives of Consumer and Industry Interests on Public Advisory Committees or Panels**

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

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is requesting nominations for consumer and industry representatives to serve on certain device panels of the Medical Devices Advisory Committee and other committees in the Center for Devices and Radiological Health. Nominations will be accepted for current vacancies and for those that will or may occur during the next 12 months.

FDA has a special interest in ensuring that women, minority groups, the physically handicapped, and small businesses are adequately represented on advisory committees and, therefore, extends particular encouragement to nominations for appropriately qualified female, minority, and physically handicapped candidates, and nominations from small businesses that manufacture medical devices subject to the regulations.

**DATES:** Nominations should be received by July 13, 1992, for vacancies listed in this notice.

**ADDRESSES:** All nominations and curricula vitae for consumer representatives for the panels and the Device Good Manufacturing Practice Advisory Committee shall be submitted in writing to Phyllis Weller (address below).

All nominations and curricula vitae for the general public representative on the Technical Electronic Product Radiation Safety Standards Committee shall be submitted in writing to Frank Mischou, Center for Devices and Radiological Health (HFZ-83), Food and

Drug Administration, 12720 Twinbrook Pkwy., Rockville, MD 20857.

All nominations and curricula vitae (which includes a nominee's office address and telephone number) for industry representatives except for the Technical Electronic Product Radiation Safety Standards Committee shall be submitted in writing to Kay Levin (address below).

**FOR FURTHER INFORMATION CONTACT:** Regarding consumer interests for the Panels and the Device Good Manufacturing Practice Advisory Committee: Phyllis Weller, Office of Consumer Affairs (HFE-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5006.

Regarding industry interests for the panels, consumer or industry interests for the Technical Electronic Product Radiation Safety Standards Committee, and industry interests for the Device Good Manufacturing Practice Advisory Committee: Kay Levin, Center for Devices and Radiological Health (HFZ-20), Food and Drug Administration, 12720 Twinbrook Pkwy., Rockville, MD 20857, 301-443-4016.

**SUPPLEMENTARY INFORMATION:** FDA is requesting nominations for members representing consumer and industry interests for the following vacancies listed below:

Committee or panel	Approximate date representative is needed	
	Consumer	Industry
1. Clinical Chemistry and Clinical Toxicology Devices Panel	NV	Mar. 1, 1993.
2. Dental Products Panel	Nov. 1, 1992	NV.
3. Ear, Nose, and Throat Devices Panel	NV	Nov. 1, 1992.
4. Hematology and Pathology Devices Panel	NV	Mar. 1, 1993.
5. Microbiology Devices Panel	NV	Mar. 1, 1993.
6. Neurological Devices Panel	NV	Dec. 1, 1992.
7. Obstetrics and Gynecology Devices Panel	Feb. 1, 1993	NV.
8. Ophthalmic Devices Panel	NV	Nov. 1, 1992.
9. Device Good Manufacturing Practice Advisory Committee	June 1, 1992	June 1, 1992.
10. Technical Electronic Product Radiation Safety Standards Committee	Jan. 1, 1993	<sup>1</sup> Jan. 1, 1993.

NV = No vacancy.

<sup>1</sup> Three vacancies.

## Functions

### Medical Devices and Dental Products Panels

The functions of the medical devices and dental products panels are to (1) review and evaluate available data concerning safety and effectiveness of marketed and investigational devices; (2) advise the Commissioner of Food and Drugs regarding recommended classification of these devices into one of three regulatory categories; (3) recommend the assignment of priority for the application of regulatory requirements for devices classified in the standards or premarket approval category; (4) advise on any possible risks to health associated with the use of devices; (5) advise on formulation of product development protocols and review premarket approval applications for those devices classified in the premarket approval category; (6) review classification of devices to recommend changes in classification as appropriate; (7) recommend exemption to certain devices from the application of portions of the Federal Food, Drug, and Cosmetic Act; (8) advise on the necessity to ban a device, and (9) respond to requests from the agency to review and make recommendations on specific issues or

problems concerning the safety and effectiveness of devices.

The Dental products panel will also function at times as a nonprescription drug advisory panel. As such, the panel reviews and evaluates available data concerning the safety and effectiveness of active ingredients, and combinations thereof, of various currently marketed nonprescription drug products for human use, the adequacy of their labeling, and advises the Commissioner of Food and Drug on the promulgation of monographs establishing conditions under which these drugs are generally recognized as safe and effective and not misbranded. The panel also evaluates and recommends whether various prescription drug products should be changed to over-the-counter status. The panel also evaluates data and makes recommendations concerning the approval of new drug products for human use.

### Device Good Manufacturing Practice Advisory Committee

The function of the Device Good Manufacturing Practice Advisory Committee is to review regulations for promulgation regarding current good manufacturing practices governing the methods used in, and the facilities and

controls used for, the manufacture, packing, storage, and installation of devices, and make recommendations regarding the feasibility and reasonableness of those proposed regulations. The committee also reviews and makes recommendations on proposed guidelines (e.g., Guideline on General Principles of Process Validation) developed to assist the medical device industry in meeting the current good manufacturing practice requirements, and provides advice with regard to any petition submitted by a manufacturer for an exemption or variance from current good manufacturing practice regulations.

### Technical Electronic Product Radiation Safety Standards Committee

The function of the Technical Electronic Product Radiation Safety Standards Committee is to provide advice and consultation on the technical feasibility, reasonableness, and practicability of performance standards for electronic products to control the emission of radiation from such products. The committee may recommend electronic product radiation safety standards for consideration.

**Consumer and Industry Representation***Medical Devices and Dental Products Panels*

Section 513 of the Medical Device Amendments of 1976 (21 U.S.C. 360c) provides that each medical devices panel include as members one nonvoting representative of consumer interests and one nonvoting representative of interests of the device manufacturing industry.

*Device Good Manufacturing Practice Advisory Committee*

Section 520 of the Medical Device Amendments of 1976 (21 U.S.C. 360j) provides that the Device Good Manufacturing Practice Advisory Committee include as members two voting representatives of the general public and two voting representatives of interests of the device manufacturing industry.

*Technical Electronic Product Radiation Safety Standards Committee*

Section 358(f) of the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263(f)) provides that the Technical Electronic Product Radiation Safety Standards Committee include five members from the affected industries and five members from the general public, of which at least one shall be a representative of organized labor.

**Nomination Procedures***Consumer Representatives*

Any interested person may nominate one or more qualified persons as a member of a particular advisory committee or panel to represent consumer interests as identified in this notice. Self-nominations are also accepted. To be eligible for selection, the applicant's experience and/or education will be evaluated against Federal civil service criteria for the position to which the person will be appointed.

Nominations shall include a complete curriculum vitae of each nominee and shall state that the nominee is aware of the nomination, is willing to serve as a member, and appears to have no conflict of interest that would preclude membership. FDA will ask the potential candidates to provide detailed information concerning such matters as financial holdings, employment, and research grants and/or contracts to permit evaluation of possible sources of conflict of interest. The nomination should state whether the nominee is interested only in a particular advisory committee or panel or in any advisory committee or panel. The term of office is

up to 4 years, depending on the appointment date.

*Industry Representatives for Medical Devices and Dental Products Panels*

Any organization in the medical device or dental products manufacturing industry (industry interests) wishing to participate in the selection of an appropriate member of a particular panel may nominate one or more qualified persons to represent industry interests. Persons who nominate themselves as industrial representatives for the panels will not participate in the selection process. It is, therefore, recommended that all nominations be made by someone with an organization, trade association, or firm who is willing to participate in the selection process.

Nominees shall be full-time employees of firms that manufacture products that would come before the panel, trade associations, or consulting firms that represent manufacturers. Nominations shall include a complete curriculum vitae of each nominee. The nomination should state whether the nominee is interested only in a particular advisory committee or panel or in any advisory committee or panel. The term of office is up to 4 years, depending on the appointment date.

*Device Good Manufacturing Practice Advisory Committee and Technical Electronic Product Radiation Safety Standards Committee*

Any interested person may nominate one or more qualified persons to represent industry interests on these committees as identified in this notice. Self-nominations are also accepted. Nominations shall include a complete curriculum vitae of each nominee. The term of office is up to 4 years, depending on the appointment date.

**Selection Procedures***Consumer Representatives*

Selection of members representing consumer interests is conducted through procedures which include use of a consortium of consumer organizations which has the responsibility for screening, interviewing, and recommending candidates for the agency's selection. Candidates should possess appropriate qualifications to understand and contribute to the committee's work.

*Industry Representatives for Medical Devices and Dental Products Panels*

Regarding nominations for members representing the interests of industry on the medical devices or dental products panels, a letter will be sent to each

person who has made a nomination, and to those organizations indicating an interest in participating in the selection process, together with a complete list of all such organizations and the nominees. This letter will state that it is the responsibility of each nominator or organization indicating an interest in participating in the selection process to consult with the others in selecting a single member representing industry interests for that particular panel within 60 days after receipt of the letter. If no individual is selected within 60 days, the agency will select the nonvoting member representing industry interests.

*Device Good Manufacturing Practice Advisory Committee and Technical Electronic Product Radiation Safety Standards Committee*

Regarding nominations for persons to represent industry interests on these committees, they shall be forwarded to the Office of the Commissioner of Food and Drugs for final selection.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to advisory committees.

Dated: May 7, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92-11369 Filed 5-13-92; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 92E-0025]

**Determination of Regulatory Review Period for Purposes of Patent Extension; Aredia®**

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

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) has determined the regulatory review period for Aredia® and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

**ADDRESSES:** Written comments and petitions should be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** Brian J. Malkin, Office of Health Affairs (HFY-20), Food and Drug

Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

**SUPPLEMENTARY INFORMATION:** The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100-670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Aredia®. Aredia® (pamidronate disodium), in conjunction with adequate hydration, is indicated for the treatment of moderate or severe hypercalcemia associated with malignancy, with or without bone metastases. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Aredia® (U.S. Patent No. 3,962,432) from Henkel Kommanditgesellschaft auf Aktien, and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. FDA, in a letter dated March 4, 1992, advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Aredia® represented the first commercial marketing of the product. Shortly thereafter, the Patent and Trademark Office requested that

FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Aredia® is 1,583 days. Of this time, 904 days occurred during the testing phase of the regulatory review period, while 679 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act became effective:* July 1, 1987. The applicant claims July 2, 1987, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was July 1, 1987, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act:* December 21, 1989. The applicant claims February 21, 1990, as the date the new drug application (NDA) for Aredia® (NDA 20-036) was filed. However, FDA records indicate that NDA 20-036 was submitted on December 21, 1989.

3. *The date the application was approved:* October 31, 1991. FDA has verified the applicant's claim that NDA 20-036 was approved on October 31, 1991.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,128 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before July 13, 1992, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before November 10, 1992, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, Part 1, 98th Cong., 2d sess., pp. 41-42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the

docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 5, 1992.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 92-11271 Filed 5-13-92; 8:45 am]

BILLING CODE 4160-01-F

[Docket No. 92E-0107]

### Determination of Regulatory Review Period for Purposes of Patent Extension; Zolof®

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

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) has determined the regulatory review period for Zolof® and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

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

**FOR FURTHER INFORMATION CONTACT:** John S. Ensign, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

**SUPPLEMENTARY INFORMATION:** The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100-670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval

phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Zoloft®. Zoloft® (sertraline hydrochloride) is indicated for the treatment of depression. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Zoloft® (U.S. Patent No. 4,536,518) from Pfizer, and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. FDA, in a letter dated March 25, 1992, advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Zoloft® represented the first commercial marketing of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Zoloft® is 3,997 days. Of this time, 2,641 days occurred during the testing phase of the regulatory review period, while 1,356 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act became effective:* January 19, 1981. The applicant claims December 6, 1980, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND was received by the agency on October 7, 1980. It was placed on clinical hold November 6, 1980, and was removed from hold on January 19, 1981. Therefore, the IND effective date is January 19, 1981.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act:* April 13, 1988. FDA has verified the applicant's claim that April 13, 1988, was the date the new drug

application (NDA) for Zoloft® (NDA 19-839) became effective.

3. *The date the application was approved:* December 30, 1991. FDA has verified the applicant's claim that NDA 19-839 was approved on December 30, 1991.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,228 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before July 13, 1992, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before November 10, 1992, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, Part 1, 98th Cong., 2d sess., pp. 41-42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 5, 1992.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 92-11371 Filed 5-13-92; 8:45 a.m.]

BILLING CODE 4160-01-F

#### Advisory Committee; Meeting

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

**ACTION:** Notice.

**SUMMARY:** This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meeting and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

**MEETING:** The following advisory committee meeting is announced:

#### Ear, Nose, and Throat Devices Panel of the Medical Devices Advisory Committee

*Date, time, and place.* June 11, 1992, 9 a.m., Rm. 503A-529A, Hubert H. Humphrey Bldg., 200 Independence Ave. SW., Washington, DC.

*Type of meeting and contact person.* Open public hearing, 9 a.m. to 11 a.m., unless public participation does not last that long; open committee discussion, 11 a.m. to 4:30 p.m.; Harry R. Sauberman, Center for Devices and Radiological Health (HFZ-470), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1230.

*General function of the committee.* The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational devices and makes recommendations for their regulation.

*Agenda--Open public hearing.* Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before May 20, 1992, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

*Open committee discussion.* The committee will discuss a petition to reclassify the endolymphatic shunt with valve from class III (premarket approval) to class II (special controls).

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson

determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (Subpart C of 21 CFR Part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR Part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this *Federal Register* notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting will be available from the Freedom of Information Office (HFI-35), Food and Drug Administration, rm. 12A-16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting will be available from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. App. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: May 8, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92-11370 Filed 5-13-92; 8:45 a.m.]

BILLING CODE 4160-01-F

### Indian Health Service

#### Indian Health Service Research Program Grants Application Announcement

**AGENCY:** Indian Health Service, HHS.

**ACTION:** Notice of competitive grant applications for the Indian Health Service (IHS) Research Program.

**SUMMARY:** The IHS announces that competitive applications for fiscal year (FY) 1993 are now being accepted for the IHS Research Program authorized by section 208 of the Indian Health Care Improvement Act, as amended, 25 U.S.C. 1621g. There will be only one funding cycle during FY 1993. Grants shall be administered in accordance with applicable Office of Management and Budget (OMB) Circulars and HHS policies. This program is within the Catalog of Federal Domestic Assistance Number 93.905. Executive Order 12372 requiring intergovernmental review is not applicable to this program.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led activity for setting priority areas. This program announcement is directly related to many priority areas, including Nutrition, Alcohol and Other Drugs, Unintentional Injuries, Oral Health, Maternal and Infant Health, Heart Disease and Stroke, Cancer, Diabetes and Chronic Disabling Conditions, Human Immunodeficiency Virus Infection, Sexually Transmitted Diseases, Clinical Preventive Services, and Surveillance and Data Systems. 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).

**DATES:** A. In accordance with OMB Circular A-102, Grants and Cooperative Agreements for State and Local Governments, interested parties are invited to comment on the proposed funding emphases. This comment period is 30 days; written comments received

by June 15, 1992, will be considered before the final funding emphases are established. No funds will be allocated or selections made until a final notice is published stating what funding emphases will be applied. Written comments on the proposed funding emphases should be addressed to: William L. Freeman, M.D., Director, IHS Research Program, Office of Health Program Research and Development (OHPRD), 7900 South J. Stock Road, Tucson, AZ 85746-9352. All comments received will be available for public inspection and copying at the Office of Health Program and Research Development at the above address, weekdays (Federal holidays excepted) between the hours of 7:30 a.m. and 4:30 p.m., Mountain Standard Time beginning approximately 2 weeks after publication of the notice.

B. An original and 2 copies of the completed grant application must be received by the Grants Management Branch, Division of Acquisition and Grants Operations, IHS, suite 605, 12300 Twinbrook Parkway, Rockville, MD 20852-1750, on or before July 31, 1992.

Applications shall be considered as meeting the deadline if they are either: (1) Received on or before the deadline with hand carried applications received by close of business 5 p.m., or (2) postmarked on or before the deadline and received in time to be reviewed along with all other timely applications. A legibly dated receipt from a commercial carrier or the U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks will not be accepted as proof of timely mailing.

Applications received after the announced closing date will not be considered for funding and will be returned to the applicant.

#### Additional Dates

C. *Application Reviews:* IHS Study Section: September 15-17, 1992.

D. *Applicants notified of results (approved, approved unfunded, or disapproved):* November 16, 1992.

E. *Earliest anticipated starting date:* December 1, 1992.

**FOR FURTHER INFORMATION, CONTACT:** A. Programmatic: William L. Freeman, M.D., Director, IHS Research Program, or Donna Pexa, Research Program Coordinator, Office of Health Program Research and Development, 7900 South J. Stock Road, Tucson, AZ 85746-9352. (602) 670-6310, or the following Area Research Coordinators:

Indian health area offices, and states served	Research office: contact(s) and telephone
Aberdeen Area Office, Federal Building, 1154th Ave., SE., Aberdeen, S.D. 57401, North Dakota, South Dakota, Nebraska, Iowa.	Cecelia Kitto, M.D. (Aberdeen) (605) 226-7581, FTS 782-7581, Thomas Welty, M.D. (Rapid City) (605) 348-1900 Ext. 401, FTS 782-9401.
Alaska Area Native Health Service, P.O. Box 7-741, Anchorage, AK 99501, Alaska.	David H. Barrett, M.D. (907), 257-1251, Ext. 263, FTS 257-1251.
Albuquerque Area Office, IHS, 505 Marquette NW., suite 1502, Albuquerque, NM 87102, New Mexico, Colorado.	Roger E. Gollub, M.D. (505) 766-5507, FTS 474-5507.
Bemidji Area Office, IHS, 203 Federal Building, Bemidji, MN 56601, Minnesota, Michigan, Wisconsin.	John L. Robinson, D.D.S. (218) 759-3441, FTS 789-3441.
Billings Area Office, IHS, P.O. Box 2143, Billings, MT 59103, Montana, Wyoming.	James D. Vesbach, D.D.S. (406) 657-6900, FTS 585-6900.
California Area Office, IHS, 1825 Bell Street, Sacramento, CA 95825, California.	John Yao, M.D. (916) 978-4202 Ext 107, FTS 460-4202 Ext 107.
Nashville Area Office, IHS, 3310 Perimeter Hill, Suite 810, Nashville, TN 37217, Mississippi, North Carolina, Florida, New York, Maine, Rhode Island, Louisiana.	William Betts, Ph.D. (615) 781-5104, FTS 355-5533.
Navajo Area Office, IHS, P.O. Box G, Window Rock, AZ 86515, Navajo Reservation.	Douglas G. Peter, M.D. (602) 871-5811, FTS 572-8221.
Oklahoma City Area Office, IHS, 215 Dean A. McGee Street NW., Room 409, Oklahoma City, OK 73102, Oklahoma, Kansas, Texas.	Clark Marquart, M.D. (405) 231-4796, FTS 736-4796.
Phoenix Area Office, IHS, 3738 N. 16th Street, Phoenix, AZ 85016, Arizona, Nevada, Utah.	N. Burton Attico, M.D. (602) 640-2187, FTS 261-2187.
Portland Area Office, IHS, 3114 Federal Building, 915 Second Ave., Seattle, WA 98174, Washington, Oregon, Idaho.	Ernest H. Kimball, M.P.H. (206) 553-5422, FTS 399-5422.
Office of Health Program, Research and Development, 7900 South J. Stock Road, Tucson, AZ 85746-9352, Southern Arizona.	Robert Wirth, M.D. (602) 670-6605, FTS 762-6605.

**B. Grants and Business:** M. Kay Carpenter, Grants Management Branch, Division of Acquisition and Grants Operations, IHS, Suite 605, 12300 Twinbrook Parkway, Rockville MD 20852-1750, (301) 443-5204. (Telephone calls to these numbers are not toll-free.)

**SUPPLEMENTARY INFORMATION:** This announcement provides information on the general program goals, eligibility requirements, research emphases, availability of funds, application process, and review process for the IHS Research Program for FY 1993.

#### A. General Program Goals

1. To support practice- and community-based research projects likely to improve the health of American Indians and Alaska Natives (AI/AN) served by the IHS.

2. To develop research skills among IHS and tribal health professionals. The applicant, as the direct and primary recipient of PHS funds, must perform a substantive role in carrying out project activities and not merely serve as a conduit for an award to another party, or to provide funds to another party.

#### B. Eligibility

The grant application process affords Indian tribes and tribal organizations which have contracts with the IHS under the Indian Self-Determination Act, 25 U.S.C. 450 *et seq.*, an equal opportunity to compete with IHS components for research funds. Awards to tribal contractors will be made as grants. The IHS components will receive special allotments of funds to carry out approved research activity.

#### C. Research Emphases

Grants or special allotments will be made under this announcement with

special but not exclusive regard to the following IHS research emphases for FY 1993:

1. Studies of documented high priority in the community in which the research is to be done.

2. Studies with high relevance for the AI/AN populations. (The series "The Research Agenda for Indian Health" in the IHS Primary Care Provider, lists many relevant research subjects. Reprints are available from the IHS Research Program and the Area Research Offices.)

3. For studies that involve problems that are both social and medical (e.g., dysfunctional families), research about factors that enable the community or individuals to overcome the problems.

4. Competing continuations of previously-funded research projects.

#### D. Fund Availability and Period of Support

Subject to the availability of FY 1993 funds, it is estimated that between \$500,000 and \$800,000 will be available to support approximately 20-25 research grants and special allotments. Individual research project funding needs will vary widely. The anticipated maximum level for a project is \$35,000 per year. Research projects are funded for a 1 year project period. All applicants must compete annually; however, priority will be given to those applicants funded the previous year for a related or similar project. A project may not be funded for more than 3 years.

#### E. The Complete Application

The information collection requested in the narrative of the application is approved under 0937-0189. An IHS Research Grant Application Kit, including required form PHS 5161-1 (rev.

3/89), may be obtained from the Grants Management Branch, Division of Acquisition and Grants Operations, IHS, Twinbrook Metro Plaza, suite 605, 12300 Twinbrook Parkway, Rockville MD 20852-1750, telephone (301) 443-5204.

All applications must include the following:

- Completed Standard Forms 424 and 424A.
- A one-page research project abstract. (See section F. Abstract, below.)
- A table of contents.
- A detailed budget for the project period. (See section G. Budget, below.)
- One-page biographical sketches of all key personnel. (See section H. Key Personnel and Research Team, below.)
- A research plan. (See section I. Research Plan, below.)
- A description of the health priorities addressed by, and the utility of, the research. (See section J. Priority and Utility, below.)
- Documentation of approvals, support, and clearances. (See section K. Documentation of Approvals, Support, and Clearances, below.)
- A description of how human subjects, if any, are protected from research risks. (See section L. Protection of Human Subjects, below.)
- Appendices, to include:
  - resumes (Curriculum Vitae) of key personnel; and
  - a list of all anticipated consultants, collaborators, and contractual agreements.

#### F. Abstract

The abstract may not exceed one single-spaced typewritten page. It should summarize the application, and should answer the basic questions

"who, what, when, where, how, and costs." The abstract should help the reviewers understand the application as a coherent whole. The abstract should be written last, to insure that it is an accurate summary, even though it is placed in the application packet before the sections it summarizes.

#### G. Budget

An itemized estimate of costs and justification for the proposed research project by line item must be provided on form PHS 5161-1 (effective date 3/89). A narrative justification must be submitted for costs. Indicate needs by listing individual items and quantities necessary. The budget should be sufficient, but not exceed what is necessary, to complete the research project. The budget should include additional resources in the organization(s) that will be applied to the research study, e.g., in-kind staff, physical resources such as telephone, and consultations. The budget should be developed after the Research Plan is written, even though it is placed in the application packet before the Research Plan section.

#### H. Key Personnel and Research Team

Each biographical sketch of each key person may not exceed one single-spaced typewritten page. Each sketch should include the person's qualifications, training, and experience relevant to the research project, and the person's time that will be devoted to the project. "Key personnel" include the principal investigator, significant co-investigators, and significant consultants and contractors. The biographical sketches should help the reviewers understand the capabilities of the research team to manage, and to carry out and complete, the project successfully. Include in Appendices both the resumes (Curriculum Vitae) of the key personnel, and a list of all anticipated consultants, collaborators, and contractual agreements.

#### I. Research Plan

The Research Plan section of the application must include the following sub-sections: (1) The specific aims of the research plan, with study question(s) and objective(s) stated; (2) the background to the study; (3) a progress report (for competing continuation applicants only); (4) the research design and methods to be used; (5) data sources, management, quality control, and analysis; and (6) originality (if applicable). The Plan should be well organized, clearly written, and succinct. It should contain all information necessary for reviewers to understand

fully the research plan without being familiar with the IHS or tribal health programs. The instructions for the preparation of the Research Plan section, and Priority and Utility section, are to be used in lieu of the instructions on pages 16-17 of the PHS 5161-1. The two sections may together not exceed 25 single-spaced typewritten pages in length.

##### 1. Specific Aims: Statement of Study Question(s) and Objective(s)

State the study question(s) and objective(s) of the research clearly and precisely. The rest of the Research Plan should follow logically from the study question(s).

##### 2. Background to the Study

Give a brief but comprehensive review of existing research and knowledge related to the study question(s). Previous related work by members of the team, including data from a pilot phase, should be included in the review. Describe the conclusions to be drawn from, and the applicability of, that review to the research project. References should be cited in standard format. (See Index Medicus, or N Eng J. Med. 1991; 324:424-428; copies are available from the Area and National Research Offices.)

##### 3. Progress Report (for Competing Continuation Studies Only)

Give the progress of the funded research project to date. Indicate how the final objective(s) of the research will be achieved.

##### 4. Research Design and Methods to be Used

Briefly define the research design, and why it is appropriate for the objective(s) of the research. Describe the research methods in detail. The description should include: (a) The population to be studied; (b) the inclusion and exclusion criteria for study subjects, and how to determine inclusion and exclusion; (c) the sampling techniques; (d) selection of controls (if any); (e) the definition of the independent and dependent variables (if any) and how to measure them; (f) the interventions (if any) and how to assure that they are done in fact; and (g) the definition of the expected outcomes or effects (if any) and how to measure them. Briefly discuss how to account for alternative explanations of expected findings. Provide sample size calculations (if needed), and evidence that the research can achieve the projected size. Give a project timeline, with completion dates of all major tasks.

##### 5. Data Sources, Management, Quality Control, and Analysis

Describe in detail the data sources, management, quality control, and analysis. The description should include: (a) The data to be collected, by whom, and at which points in the study; (b) the data sources, and how access to the sources will be attained; (c) the procedures to collect, receive, code, and prepare the data for analysis; (d) the contents of interviews (if they are to be done), and the connection between the interview question and the variables to be studied; (e) how the data will be made secure; (f) how completeness of the data will be assured and low response rates dealt with; (g) how accuracy of the data will be measured and assured; (h) the plan for analysis; (i) the statistical analyses to be done (if any); and (j) the non-statistical analyses to be done (if any, e.g., in qualitative research). Include a copy of the data collection instruments, if available, or the instruments to be modified by the research project (if any), in the application's appendices.

##### 6. Originality

If this research will develop new methods or directly lead to new information for research in general (not just about AI/AN people), briefly discuss that significance.

##### J. Priority and Utility

The Priority and Utility section of the application must include the following sub-sections: (1) The priority of the health problem(s) addressed by the research for the community(ies) involved; (2) the priority of the health problems addressed by the research for all AI/AN people and for the IHS Area; (3) the rationale for the setting of the study; (4) the utility of the product of the project, and of the experience doing the project, to the community(ies) and service unit(s) [SU(s)] involved; and (5) the utility of the product of the project, and of the experience doing the project, to the IHS and other AI/AN people. The Priority and Utility section should be well organized, clearly written, and succinct. It should contain all information necessary for reviewers to understand fully both the priority of the health problem(s) addressed by the research project and its expected utility, without being familiar with the IHS or tribal health programs.

The instructions for the preparation of the Research Plan section, and Priority and Utility section, are to be used in lieu of the instructions on pages 16-17 of the PHS 5161-1. The two sections may

together not exceed 25 single spaced typewritten pages in length.

**1. Priority of the Health Problem(s) for the Community(ies) Involved**

Using quantitative evidence, briefly document the priority of the health problem(s) addressed by the research project among the range of health problems of the community(ies) in which the research project will be done.

**2. Priority of the Health Problem(s) for All AI/AN People and for the IHS Area**

Using quantitative evidence, briefly document the priority of the health problem(s) addressed by the research project among the range of health problems of all or major groups of AI/AN people, and by the AI/AN people of the IHS Area.

**3. Setting of the Study**

Briefly discuss why the study should be done only, or be done best, in an AI/AN population, and why in the proposed community(ies).

**4. Utility of the Product and Experience to the Community(ies) and SU(s) Involved**

Briefly define the expected utility of the product (e.g., new information) or of the experience (e.g., new research skills, capabilities, resources, or liaisons to do practice-based or community-based research) to the community(ies) and/or SU(s) involved.

**5. Utility of the Product and Experience to the IHS and other AI/AN people**

Briefly define the expected utility of the product (e.g., new information) or of the experience (e.g., new research skills, capabilities, resources, or liaisons to do practice-based or community-based research) to the IHS and/or other AI/AN people.

**K. Documentation of Approvals, Support, and Clearances**

**1. Tribal Approval**

The research project must have the full understanding, documented approval, and support of the Indian tribe(s) or Alaska village(s) involved. Documented approval must be evidenced by signature of the Tribal Chairperson, the chairperson's designee, or by Tribal Resolution. If more than one tribe is involved, evidence of support from all tribes affected must be submitted with the application.

**2. Letters of Cooperation, Collaboration, or Assistance**

If other research programs are to be involved in the research project, letters confirming the specific nature and

extent of cooperation, collaboration, or assistance must be submitted.

**3. Service Unit Director Approval**

All applicants must provide letter(s) of approval from the Director of any SU(s) involved in or affected by the research project.

**4. Area Contracting Officer Clearance**

The IHS components which apply must obtain a letter of clearance form the Area Contracting Officer if any purchasing, contracting, or consultant hiring actions will be requested in the research project.

**5. Area Director approval**

The IHS components apply must also obtain a letter of approval from the IHS Area Director.

**L. Protection of Human Subjects**

The application shall contain assurances that the applicant will comply with the following:

**1. Regulations to Protect all Human Subjects of the Research**

If the research project will involve human subjects, the applicant must submit form HHS 596 or its equivalent form to the applicable Area Institutional Review Boards (IRBs), and other applicable IRB(s) if any. (See section M. Review Process, below.) It is recommended that any applicant who proposes to involve human subjects, or who is not sure if the project meets the definition of research involving human subjects in 45 CFR part 46, contact the appropriate Area Research Coordinator listed in this announcement for technical assistance as the application is being developed.

**2. Maintenance of Data Confidentiality, Anonymity (if Indicated), and Subject Privacy**

Applicants must describe the process to maintain the confidentiality of data collected, the protection of patient records, and the privacy of human subjects. If subjects are to be protected by anonymity, applicants must describe the process to maintain anonymity.

**M. Review Process**

**1. Review by authorized Institutional Review Boards (IRB)**

All applications involving human subjects will be reviewed by the authorized Area or National IRBs in the IHS for compliance with requirements to protect human subjects contained in 45 CFR part 6. Any applications involving investigators from institutions with IRBs with Multiple Project Assurance and involving human subjects must also be

reviewed by the IRBs of the respective institution(s). No research project can be funded by IHS unless it has been approved by, and has met the conditions of, all applicable IRBs.

**2. Review by the Indian Health Research Study Section (IHRSS)**

Applications meeting eligibility requirements that are complete, responsive, and conform to this program announcement will be reviewed for merit by the IHRSS appointed by the IHS to review these applications. The IHRSS review will be conducted in accordance with the IHS objective review procedures. The technical review process ensures selection of quality research projects in a national competition for limited funding. The IHRSS will include at least 60 percent non-IHS, Federal or non-Federal, individuals, all experts in research. The IHRSS will review each application against established criteria, and will assign a numerical score to each application. The members of the IHRSS will use the following criteria and weights to make the score.

**Weights**

(Criteria "a" through "f" refer to section I. Research Plan.)

**4 a. Specific Aims: Statement of Study Question(s) and Objective(s)**

(Are the study questions state clearly and precisely? Does the rest of the Research Plan follow logically from the study questions?)

**10 b. Background to the Study**

(Does the background review include the important existing research and knowledge relevant to the study question(s), and pilot data (if applicable)? Do the conclusions follow from the review?)

**4 c. Progress Report (For Competing Continuation Studies Only)**

(What is the progress to date? Is the report timely? Does the progress report demonstrate that investigators will achieve the objective(s) of the research?)

**15 d. Research Design and Methods to be Used**

(Does the Research Plan adequately describe the research design? Is the proposed approach appropriate for the objective(s) of the research? Does the Plan adequately describe: The population to be studied; the inclusion and exclusion criteria, and how the investigators will determine inclusion and exclusion; the sampling techniques;

selection of controls (if any); the definition of the independent and dependent variables (if any) and how to measure them; the interventions (if any) and how to assure that they are done in fact; and the definition of the expected outcomes or effects (if any) and how to measure them? Are these methods appropriate to achieve the objective(s) of the research? Are sample size calculations included, if needed? Is the projected sample size achievable, and sufficient to achieve the objective(s) of the research? Does the Plan adequately account for alternative explanations of expected findings? Is the application's timeline, with completion dates of all major tasks, appropriate and feasible?)

#### 10 e. Data Sources, Management, Quality Control, and Analysis

(Does the Research Plan adequately describe: The data to be collected, by whom, and at what time; the data sources, and how access to the sources will be attained; the procedures to collect, receive, code, and prepare for analysis of the data; the contents of interviews (if they are to be done), and the connection between the interview question and the variables to be studied; how the data will be made secure; how completeness of the data will be assured and low response rates dealt with; how accuracy of the data will be measured and assured; the plan for analysis; the statistical analyses to be done (if any); and the non-statistical analyses to be done (if any)? Are these plans appropriate and adequate for the research questions?)

#### 4 f. Originality

(Will this research likely develop new methods, or directly lead to new information, useful for research in general?)

(Criteria "g" through "k" refer to section J. Priority and Utility.)

#### 10 g. Priority of the Health Problem(s) for the Community(ies) Involved

(Are the health problems addressed by the research project a high priority in the community(ies) involved?)

#### 9. h. Priority of the Health Problem(s) for all AI/AN people and the IHS Area

(Are the health problems addressed by the research project a high priority in all or major segments of AI/AN people, and in the IHS Area?)

#### 4. i. Setting of the Study

(Should the research be done only, or be done best, in an AI/AN population, and in the proposed community(ies)?)

#### 10. j. Utility of the Product and Experience to the Community(ies) and SU(s) Involved

(Does the research project have a high expected utility of the product (e.g., new information) or of the experience (e.g., new research skills, capabilities, resources, or liaisons to do practice-based or community-based research) to the community(ies) and/or SU(s) involved?)

#### 5. k. Utility of the Product and Experience to the IHS and Other AI/AN People

(Does the research project have a high expected utility of the product (e.g., new information) or of the experience (e.g., new research skills, capabilities, resources, or liaisons to do practice-based or community-based research) to the IHS, to the IHS Area, and/or to other AI/AN people?)

#### 5 l. Budget. (This Criterion Refers to Section G. Budget)

(Is the proposed budget sufficient to do the project? Is the proposed budget excessive? If the research project is a completing continuation, are the additional years necessary? Is the cost justified by the expected benefit?)

#### 10 m. Key Personnel and Research Team

(This criterion refers to section H. Key Personnel and Research Team.)

(Does the principal investigator have the training, experience, and time necessary to do and to manage the proposed research project? Does the research team have the capabilities to carry out and complete the project successfully?)

#### N. Results of the Review

The recommendations of the IHRSS will be forwarded to the Associate Director, OHPRD for final review and approval. The Associate Director will also consider the recommendations from the appropriate Area Research Committee and Division of Acquisitions and Grants Management. Applicants will be notified of their approval with funds, or of approval without funds, on November 16, 1992. A Notice of Grant Award will be issued approximately 10 days prior to the start date. Unsuccessful applicants will be notified in writing of disapproval not later than November 16, 1992. A brief explanation of the reasons why the application was not approved will be provided along with the name of the IHS official to contact if more information is desired.

Dated: March 13, 1992.

Everett R. Rhoades,

Assistant Surgeon General Director.

[FR Doc. 92-11353 Filed 5-13-92; 8:45 am]

BILLING CODE 4160-16-M

#### National Institutes of Health

#### National Cancer Institute; Meeting Biometry and Epidemiology Contract Review Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Biometry and Epidemiology Contract Review Committee, National Cancer Institute, National Institutes of Health, June 15-16, 1992, Executive Plaza North, Conference Room G, 6130 Executive Boulevard, Rockville, Maryland 20892.

This meeting will be open to the public on June 15 from 9 a.m. to 10 a.m. to discuss administrative details. Attendance by the public will be limited to space available.

In accordance with 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 June 15 from 10 a.m. to recess and on June 16 from 9 a.m. to adjournment for the review, discussion, and evaluation of individual contract proposals. These proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Committee Management Office, National Cancer Institute, Building 31, room 10A06, National Institutes of Health, Bethesda, Maryland 20892, tel. 301/496-5708, will provide a summary of the meeting and a roster of committee members upon request. Dr. Harvey P. Stein, Scientific Review Administrator, Biometry and Epidemiology Contract Review Committee, 5333 Westbard Avenue, room 807, Bethesda, Maryland 20892, telephone 301/496-7030, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control)

Dated: May 5, 1992.  
 Susan K. Feldman,  
 Committee Management Officer, NIH.  
 [FR Doc. 92-11303 Filed 5-13-92; 8:45 am]  
 BILLING CODE 4140-01-M

**National Cancer Institute; Meeting  
 (Division of Cancer Treatment Board  
 of Scientific Counselors)**

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, DCT, National Cancer Institute, National Institutes of Health, June 15-16, 1992, building 31C, Conference Room 10, 9000 Rockville Pike, Bethesda, Maryland 20892.

This meeting will be open to the public on June 15 from 8:30 a.m. to approximately 5 p.m., and again on June 16 from approximately 10:15 a.m., until adjournment, to review program plans, concepts of contract recompletions and budget for the DCT program. In addition, there will be scientific reviews by several programs in the Division. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sec. 552b(c)(6), title 5, U.S.C. and sec. 10(d) of Public Law 92-463, the meeting will be closed to the public on June 15 from approximately 5 p.m., to approximately 8 p.m., and again on June 16 from 8 a.m. to approximately 10 a.m., for the review, discussion and evaluation of individual programs and projects conducted by the National Cancer Institute, 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. Carole Frank, Committee Management Officer, National Cancer Institute, Building 31, room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301-496-5708) will provide summaries of the meeting and rosters of committee members upon request.

Dr. Bruce A. Chabner, Director, Division of Cancer Treatment, National Cancer Institute, Building 31, room 3A44, National Institutes of Health, Bethesda, Maryland 20892 (301-496-4291) will furnish substantive program information.

(Catalog of Federal Domestic Assistance program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers

Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control)

Dated: May 5, 1992.  
 Susan K. Feldman,  
 Committee Management Officer, NIH.  
 [FR Doc. 92-11305 Filed 5-13-92; 8:45 am]  
 BILLING CODE 4140-01-M

**National Cancer Institute; Meeting of  
 the Developmental Therapeutics  
 Contracts Review Committee**

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Developmental Therapeutics Contracts Review Committee, National Cancer Institute, National Institutes of Health, June 22, 1992, The Executive Plaza North Building, 6130 Executive Boulevard, Rockville, Maryland 20892.

This meeting will be open to the public on June 22 from 9 a.m. to 10 a.m. to discuss administrative details. Attendance by the public will be limited to space available.

In accordance with 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 June 22 from 10 a.m. to adjournment for the review, discussion, and evaluation of individual contract proposals. These proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Committee Management Office, National Cancer Institute, Building 31, room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496-5708) will provide a summary of the meeting and a roster of committee members upon request.

Dr. Susan E. Feinman, Scientific Review Administrator, Developmental Therapeutics Contracts Review Committee, 5333 Westbard Avenue, room 809, Bethesda, Maryland 20892 (301/402-0944) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control)

Dated: May 5, 1992.  
 Susan K. Feldman,  
 Committee Management Officer, NIH.  
 [FR Doc. 92-11301 Filed 5-13-92; 8:45 am]  
 BILLING CODE 4140-01-M

**National Institute of Child Health and  
 Human Development; Meetings**

Pursuant to Public Law 92-463, notice is hereby given of meetings of the review committees of the National Institute of Child Health and Human Development for June 1992.

These meetings will be open to the public to discuss items relative to committee activities including announcements by the Director, NICHD, and scientific review administrators, for approximately one hour at the beginning of the first session of the first day of the meeting. 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 sections 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 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. Mary Plummer, Committee Management Officer, NICHD, Executive Plaza North Building, room 520, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496-1485, will provide a summary of the meetings and rosters of committee members.

Other information pertaining to the meetings may be obtained from the Scientific Review Administrator indicated.

*Name of Committee:* Population Research Committee.

*Scientific Review Administrator:* Dr. A.T. Gregoire, Executive Plaza North Building—Rm. 520, Telephone: 301-496-1696.

*Date of Meeting:* June 22-23, 1992.

*Place of Meeting:* La Mansion del Rio Hotel, 112 College Street, San Antonio, Texas.

*Open:* June 22, 1992, 8 a.m.-9:30 a.m.  
*Closed:* June 22, 1992, 9:30 a.m.-5 p.m., June 23, 1992, 8 a.m. - adjournment.

*Name of Committee:* Maternal and Child Health Research

*Scientific Review Administrator:* Committee Dr. Gopal Bhatnagar, Executive Plaza North Building—Rm. 520, Telephone: 301-496-1485.

*Date of Meeting:* June 23-24, 1992.

*Place of Meeting:* Congressional Park Days Inn, 1775 Rockville Pike, Rockville, Maryland 20852.

*Open:* June 23, 1992, 8 a.m.-9 a.m.

*Closed:* June 23, 1992, 9 a.m.-5 p.m.,  
June 24, 1992, 8 a.m.- adjournment.

*Name of Committee:* Mental  
Retardation Research Committee.

*Scientific Review Administrator:* Dr.  
Norman Chang, Executive Plaza North  
Building-Rm. 520, Telephone: 301-496-  
1485.

*Date of Meeting:* June 24-25, 1992.

*Place of Meeting:* ANA Hotel, 2401 M  
Street NW., Washington, DC 20037.

*Open:* June 24, 1992, 8 a.m.-9 a.m.

*Closed:* June 24, 1992, 9 a.m.-5 p.m.,  
June 25, 1992, 8a.m.- adjournment.

(Catalog of Federal Domestic Assistance  
Program No. 93.864, Population Research and  
No. 93.865, Research for Mothers and  
Children, National Institutes of Health)

Dated: May 5, 1992.

Susan K. Feldman,

*Committee Management Officer, NIH.*

[FR Doc 92-11300 Filed 5-13-92; 8:45 am]

BILLING CODE 4140-01-M

#### **National Institute of Child Health and Human Development; Meeting of the National Advisory Child Health and Human Development Council**

Pursuant to Public Law 92-463, notice  
is hereby given of the meeting of the  
National Advisory Child Health and  
Human Development Council, June 1-2,  
1992, in the Shannon Building (Bldg. 1),  
Wilson Hall, National Institutes of  
Health, Bethesda, Maryland, and the  
meeting of the Subcommittee on  
Planning on June 1 in Building 31, room  
2A03.

The Council meeting will be open to  
the public on June 1 from 9:30 a.m. until  
5 p.m. The agenda includes a report by  
the Director, NICHD, and a report by the  
Endocrinology, Nutrition and Growth  
Branch, NICHD. The meeting will be  
open on June 2 immediately following  
the review of applications if any policy  
issues are raised which need further  
discussion. The Subcommittee meeting  
will be open on June 1 from 8 a.m. to 9:30  
a.m. to discuss program plans and the  
agenda for the next Council meeting.  
Attendance by the public will be limited  
to space available.

In accordance with the provision set  
forth in sections 552b(c)(4) and  
552b(c)(6), title 5, U.S.C. and sec. 10(d)  
of Public Law 92-463, the meeting of the  
full Council will be closed to the public  
on June 2 from 8 a.m. to completion of  
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.

Ms. Mary Plummer, Council Secretary,  
NICHD, Executive Plaza North, room  
520, National Institutes of Health,  
Bethesda, Maryland 20892, Area Code  
301, 496-1485, will provide a summary of  
the meeting and roster of Council  
members as well as substantive program  
information.

(Catalog of Federal Domestic Assistance  
Program Nos. 93.864, Population Research,  
and 93.865, Research for Mothers and  
Children, National Institutes of Health)

Dated: May 5, 1992.

Susan K. Feldman,

*Committee Management Officer, NIH.*

[FR Doc. 92-11302 Filed 5-13-92; 8:45 am]

BILLING CODE 4140-01-M

#### **National Institute on Deafness and Other Communication Disorders; Meeting of the Research Priorities Subcommittee of the National Deafness and Other Communication Disorders Advisory Board**

Pursuant to Public Law 92-463, notice  
is hereby given of the meeting of the  
Research Priorities Subcommittee of the  
National Deafness and Other  
Communication Disorders Advisory  
Board on May 27, 1992. The meeting will  
take place from 8:30 a.m. to 11 a.m. in  
Conference Room 7, Building 31C,  
National Institutes of Health, 9000  
Rockville Pike, Bethesda, Maryland  
20892, and will be conducted as a  
telephone conference with the use of  
speaker phones.

The meeting, which will be open to  
the public from 8:30 a.m. to 10:40 a.m., is  
being held to discuss scientific advances  
in the field of language and its disorders  
in children since the National Strategic  
Research Plan for that area was  
developed. Attendance by the public  
will be limited to the space available.

In accordance with the provisions 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 10:40 a.m. to adjournment for the  
discussion and recommendation of  
individuals to serve as consultants to  
the Research Priorities Subcommittee.  
This discussion could reveal personal  
information concerning these  
individuals, disclosure of which would  
constitute a clearly unwarranted  
invasion of personal privacy.

Summaries of the Subcommittee's  
meeting and a roster of members may be  
obtained from Ms. Monica Davies,  
Executive Director, National Deafness  
and Other Communication Disorders  
Advisory Board, Building 31, room 3C06,  
National Institutes of Health, Bethesda,

Maryland 20892, 301-402-1129, upon  
request.

(Catalog of Federal Domestic Assistance  
Program No. 93.173 Biological Research  
Related to Deafness and Other  
Communication Disorders)

Dated: May 5, 1992.

Susan K. Feldman,

*Committee Management Officer, NIH.*

[FR Doc. 92-11304 Filed 5-13-92; 8:45 am]

BILLING CODE 4140-01-M

#### **Public Health Service**

#### **Health Resources and Services Administration; Delegations of Authority**

Notice is hereby given that in  
furtherance of the delegation of authority  
to the Administrator on April 27, 1992,  
by the Assistant Secretary for Health,  
the Administrator has delegated to the  
Director, Bureau of Health Resources  
Development, Health Resources and  
Services Administration, with authority  
to redelegate, all of the authorities  
vested in the Secretary under title XII of  
the Public Health Service Act (42 U.S.C.  
201 *et seq.*), as amended hereafter,  
pertaining to Trauma Care. This  
delegation excluded the authorities to  
issue regulations, submit reports to  
Congress or a congressional committee,  
establish advisory committees and  
councils, and select members to  
advisory councils.

#### **Redelegation**

This authority may be redelegated.

#### **Prior Delegations**

None.

**EFFECTIVE DATE:** May 4, 1992.

In addition, I hereby affirm and ratify  
any actions taken by any HRSA official  
on my behalf, prior to the effective date  
of this delegation.

Dated: May 4, 1992.

Robert G. Harmon,

*Administrator.*

[FR Doc. 92-11354 Filed 5-13-92; 8:45 am]

BILLING CODE 4160-17-M

#### **DEPARTMENT OF THE INTERIOR**

#### **Bureau of Land Management**

[WY-920-02-4120-10]

#### **Powder River Regional Coal Team; Meetings**

**AGENCY:** Bureau of Land Management,  
Interior.

**ACTION:** Notice of public meeting.

**SUMMARY:** The Powder River Regional Coal Team (PRRCT) will hold a public meeting on June 25, 1992 for the following purposes: (1) Review pending coal lease applications (LBA), (2) review current activity in the Powder River Coal Region, and (3) make recommendations on pending applications.

**DATES:** The RCT will meet 9 a.m. m.d.t. on June 25, 1992, in the Holiday Inn, 2009 S. Douglas Highway, Gillette, Wyoming 82716. The meeting is open to the public.

**ADDRESSES:** The meeting will be held at the Holiday Inn, 2009 S. Douglas Highway, Gillette, Wyoming, 82716, telephone (307) 688-3000. Attendees may wish to make their personal room reservations from a block of rooms which has been set aside until June 14, 1992.

**FOR FURTHER INFORMATION CONTACT:** Mrs. Jimi Metzger or Eugene Jonart, Wyoming State Office, (925), P.O. Box 1828, Cheyenne, Wyoming 82003; telephone 307-775-8250.

**SUPPLEMENTARY INFORMATION:** A primary purpose of the meeting is to discuss the following pending Leasing By Applications (LBA): West Black Thunder (WYW118907), North Antelope/Rochelle (WYW119554), West Rocky Butte (WYW122586), Meadowlark Farms (WYW124783), and Western Energy's LBA in Montana (MTM80697). Public notification of each of the above pending applications, in accordance with the Powder River Operational guidelines, has been printed previously in the *Federal Register*. All of the pending applications save one (West Rocky Butte), are to maintain existing mining operations. Generally, a coal lease application filed under the LBA portion of the regulations (43 CFR part 3425) can be processed to the lease sale stage by BLM within one and a half to two years after being submitted, depending on informational and environmental study requirements. The PRRCT may develop recommendation(s) on any or all of the pending LBAs.

The meeting will also serve as a forum for public discussion on Federal coal management issues of regional concern. Any party interested in providing physical input or data supporting the need for regional leasing may either do so in writing to the State Director (925), Wyoming State Office, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82003, by June 12, 1992, or by addressing the PRRCT with his/her concern at the meeting on June 25, 1992. Public input opportunities will be

provided on all agenda items during the meeting.

The agenda for this meeting as follows:

1. Introductions of PRRCT members and guests.
2. Approval of Minutes of September 6, 1991, Regional Coal Team Meeting, Cheyenne, Wyoming.
3. Brief Overview of the LBA Process—BLM Presentation
4. Regional Coal Activity Status:
  - a. Current Production and trend
  - b. Preference Right Lease Applications (PRLA)
  - c. Exchanges—Belco I-90/Hay Creek; Texaco/Lake DeSmet AVF
  - d. Pending LBA Applications

**Tentative Sale Schedule**

- West Black Thunder LBA (WYW118907—433 MM tons); Thunder Basin Coal Company. Sale tentatively set for June or July, 1992.
- North Antelope/Rochelle LBA (WYW119554—370 MM Tons); Powder River Coal Company. Sale tentatively set for September 1992.
- West Rocky Butte Tract (WYW122586—50 MM Tons); Northwestern Resources. Sale tentatively set for October 1992.
- Eagle Butte (WYW124783—est. 150 MM Tons); Meadowlark Farms (AMAX). Tentative sale date set for spring 1993. NEPA analysis to start early 1993.
- Western Energy (MTM—80697—est. 39.3 MM tons); Sale tentatively set for 1993.
- e. Modifications—Montana
- f. Pending LMUs
- g. Outstanding Exploration licenses
- 5. Review of Market Conditions—NRET
- 6. Industry Presentations:
  - Northwest Resources
  - Meadowlark Farms (AMAX)
  - Western Energy
- 7. Public Comments
- 8. RCT Activity Planning Recommendations
  - Review of, and recommendation(s) on pending lease Applications
- 9. Other Regional Issues:
  - Status of Jacob's Ranch Appeal.
  - Northern Cheyenne Status.
- 10. Adjourn.

Ray Brubaker,  
State Director.

[FR Doc 92-11325 Filed 5-13-92; 8:45 am]

BILLING CODE 4310-22-M

[ID-060-02-4333-11; Special Recreation Permit Order No. ID-060-10]

**Lower Salmon River; Special Recreation Permit Requirements**

**AGENCY:** Bureau of Land Management, Coeur D'Alene District

**ACTION:** Special Recreation Permit Requirements, Lower Salmon River.

**SUMMARY:** Pursuant to 43 CFR 8372.1, the following act is prohibited: Entering or being on the waters of the Salmon River between Hammer Creek (River Mile 53) and the confluence of the Snake and Salmon Rivers (River Mile 0).

Pursuant to 43 CFR 8372.1-3, the following are exempt from the above prohibition:

1. A person with an authorized watercraft as described in Exhibit A and who also has a special use authorization as described in Exhibit B allowing the otherwise prohibited act, or anyone travelling with that person.
2. A person who has entered the area and is not using any type of watercraft.
3. Any Federal, State, or local officer or member of an organized rescue or firefighting force in the performance of an official duty.

Violation of this prohibition is punishable by a fine not to exceed \$1,000 and/or imprisonment not to exceed 12 months.

**SUPPLEMENTARY INFORMATION:****Exhibit A***Types of Authorized Watercraft*

Authorized watercraft on the Lower Salmon River include those types of float boats and powerboats traditionally and commonly being used for recreational purposes on this section of the Salmon River in 1983 when the Recreation Area Management Plan for the Lower Salmon River Recreation Area was approved.

Authorized Float Boats Include: Sweep boats, pontoons, cat-a-rafts, inflatable rafts, rigid hull and inflatable kayaks, canoes, dories, and drift boats. They may be propelled by paddles, oars, motors, or other devices, but are not capable of upstream travel through rapids.

Authorized Powerboats Include: Motorized, rigid hull watercraft with water cooled exhaust that are driven by propeller(s) or jet pump(s), are capable of upstream and downstream travel, and usually require trailering to enter and exit the water.

*Types of Non-authorized Watercraft*

Non-valid watercraft on the Lower Salmon River include those types of equipment that were not traditionally and commonly being used for recreational purposes on this section of the river in 1983 when the Recreation Area Management Plan for the Lower Salmon River Recreation Area was approved.

**Non-Valid Types of Watercraft:** Personal water vehicles such as jet skis, air boats, motorized surf boards, wind surf boards, sailboats, hover craft, winged watercraft, any powerboats equipped with an over-the-transom exhaust system, amphibious craft, mini-submarines, powerboats under 8 feet in length and designed to carry a maximum of two passengers, watercraft that must be straddled when ridden by the operator and/or passengers, and devices towed behind a powerboat for recreational purposes such as water skis, kneeboards, and various types of tubes.

**Exhibit B***Types of Special Use Authorizations***A. Required Yearlong:**

1. A Special Use Permit issued by an Authorized Officer to an individual or any type of business entity allowing a service to be conducted. This permit allows use by floatboat and powerboat businesses.

2. A properly executed self-issue permit allowing private powerboating or private floating. A permit is required for each powerboat and for each float party for overnight trips.

**B. Required Beginning 12:00am On July 1, Ending 11:59pm On Labor Day, Inclusive:**

1. A properly executed self-issue permit allowing private powerboating. A permit must be obtained for each powerboat.

2. A properly executed self-issue permit allowing private floating downstream from Hammer Creek. A permit must be obtained for each float party.

**Authorization**

This Order meets requirements of the Recreation Area Management Plan for the Lower Salmon River including the revision of the Plan in 1991. Non-valid watercraft as defined in Exhibit A of the Closure Order pose safety hazards to authorized power and float boat users and those using the non-valid craft. These types of craft are unexpected in this setting and some are difficult to see. Most are erratic in travel patterns and can suddenly and unpredictably change course. Some require long ropes for

towing behind other boats, resulting in the rope becoming a safety hazard for other users on the water.

The Recreation Area Management Plan provides for the issuance of permits during the regulated season. Use of the Lower Salmon River has increased dramatically in recent years. Planning for future river recreation emphasized monitoring of both social and environmental effects of river use. This will require detailed information on the amount and type of river use. Permits contain information and education for boaters that address social and environmental issues when using the resources on the Lower Salmon. Permits also provide accountability for user's actions when recreating within the recreation area as well as information for managing emergencies and search and rescue. Permit stations provide a point of contact to distribute information to boaters to address these issues.

**DATES AND ADDRESSES:** This Order shall go into effect April 17, 1992. For additional information contact LuVerne Grussing, Cottonwood Resource Area, Rt. 3, Box 181, Cottonwood, Idaho 83522, telephone (208) 962-3245.

Dated: May 4, 1992.

Fritz U. Rennebaum,  
District Manager.

[FR Doc. 92-11350 Filed 5-13-92; 8:45 am]

BILLING CODE 4310-66-M

[CA-940-4214-10; CACA 29932]

**Proposed Withdrawal and Opportunity for Public Meeting; California**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** The United States Department of Agriculture, Forest Service, has filed an application to withdraw 64.82 acres of National Forest System land for addition to the Sierra Campground. This notice closes the land for up to 2 years from location and entry under the United States mining laws. The land will remain open to all other uses which may be made of National Forest System lands.

**DATES:** Comments and requests for a meeting should be received on or before August 12, 1992.

**ADDRESSES:** Comments and meeting requests should be sent to the California State Director, BLM, Federal Office Building, room E-2845, 2800 Cottage Way, Sacramento, California 95825.

**FOR FURTHER INFORMATION CONTACT:** Viola Andrade, BLM California State Office, 916-978-4820.

**SUPPLEMENTARY INFORMATION:** On April 17, 1992, the United States Department of Agriculture filed an application to withdraw the following described National Forest System land from location and entry under the United States mining laws, subject to valid existing rights:

**Mount Diablo Meridian**

Tahoe National Forest  
Sierra Campground Addition  
T. 20 N., R. 13 E.,  
Sec. 16, lots 2 and 3.

The area described contains 64.62 acres in Sierra 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 land will be segregated as specific above unless the application is denied or canceled or the withdrawal is approved prior to that date. No licenses, permits, cooperative agreements, or discretionary land-use authorizations of a temporary nature requiring the approval of an authorized officer of the Forest Service will be granted during this segregative period other than those allowed by the nature of the existing recreational improvements.

Dated: May 6, 1992.

John D. Beck,

Acting Chief, Lands Section.

[FR Doc. 92-11342 Filed 5-13-92; 8:45 am]

BILLING CODE 4310-40-M

[CA-940-4214-10; CACA 28893]

**Partial Cancellation of Proposed Withdrawal; California****AGENCY:** Bureau of Land Management, Interior.**ACTION:** Notice.

**SUMMARY:** This notice terminates the segregative effect of a proposed withdrawal of 30.46 acres of National Forest System lands requested by the United States Department of Agriculture, Forest Service, for the Sierra Campground. This action will open the lands to mining. The lands have been and remain open to surface entry and mineral leasing.

**EFFECTIVE DATE:** June 15, 1992.

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

**SUPPLEMENTARY INFORMATION:** A Notice of Proposed Withdrawal was published in the *Federal Register*, 56 FR 52053, October 17, 1991, which segregated the lands described therein from location and entry under the United States mining laws. The Forest Service has determined that some of the lands will not be needed in connection with the Sierra Campground and has canceled its application as to those lands only. The lands are described as follows:

**Mount Diablo Meridian**

Sierra Campground (Serial No. CACA 28893)  
T. 20 N., R. 13 E.,  
sec. 6, W $\frac{1}{2}$  lot 1 and E $\frac{1}{2}$  lot 4.

The areas described aggregate 30.46 acres in Sierra County.

At 10 a.m. on June 15, 1992, the lands will be opened to location and entry under the United States mining laws, subject to valid existing rights, the provision of existing withdrawals, and other segregations of record. Appropriation of any of the lands described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1988), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: May 6, 1992.

John D. Beck,

Acting Chief, Lands Section.

[FR Doc. 92-11343 Filed 5-13-92; 8:45 am]

BILLING CODE 4310-40-M

**Fish and Wildlife Service****Availability of a Draft Recovery Plan for the Knieskern's Beaked-Rush for Review and Comment****AGENCY:** Fish and Wildlife Service, Interior.**ACTION:** Notice of document availability.

**SUMMARY:** The U.S. Fish and Wildlife Service announces the availability for public review of a draft Recovery Plan for Knieskern's Beaked-Rush. This species is endemic to New Jersey, and currently occurs in four counties in that state. The Service solicits review and comment from the public on this draft Plan.

**DATES:** Comments on the draft Recovery Plan must be received on or before July 13, 1992, to receive consideration by the Service.

**ADDRESSES:** Persons wishing to review the draft Recovery Plan can obtain a copy from the New Jersey Field Office, U.S. Fish and Wildlife Service, 927 North Main Street, Building D-1, Pleasantville, New Jersey 08232, (609) 646-9310. The Plan will also be available for public inspection, by appointment, during normal business hours at the above address. Comments on the Plan should be addressed to Dana Peters at the above address.

**FOR FURTHER INFORMATION CONTACT:** Dana Peters (see Addresses).

**SUPPLEMENTARY INFORMATION:****Background**

Restoring an endangered or threatened animal or plant to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the U.S. Fish and Wildlife Service's endangered species program. To help guide the recovery effort, the Service is working to prepare Recovery Plan for most of the listed species native to the United States. Recovery Plans describe actions considered necessary for conservation of the species, establish criteria for the recovery levels for downlisting or delisting them, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*) requires the development of Recovery Plans for listed species unless such a Plan would not promote the

conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice and an opportunity for public review and comment be provided during Recovery Plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised Recovery Plan. The Service and other Federal agencies will also take these comments into account in the course of implementing Recovery Plans.

The document submitted for review is the draft Knieskern's Beaked-Rush (*Rhynchospora knieskernii*) Recovery Plan. Knieskern's beaked-rush, a member of the sedge family, is an annual plant endemic to the Pine Barrens region of New Jersey. It is currently known from 27 sites in four counties, down from 41 populations in five counties in the state. The plant is threatened by habitat loss and alteration, and is limited by narrow ecological requirements. Knieskern's beaked-rush typically is found on bog-iron substrates that are subject to erosional or other forces that curtail vegetation succession. The species is also found on wet, human-disturbed sites where vegetation succession is impeded. Due to its declining status and continuing threats, the species was listed as threatened in July 1991.

The primary objectives of this draft Recovery Plan are to stabilize the long-term status and ensure the long-term viability of the species in the wild, thereby enabling the species' removal from the Federal list of endangered and threatened wildlife and plants. Conditions that must be met to delist the Knieskern's beaked-rush include permanent protection and maintenance of a minimum of 18 sites, implementation of habitat management plans for all protected sites, evidence that a minimum of 27 sites will remain viable over the long term, and development of techniques for either propagating the species in a cultivated setting or for long-term seed storage.

These conditions will be achieved through negotiating cooperative agreements and conservation easements with land owners and managers, acquiring lands from willing sellers, using existing legislation to protect Knieskern's beaked-rush populations and their habitat, monitoring population levels and habitat conditions, managing habitat as needed, conducting necessary studies, and establishment of a seed bank or plant propagation in a plant breeding facility.

This draft Recovery Plan is being submitted for agency review. After

consideration of comments received during the review period, the Plan will be submitted for final approval.

#### Public Comments Solicited

The Service solicits written comments on the Recovery Plan described. All comments received by the date specified above will be considered prior to approval of the Plan.

**Authority:** The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: May 8, 1992.

Nancy M. Kaufman,

Acting Regional Director.

[FR Doc. 92-11344 Filed 5-13-92; 8:45 am]

BILLING CODE 4310-55-M

#### Receipt of Application for Permit

The public is invited to comment on the following application for a permit to conduct certain activities with marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) and the regulations governing marine mammals and endangered species (50 CFR parts 17 and 18).

**Applicant Name:** Kevin T. Schulz, DMV, University of Wisconsin. Address: 2015 Linden Drive, Madison, WI 53705. File No. 767676.

**Type of Permit:** Scientific Research.

**Name and Number of Animals:** approximately 25 Manatees (*Trichechus manatus manatus*).

**Summary of Activity to be Authorized:** The applicant proposes to import blood samples taken from Manatees in Guyana for the purpose of scientific research.

**Source of Marine Mammals for Research** from canals in the Guyana Zoological Park.

**Period of Activity:** one year June 1, 1992-June 1, 1993.

Concurrent with the publication of this notice, the Office of Management Authority is forwarding copies of the application to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Written data or comments, requests for a public hearing on this application should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication. Anyone requesting a

hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Documents and other information submitted with these applications are available for review by any party who submits a written request for a copy of such documents to, or by appointment during normal business hours (7:45-4:15) in, the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203. Phone: (703/358-2104); FAX: (703/358-2281).

Dated: May 8, 1992.

Margaret Tieger,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 92-11272 Filed 5-13-92; 8:45 am]

BILLING CODE 4310-55-M

#### Minerals Management Service

##### Public Hearings

**AGENCY:** Minerals Management Service, Interior.

**ACTION:** Notice of locations and dates of public hearings regarding the draft Environmental Impact Statement for proposed Central and Western Gulf of Mexico sales 142 and 143.

On April 8, 1992, a Federal Register notice (57 FR 11965) announced the availability of the draft Environmental Impact Statement (EIS) for the proposed 1993 Outer Continental Shelf (OCS) oil and gas lease sales in the Central and Western Gulf of Mexico and indicated that the dates, times, and locations of public hearings on the draft EIS would be announced at a later date. The purpose of these public hearings is to provide the Department of the Interior and the Minerals Management Service with information from individuals, public and private groups, and Government Agencies to further evaluate the potential effects of the proposed lease sales.

Three public hearings will be held. The locations, dates, and times of these hearings are listed below. Persons who wish to testify at these hearings can register the day of the hearing at the hearing sites beginning one hour prior to the beginning of the meeting. Oral testimony should be limited to 10 minutes. Testimony may be supplemented by a written statement, which, if submitted at a hearing, will be considered as part of the hearing record. Pertinent testimony and comments will be addressed in the final EIS for Sales

142 and 143. Those unable to attend the hearing may submit written statements until the close of the comment period, July 6, 1992. Written statements will receive the same degree of consideration in the final EIS as oral testimony presented at the hearings. Written statements should be submitted to the Regional Supervisor, Office of Leasing and Environment (MS 5410), Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, room 311, New Orleans, Louisiana 70123-2394. New Orleans, Louisiana, May 20, 1992, from 2 to 4 p.m. and 7 to 10 p.m., Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, Conference Room 111.

Galveston, Texas, May 19, 1992, from 7 to 10 p.m., Flagship Hotel, 2501 Seawall Boulevard.

Mobile, Alabama, May 21, 1992, from 7 to 10 p.m., Ramada Inn Resort, 600 South Beltline Highway.

After all the public hearing testimony and written comments on the draft EIS have been reviewed and analyzed, the final EIS will be prepared.

Dated: April 30, 1992.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 92-11365 Filed 5-13-92; 8:45 am]

BILLING CODE 4310-MR-M

#### National Park Service

##### Final Legislative Environmental Impact Statement on All-Terrain Vehicles for Subsistence Use in Gates of the Arctic National Park and Preserve, Alaska

**ACTION:** Notice of availability of final legislative environmental impact statement.

**SUMMARY:** This notice announces the availability of a final legislative environmental impact statement (EIS) on all-terrain vehicles for subsistence use in Gates of the Arctic National Park and Preserve.

In accordance with the National Environmental Policy Act and National Park Service (NPS) regulations, a final legislative environmental impact statement (EIS) has been prepared to analyze the impacts of a proposal for providing access by all-terrain vehicles (ATVs) to subsistence resources on certain park land for the local residents of Anaktuvuk Pass, Alaska, while alleviating potential threats to other park land and resources at Gates of the Arctic National Park and Preserve. The notice of intent to prepare this

legislative EIS was announced in the Federal Register on January 25, 1989, and amended on August 28, 1989. The availability and comment period of the draft legislative environmental impact statement were announced in the Federal Register on February 15, 1991. The comment period closed April 16, 1991.

In 1983 the Department of the Interior entered into a land exchange agreement with Arctic Slope Regional Corporation (ASRC), commonly known as the Chandler Lake Exchange Agreement. Land traded to the United States came under the management of NPS, with ASRC retaining linear easements for motorized access, including use of ATVs for subsistence. These easements provide subsistence users from Anaktuvuk Pass legal access across lands which otherwise would have been closed to the use of all off-road vehicles (including ATVs), except snowmachines. A growing dispute over whether ATV use was necessary or legal outside those easements led to negotiations between NPS and ASRC, Nunamiut Corporation, and the City of Anaktuvuk Pass and resulted in the proposed action.

Three alternatives are considered in the EIS: No Action; Land Interests Exchange and Legislation; and Proposed—Fee and Land Interests Exchange and Proposed Legislation. Under the No Action alternative, park management would continue under existing regulations and authorities. No land or interest in land would be exchanged. All provisions of the 1983 Chandler Lake Exchange Agreement would remain in effect, with ATV use for subsistence restricted to the linear easements. Existing development rights on Native corporation land would be retained by ASRC and the Nunamiut Corporation.

The proposed action would expand ATV use beyond the linear easements by removing 73,993 acres of federal land from existing wilderness classification and allowing dispersed ATV use on and limited to 126,632 acres of non-wilderness park land. A total of 30,642 acres of park and park wilderness in the Akmagolik and Contact Creek areas would be conveyed in fee to ASRC. In exchange NPS would acquire surface and subsurface development rights, including in some cases sand and gravel, on 116,949 acres of Native land or interests in land within the park. The United States would also acquire broad public access easements across 148,484 acres of Native land. Qualifying subsistence users would be identified by the current resident zone system. A

combined total of 56,825 acres of park land and Native land conveyed to federal ownership would become designated wilderness. The limits on ATV use would apply only to the village of Anaktuvuk Pass. Subsistence access by airplane to Itkillik Lake would be specifically authorized. The City would convey a City lot to the United States for administrative use by NPS. The proposal would depend on congressional action to authorize and deauthorize wilderness and to ratify the agreement.

The Land Interests Exchange and Legislation alternative is similar to the proposal; however, no land would be exchanged in fee. Expanded ATV use would be allowed on and limited to 157,321 acres of park land. This would be accomplished by removing 73,880 acres of park land from existing wilderness classification, in exchange for public access easements across 156,682 acres of Native land. Additionally, the United States would gain ownership to development rights on 125,147 acres of Native land and would designate 17,825 acres of other park land as wilderness.

**DATES:** A 30-day no-action period will follow the Environmental Protection Agency's Federal Register notice of availability of the final legislative EIS.

**ADDRESSES:** Copies of the final legislative EIS are available from Joan B. Darnell, Chief of the Division of Environmental Quality, Alaska Regional Office, National Park Service, 2525 Gambell Street, Room 107, Anchorage, Alaska 99503-2892.

John M. Morehead,  
Regional Director, Alaska Region.  
[FR Doc. 92-11287 Filed 5-13-92; 8:45 am]

BILLING CODE 4310-70-M

#### **Gulf Islands National Seashore; Advisory Commission Meeting**

**AGENCY:** National Park Service (Gulf Islands National Seashore), Interior.

**ACTION:** Notice of advisory commission meeting.

**SUMMARY:** Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Gulf Islands National Seashore Advisory Commission is scheduled for Friday, June 12. The commission was established pursuant to Public Law 91-660, January 8, 1971. The purpose of the commission is to consult with the Secretary of the Interior, or his designee, with respect to matters relating to the development of the Gulf Islands National Seashore, and on matters

relating to zoning within the seashore. The meeting will convene on June 12 at the Davis Bayou Visitor Center auditorium in Ocean Springs, Mississippi, at 1:30 p.m.

The matters to be discussed at this meeting will include: (1) Superintendent's Annual Report; (2) status of natural resource management projects; (3) status of cultural resource management projects; and (4) other business.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited, and it is expected that not more than 20 persons will be able to attend the meeting in addition to the commission members. Any member of the public may file with the commission a written statement concerning the matters to be discussed. Written statements may also be submitted to the Superintendent. Further information concerning this meeting may be obtained from the Superintendent, Gulf Islands National Seashore, 1801 Gulf Breeze Parkway, Gulf Breeze, Florida 32561-1801.

Dated: April 22, 1992.

James W. Coleman, Jr.  
Regional Director, Southeast Region.  
[FR Doc. 92-11284 Filed 5-13-92; 8:45 am]  
BILLING CODE 4310-70-M

#### **Natchez National Historical Park; Advisory Commission Meeting**

**AGENCY:** National Park Service (Natchez National Historical Park), Interior.

**ACTION:** Notice of advisory commission meeting.

**SUMMARY:** Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Natchez National Historical Park Advisory Commission will be held at 1 p.m. to 4 p.m. at the following location and date.

**DATE:** May 14, 1992.

**LOCATION:** Administrative Headquarters, Natchez National Historical Park, 504 South Canal Street, Natchez, Mississippi 39120.

**FOR FURTHER INFORMATION CONTACT:** Mr. Stuart Johnson, Superintendent, Natchez National Historical Park, Post Office Box 1208, Natchez, Mississippi 39121.

**SUPPLEMENTARY INFORMATION:** The purpose of the Natchez National Historical Park Advisory Commission is to advise the Secretary of the Interior on the development and management of the Natchez National Historical Park.

The members of the Advisory Commission are as follows:

Mr. William Batteast  
Mr. John Callon  
Ms. Joan Gandy  
Ms. Alferdteen Harrison  
Mr. Ronald Miller  
Mr. Kenneth P'Pool

The matters to be discussed at this meeting include the status of park development and planning activities. This meeting will be open to the public. However, facilities and space for accommodating members of the public are limited. Any member of the public may file with the commission a written statement concerning matters to be discussed. Written statement may also be submitted to the Superintendent at the address above. Minutes of the meeting will be available at park headquarters for public inspection approximately 4 weeks after the meeting.

Dated: May 7, 1992.

William T. Springer,

*Acting Regional Director, Southeast Region.*

[FR Doc. 92-11288 Filed 5-13-92; 8:45 am]

BILLING CODE 4310-70-M

### National Capital Region Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the National Capital Memorial Commission will be held on Wednesday, May 27, 1991, at 1:30 p.m., at the Commission of Fine Arts, 441 F Street, NW., suite 312, Washington, DC.

The Commission was established by Public Law 99-652, for the purpose of advising the Secretary of the Interior or the Administrator of the General Services Administration, depending on which agency has jurisdiction over the lands involved in the matter, on policy and procedures for establishment of (and proposals to establish) commemorative works in the District of Columbia or its environs, as well as such other matters concerning commemorative works in the Nation's Capital as it may deem appropriate. The Commission evaluates each memorial proposal and makes recommendations to the Secretary or the Administrator with respect to appropriateness, site location and design, and serves as an information focal point for those seeking to erect memorials on Federal land in Washington, DC., or its environs.

The members of the Commission are as follows:

James Ridenour, Chairman, Director, National Park Service, Washington, DC.

George M. White, Architect of the Capitol, Washington, DC.  
Honorable Andrew J. Goodpaster, Chairman, American Battle Monuments Commission, Washington, DC.  
J. Carter Brown, Chairman, Commission of Fine Arts, Washington, DC.  
Glen Urquhart, Chairman, National Capital Planning Commission, Washington, DC.  
Honorable Sharon Pratt Kelly, Mayor of the District of Columbia, Washington, DC.  
Honorable Richard G. Austin, Administrator, General Services Administration, Washington, DC.  
Honorable Richard Cheney, Secretary of Defense, Washington, DC.

The purpose of the meeting will be to review and take action on the following:

- I. Old Business.
  - (a) Review of minutes of meeting of April 28, 1992.
- II. Review of Proposed Legislation.
  - (a) H.R. 4494, to authorize the National Society, Children of the American Revolution to establish a memorial to the American Revolution on Federal land in the District of Columbia or its environs.
- III. Memorial to Women Who Served in the Military for America.
  - Revised Design Review.
- IV. Review of the Commemorative Works Act of 1986.
  - Review of the draft report to the Chairman, Subcommittee on National Parks Public Lands, House of Representatives Committee on Interior & Insular Affairs.
- V. Other Business.

Dated: April 30, 1992.

John S. Parsons,

*Acting Regional Director, National Capital Region.*

[FR Doc. 92-11283 Filed 5-13-92; 8:45 am]

BILLING CODE 4310-70-M

### Petroglyph National Monument Advisory Commission Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act, Public Law 92-463, that a meeting of the Petroglyph National Monument Advisory Commission will be held at 2 p.m. on Friday, May 29, in room B2125, City Council Chambers, at the City of Albuquerque, County of Bernalillo City/County Building, 5th and Marquette Streets, Albuquerque, New Mexico.

The Petroglyph National Monument Advisory Commission was established pursuant to Public Law 101-313, establishing Petroglyph National Monument, to advise the Secretary of the Interior on the management and development of the monument and on the preparation of the monument's general management plan.

The Commission membership is as follows:

Mr. Joe S. Chavez

Mr. Gerald Falls  
Governor Wilfred Garcia  
Mr. Philip R. Grant, Jr.  
Ms. Rosemary Harris  
Ms. Ambrosia Ortega  
Mr. Alfonso Ortiz  
Mr. Ray B. Powell, Jr.  
Mr. Coda Roberson

The matters to be discussed at this meeting include:

- Introduction of commission members and guests
- Review of Advisory Commission Charter
- Superintendent's report
- Status report on monument boundary study and general management plan
- Discussion of proposed monument boundary additions as outlined in Section 104 of Public Law 101-313
- New Business

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited, and persons will be accommodated on a first-come, first-served basis. Any member of the public may file a written statement concerning the matters to be discussed at the commission meeting with the Superintendent, Petroglyph National Monument.

Persons who wish further information concerning the meeting, or who wish to submit written statements may contact Stephen Whitesell, Superintendent, Petroglyph National Monument, P.O. Box 1293, Albuquerque, New Mexico 87103, telephone 505/768-3316.

Minutes of the commission meeting will be available for public inspection six weeks after the meeting at the office of Petroglyph National Monument.

Dated: April 24, 1992.

John E. Cook,

*Regional Director, Southwest Region.*

[FR Doc. 92-11285 Filed 5-13-92; 8:45 am]

BILLING CODE 4310-70-M

### Subsistence Resource Commission; Meeting

**AGENCY:** National Park Service, Interior.  
**ACTION:** Subsistence Resource Commission meeting.

**SUMMARY:** The Superintendent of Denali National Park and Preserve and the Chairperson of the Subsistence Resource Commission for Denali National Park announce a forthcoming meeting of the Denali National Park Subsistence Resource Commission.

The following agenda items will be discussed:

- (1) Introduction of commission members and guests.
- (2) Superintendent's welcome and review of SRC function and purpose.
- (3) Old business:
  - a. Review and approve minutes from last meeting.
  - b. Roster regulation status.
  - c. Denali Southside Development Plan.
- (4) Federal Subsistence Management Program:
  - a. Record of Decision update.
  - b. Federal Regional Councils Program.
- (5) Park hunting plan proposal work session:
  - a. GMU 20C moose hunt.
  - b. GMU 13E ptarmigan hunt.
  - c. GMU 13E moose hunt.
  - d. Federal registration permits (household eligibility).
- (6) Public and other agency comments.
- (7) New business.
- (8) Adjournment.

**DATES:** The meeting will begin at 10 a.m. on Thursday, May 28, 1992, and conclude around 5 p.m.

**LOCATION:** The meeting will be held at the Denali Park Headquarters, Recreation Hall, Denali Park, Alaska.

**FOR FURTHER INFORMATION CONTACT:** Russ Berry, Superintendent, P.O. Box 9, Denali Park, Alaska 99755. Phone (907) 683-2294.

**SUPPLEMENTARY INFORMATION:** The Subsistence Resource Commission is authorized under title VIII, section 808, of the Alaska National Interest Lands Conservation Act, Public Law 96-487, and operates in accordance with the provisions of the Federal Advisory Committees Act.

Paul F. Haertel,

Acting Regional Director.

[FR Doc. 92-11286 Filed 5-13-92; 8:45 am]

BILLING CODE 4310-70-M

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-324]

### In the Matter of Certain Acid-Washed Denim Garments and Accessories; Notice of Decisions

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the Commission has determined: (1) To review the presiding administrative law judge's (ALJ's) two initial determinations (IDs) (Orders Nos. 25 and 26) granting joint motions to terminate the investigation as to seven respondents on the basis of consent orders; and (2) Not to review the presiding ALJ's initial determination (Order No. 24) finding seven respondents in default.

**FOR FURTHER INFORMATION CONTACT:** William T. Kane, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436; telephone: (202)-205-3116. Copies of the IDs, consent orders, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436; telephone: (202)-205-2000. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal at (202)-205-1810.

**SUPPLEMENTARY INFORMATION:** On January 2, 1991, Greater Texas Finishing Corporation and Golden Trade S.r.L. filed a complaint alleging a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation, sale for importation, or sale after importation of acid-washed denim products by reason of infringement of claims 6 and 14 of U.S. Letters Patent 4,740,213. The Commission voted to institute an investigation of the complaint on January 28, 1991, and published notice of institution of the investigation in the *Federal Register* 56 FR 4851 (Feb. 6, 1991).

On November 12, 1991, complainants Golden Trade S.r.L. and Greater Texas Finishing Corporation moved for an order requiring nine respondents, none of whom had filed answers to the complaint or otherwise participated in the investigation, to show cause why they should not be found in default (Motion Docket No. 324-38). The Commission investigative attorneys (IAs) filed a response in support of this motion. Respondent Rio Sportswear Inc., filed a response urging that any presumptions or adverse inferences drawn by the ALJ be limited to the defaulting parties. On December 9, 1991, two of the subject respondents—Sao Paolo Alpargatas, S.A. (SPA) and Sociedad Exportadora Ltda. (Soexpo)—notified the ALJ that they were finalizing settlement agreements with complainants.

On December 12, 1991, the ALJ granted the show cause order as to seven respondents (Order No. 23), excluding SPA and Soexpo. The seven subject respondents were:

- (1) Chi Sheng Wash & Dye Factory;
- (2) Hsieh Hsing Washing & Dyeing Company, Ltd.;
- (3) Jeng Huei Garment Company, Ltd.;
- (4) Yeh Hua Garments Manufacturing Company, Ltd.;

- (5) Blooming Dyeing Laundry Co., Ltd.;
- (6) Bloowah Dyeing & Laundry Co.;

and  
(7) Wing Luen Universal Laundry Ltd. None of the seven respondents submitted responses to the show cause order.

On April 6, 1992, the ALJ issued an ID finding those seven firms in default pursuant to interim rule 210.25(a) (Order No. 24).

On December 24, 1991, complainants moved jointly with five respondents—the Gitano Group, Jordache Enterprises, Inc., Fast Forward Ltd., Four Ninety Eight Ltd., and Jordache International (Hong Kong)—to terminate the investigation as to those five respondents on the basis of consent orders, pursuant to interim rule 210.51 (Motion Docket No. 324-41). The IAs filed a submission in support of the motion. On April 6, 1992, the ALJ issued an ID granting the motion (Order No. 25).

On January 22, 1992, complainants and respondents SPA and Soexpo moved jointly to terminate the investigation as to those two respondents on the basis of consent orders (Motion Docket No. 324-42). The IAs filed a submission in support of the motion. On April 6, 1992, the ALJ issued an ID granting the motion (Order No. 26). Notice of the two consent order IDs was published in the *Federal Register* on April 15, 1992. 57 FR 13116.

On April 6, 1992, the ALJ issued a final ID finding the '213 patent to be invalid. A Commission decision on whether to review the ALJ's final ID is pending.

On April 14, 1992, respondents Gitano, Jordache, and affiliates petitioned for review of their consent order terminations. The IA filed a response in support of respondents' petition. On May 6, 1992, respondents Soexpo and SPA filed a motion for leave to file a petition for review of those firms' consent order terminations, which leave was granted. No other petitions for review or public comments were filed.

In view of the ALJ's final ID on the merits of the investigation, the Commission is delaying a decision on whether to issue the consent orders until it renders a decision on the validity of the underlying '213 patent. Accordingly, the Commission has decided to review ALJ Order No. 25 on the basis of a petition for review, and has decided to review ALJ Order No. 26 on its own motion.

**WRITTEN SUBMISSIONS:** The parties to the consent orders and the IAs are invited, but not required, to submit briefs on issues relating to Commission

review of the consent order termination IDs, including but not limited to, questions of whether the public interest review of a consent order under 19 CFR 211.21(a) should differ from the public interest review of proposed remedies under section 337(d), (e), (f), and (g) in light of the Commission's statutory authority to approve a consent order without a finding that a violation has occurred; and specifically whether the Commission may enter a consent order barring imports that infringe a patent that it finds is invalid, pending the exhaustion of judicial review of that finding.

Written submissions must be filed by May 22, 1992. Reply submissions must be filed by May 29, 1992. Parties submitting written submissions must file the original document and 14 true copies thereof with the Office of the Secretary. Parties desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment, unless the information has already been granted such treatment during the investigation. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR 201.6. Documents for which confidential treatment is granted by the Commission will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

This action is taken pursuant to section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and Commission interim rules 210.53, 210.54, 210.55, and 211.21 (19 CFR 210.53, 210.54, 210.55, and 211.21, as amended).

Issued: May 8, 1992.

By order of the Commission.

Kenneth R. Mason,  
Secretary.

[FR Doc. 92-11332 Filed 5-13-92; 8:45 am]

BILLING CODE 7020-02-M

**[Investigation No. 337-TA-276,  
Enforcement Proceeding]**

**Notice of Commission Decision  
Vacating Order Imposing Civil Penalty  
for Violation of a Cease and Desist  
Order and Dismissing Formal  
Enforcement Proceeding**

In the matter of Certain Erasable Programmable Read Only Memories, components thereof, products containing such memories, and processes for making such memories.

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the Commission has determined to vacate its March 28, 1991, order imposing a civil penalty in the amount of \$2,600,000 on Atmel Corporation for violation of the cease and desist order issued to it on March 18, 1989, and that the Commission has determined to dismiss the formal enforcement proceeding instituted on December 23, 1991.

**FOR FURTHER INFORMATION CONTACT:** Judith M. Czako, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-205-3093.

**SUPPLEMENTARY INFORMATION:** The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and section 211.57(a) of the Commission's Rules of Practice and Procedure (19 CFR 211.57(a)).

On March 16, 1989, the Commission issued its final determination in the above-captioned investigation. The Commission determined that there was a violation of section 337 in the unlicensed importation and sale of certain erasable programmable read only memories (EPROMs), and in particular certain EPROMs manufactured abroad for Atmel Corporation (Atmel), which infringe valid U.S. patents owned by complainant Intel Corp. (Intel). The Commission determined that a limited exclusion order and six cease and desist orders were the appropriate remedy. One of the cease and desist orders was issued to Atmel. The Commission's Determination and orders became final for purposes of judicial review on May 22, 1989, the President having determined to take no action with respect to them. The Commission's determination and orders were affirmed on appeal to the United States Court of Appeals for the Federal Circuit.

*Hyundai Electronics v. International Trade Commission*, 889 F.2d 1204 (Fed. Cir. 1990); *Intel Corporation v. United States International Trade Commission*, 946 F.2d 821 (Fed. Cir. 1991).

On July 11, 1989, complainant Intel filed a request for a formal enforcement proceeding. Intel alleged that Atmel and Jack Peckham, Atmel's Vice President of Sales, had violated and were violating the limited exclusion order and the cease and desist order issued to Atmel at the conclusion of the investigation.

On August 3, 1989, the Commission docketed Intel's request, issued an order instituting a formal enforcement proceeding, and transmitted the request

to Atmel and Jack Peckham (hereinafter respondents) for a response.

On August 16, 1989, a response to the request was filed on behalf of Atmel and Jack Peckham. On September 29, 1989, the Commission issued an order referring the enforcement proceeding to its Chief Administrative Law Judge for designation of a presiding administrative law judge (ALJ), the holding of an evidentiary hearing, and the issuance of a recommended determination (RD) concerning the question of violation of the Commission's March 16, 1989, limited exclusion and cease and desist order.

June 22, 1990, the presiding administrative law judge (Judge Luckern) issued a recommended determination (RD) that Atmel had violated the Commission's cease and desist order, and recommending a civil penalty. The ALJ recommended that the allegations against Jack Peckham be dismissed with prejudice. All parties filed exceptions to the RD and proposed alternative findings of fact and conclusion of law with the Commission, which reviewed the ALJ's determination *de novo*.

The Commission, on March 28, 1991, determined that Atmel had violated the Commission's cease and desist order by selling imported infringing EPROMs between March 16, 1989, and August 3, 1989. 56 Fed. Reg. 13561 (April 3, 1991). The Commission further determined that a civil penalty in the amount of \$100,000 per day of violation (\$2.6 million), was appropriate. The Commission adopted the RD with respect to some of the ALJ's determinations, and did not adopt the RD with respect to other of the ALJ's recommendations. The Commission issued its opinion in support of its determination on August 1, 1991.

On December 24, 1990, Intel filed a second request for institution of a formal enforcement proceeding against Atmel. The request covered alleged violations of the Commission's cease and desist and limited exclusion orders occurring subsequent to the period covered by the first enforcement proceeding, that is, after August 3, 1989. On December 23, 1991, the Commission instituted a second enforcement proceeding, and sent the complaint to Atmel for response. 57 Fed. Reg. 6701 (January 2, 1992).

On March 4, 1992, Atmel and Intel executed a settlement agreement with resolves the issues in a separate patent infringement suit filed by Intel in the United States District Court for the Northern District of California, *Intel Corporation v. Hyundai Electronics, et al.*, Civil Action No. C-87-20534 WAI.

Pursuant to that agreement, on March 10, 1992, Atmel filed with the Commission a Motion to Vacate Commission Decision and Order Imposing a Civil Penalty, and Intel simultaneously filed a Motion to Dismiss Formal Enforcement Proceeding. Both motions are unopposed. Having considered the motions, the particular facts and circumstances of the investigation, the enforcement proceeding, subsequent Court proceedings, and the March 4, 1992 settlement agreement, the terms of which are confidential, the Commission has determined that it is appropriate to exercise its discretion in the circumstances of this case to vacate its March 28, 1991 order imposing a \$2.6 million penalty on Atmel for violations of the Commission's cease and desist order, and has determined to grant Intel's motion to dismiss the second enforcement proceeding. The Commission's Order will become effective on the date that an order dismissing the later-dismissed of the two cases Atmel has filed challenging the Commission's penalty order, *Atmel Corporation v. United States and U.S. International Trade Commission*, No. C-91-20176 (N.D. Cal., filed April 1, 1991), and *Atmel Corporation v. U.S. International Trade Commission*, Appeal No. 91-1337 (Fed. Cir., docketed May 31, 1991), is issued by the appropriate court.

Notice of the original investigation was published in the *Federal Register* of September 16, 1987 (52 FR 35004). Notice of the institution of a formal enforcement proceeding was published in the *Federal Register* of August 9, 1989 (54 Fed. Reg. 32700). Notice of the institution of a second formal enforcement proceeding was published in the *Federal Register* of January 2, 1992 (57 Fed. Reg. 6701).

Copies of the Commission's Order and all other nonconfidential documents filed in connection with this proceeding are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202-205-2000. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

By order of the Commission.

Issued: May 11, 1992.

Kenneth R. Mason,  
Secretary.

[FR Doc. 92-11401 Filed 5-13-92; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 701-TA-318 and 731-TA-560 and 561 (Preliminary)]

### Sulfanilic Acid From the Republic of Hungary and India

**AGENCY:** United States International Trade Commission.

**ACTION:** Institution and scheduling of preliminary countervailing duty and antidumping investigation.

**SUMMARY:** The Commission hereby gives notice of the institution of preliminary countervailing duty investigation No. 701-TA-318 (Preliminary) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from India or sulfanilic acid and sodium sulfanilate,<sup>1</sup> provided for in subheadings 2921.42.24 and 2921.42.70 of the Harmonized Tariff Schedule of the United States (HTS), that are alleged to be subsidized by the Government of India.

The Commission also gives notice of the institution of preliminary antidumping investigations Nos. 731-TA-560 and 561 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from the Republic of Hungary and India of sulfanilic acid and sodium sulfanilate, provided for in HTS subheadings 2921.42.24 and 2921.42.70, that are alleged to be sold in the United States at less than fair value.

As provided in sections 703(a) and 733(a), the Commission must complete preliminary countervailing duty and antidumping investigations in 45 days, or in this case by June 22, 1992.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

**EFFECTIVE DATE:** May 8, 1992.

**FOR FURTHER INFORMATION CONTACT:** Lori Hylton (202-205-3199), Office of

<sup>1</sup> The products covered by these investigations are all grades of sulfanilic acid, which include technical (or crude) sulfanilic acid, refined (or purified) sulfanilic acid, and sodium salt of sulfanilic acid (sodium sulfanilate).

Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

#### SUPPLEMENTARY INFORMATION:

##### Background

These investigations are being instituted in response to a petition filed on May 8, 1992, by R-M Industries, Inc., Fort Mill, SC.

##### Participation in the Investigations and Public Service List

Persons (other than petitioners) wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in §§ 201.11 and 207.10 of the Commission's rules, no later than seven (7) days after publication of this notice in the *Federal Register*. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the periods for filing entries of appearance.

##### Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these preliminary investigations available to authorized applicants under the APO issued in these investigations, provided that the application is made not later than seven (7) days after the publication of this notice in the *Federal Register*. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

##### Conference

The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on May 29, 1992, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Lori Hylton (202-205-3199) not later than May 27, 1992, to arrange for their appearance. Parties in support of the imposition of countervailing or antidumping duties in

these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

#### Written Submissions

As provided in §§ 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before June 3, 1991, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three (3) days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or PBI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

**Authority:** These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to section 207.12 of the Commission's rules.

Issued: May 11, 1992.

By order of the Commission.

**Kenneth R. Mason,**  
Secretary.

[FR Doc. 92-11453 Filed 5-11-92; 4:41 pm]

BILLING CODE 7020-02-M

Township, Michigan. Under the Stipulation and Settlement Order, the settling defendants agree to pay \$275,000 in satisfaction of the United States' response costs at the Rose Township Facility, and the United States agrees to enter into a stipulation of dismissal of its claim against the settling defendants for recovery of the United States' future response costs at the Facility.

The Department of Justice will receive comments relating to the proposed Stipulation and Settlement Order for 30 days following the publication of this Notice. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. American Renovating Company*, D.J. Ref. No. 90-11-3-453. The proposed Stipulation and Settlement Order may be examined at the Office of the United States Attorney for the Eastern District of Michigan, 817 Federal Building, Detroit, Michigan 48826, the Region V Office of the United States Environmental Protection Agency, 77 West Jackson Street, Chicago, Illinois 60604; and at the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue, NW., Box 1097, Washington, DC 20004 (202-347-2072). A copy of the proposed Stipulation and Settlement Order may be obtained in person or by mail from the Document Center. In requesting a copy, please enclose a check in the amount of \$4.25 (25 cents per page for reproduction costs), payable to the Consent Decree Library.

**John C. Cruden,**

Chief, Environmental Enforcement Section,  
Environment and Natural Resources Division.

[FR Doc. 92-11293 Filed 5-13-92; 6:45 am]

BILLING CODE 4410-01-M

requirements of state and federal law upon any recommencement of operations at any of the three coke oven batteries, and to pay a \$3.5 million civil penalty.

The Department of Justice will receive comments relating to the proposed Consent Decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States and State of Maryland v. Bethlehem Steel Corporation*, D.J. No. 90-5-2-1-1570.

The proposed Consent Decree may be examined at the office of the United States Attorney for the District of Maryland, 101 West Lombard Street, Baltimore, Maryland 21201-2692 and at the U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. The proposed Consent Decree may also be examined at the Environmental Enforcement Section Document Center, 601 Pennsylvania Ave., NW., Box 1097, Washington, DC 20004, (202) 347-2072. A copy of the proposed Consent Decree may be obtained in person or by mail from the Document Center. In requesting a copy, please enclose a check payable to "Consent Decree Library" in the amount of \$8.00 (25 cents per page reproduction costs).

**John C. Cruden,**

Chief, Environmental Enforcement Section,  
Environment and Natural Resources Division.

[FR Doc. 92-11337 Filed 5-13-92; 6:45 am]

BILLING CODE 4410-01-M

## DEPARTMENT OF JUSTICE

### Lodging of Consent Decree

Notice is hereby given that a proposed Stipulation and Settlement Order in *United States v. American Renovating Co.*, Case No. H-79-556, between the United States, and the settling defendants, American Renovating Company, Argo Paint and Chemical Company, BASF Corporation, Commercial Steel Treating Corporation and DeSoto Inc. was lodged on May 1, 1992 with the United States District Court for the Eastern District of Michigan. This is an action under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601 *et seq.* in connection with the Rose Township Facility in Rose

### Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, and pursuant to section 113(g) of the Clean Air Act, 42 U.S.C. 7413(g), notice is hereby given that on May 1, 1992, a proposed Consent Decree in *United States and State of Maryland v. Bethlehem Steel Corporation*, Civil Action No. JH-92-1162 (D. Md.), was lodged with the United States District Court for the District of Maryland. The Consent Decree concerns violations of the Clean Air Act, 42 U.S.C. 7401 *et seq.* ("the Act"), with respect to defendant's operation of three coke oven batteries at its Sparrows Point, Maryland plant. The proposed Consent Decree requires defendant to comply with all applicable

### Lodging of Amended Consent Decree to Modify Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980

In accordance with section 122(d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA") and Departmental policy, 28 CFR 50.7, notice is hereby given that an Amended Consent Decree in *United States v. Elmer Burrows et al.*, Civil Action No. K88-128CA8, was lodged with the United States District Court for the Western District of Michigan on April 24, 1992, relating to the Burrows Sanitation Site (the "Site"), located in Hartford, Michigan. The Amended Consent Decree requires the Settling Defendants, as defined in the Amended Consent

Decree, to extract groundwater from the Site and transport the groundwater to a local publicly owned treatment works. The original Consent Decree, entered by the Court on January 12, 1990, required the Settling Defendants to extract the groundwater, build a treatment plant on the Site, and treat the groundwater on the Site.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the Amended Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, DC, 20530, and should refer to *United States v. Elmer Burrows, et al.* (W.D. Mich.) and DOJ Ref. No. 90-11-2-223. The Amended Consent Decree may be examined at the office of the United States Attorney, Western District of Michigan, 399 Federal Building & U.S. Courthouse, 110 Michigan St. NW., Grand Rapids, Michigan, 49503-2364; the office of the Environmental Protection Agency, Region V, 77 West Jackson Blvd., Chicago, Illinois 60604-3590; and at the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue, NW., Box 1097, Washington, DC 20004, (202) 347-2072. A copy of the proposed consent decree may be obtained in person or by mail from the Document Center. In requesting a copy please enclose a check in the amount of \$18.00 (25 cents per page reproduction costs) payable to the Consent Decree Library.

Roger Clegg,

*Acting Assistant Attorney General,  
Environment and Natural Resources Division.*

[FR Doc. 92-11340 Filed 5-13-92; 8:45 am]

BILLING CODE 4410-01-M

#### Lodging of Consent Decree Pursuant to CERCLA

In accordance with Department policy, 28 CFR 50.7, and pursuant to section 122(i) of Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. 9622(i), notice is hereby given that a proposed consent decree in *United States v. the National Starch and Chemical Company*, Civil Action No. 4:92CV00257, was lodged with the United States District Court for the Middle District of North Carolina on April 29, 1992. This agreement resolves a judicial enforcement action brought by the United States against the defendant pursuant to sections 106 and 107 of CERCLA, 42 U.S.C. 9606, 9607.

The proposed Decree requires that National Starch reimburse the Hazardous Substances Superfund in the amount of \$221,746.56 for costs so far incurred by EPA at the Site. The proposed decree also provides that National Starch will perform additional soil sampling activities at its manufacturing facility, which is located on Cedar Springs Road, about five miles outside of Salisbury, North Carolina. This sampling is designed to verify that residual soil contamination is not presenting any threat to human health or the environment. National Starch is already performing groundwater remediation actions at its site pursuant to an Administrative Order issued by EPA. Should the soil sampling to be performed by National Starch reveal that contamination presents a greater threat than now appears, EPA has reserved its ability to compel additional remediation. The proposed Decree also requires that National Starch reimburse the Hazardous Substances Superfund in the amount of \$221,746.56 for costs incurred by EPA at the Site.

The Department of Justice will receive, for a period of (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. National Starch and Chemical Co.*, D.O.J. Ref. 90-11-3-517.

This Consent Decree may be examined at the offices of the United States Attorney, Middle District of North Carolina, L. Richardson Preyer Federal Building, 324 West Market Street, Greensboro, North Carolina 27402; at the Office Regional Counsel, EPA, 345 Courtland Street, NE, Atlanta, Georgia 30365; and at the Offices of the Environmental Enforcement Section, Environment and Natural Resources Division of the Department of Justice, room 1535, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. The proposed consent decree may also be examined at the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue Building, NW., Washington, DC 20004, (202) 347-2072. A copy of the proposed consent decree may be obtained in person or by mail from the Document Center. In requesting a copy, please enclose a check in the amount of \$16.00 (25 cents per page reproduction

costs) payable to Consent Decree Library.

John C. Cruden,

*Chief, Environment and Natural Resources Division.*

[FR Doc. 92-11338 Filed 5-13-92; 8:45 am]

BILLING CODE 4410-01-M

#### NATIONAL COMMISSION ON AMERICA'S URBAN FAMILIES

##### Meeting

Notice is hereby given, pursuant to Public Law 92-463, that the National Commission on America's Urban Families will hold a meeting on Friday, May 22, 1992. For the specific time and place, please call 202-245-6462 two days prior to the meeting.

The purpose of the meeting is to present the Commission's agenda and work plan, and exchange views and information among Commission members and invited speakers.

Because of the need to commence the activities of the Commission as soon as possible and because of the early deadlines for the report required of the Commission, this notice is being provided at the earliest possible time.

Records shall be kept of all Commission proceedings and shall be available for public inspection at 200 Independence Ave. SW., room 305-F, Washington, DC 20201.

S. Anna Kondratas,

*Executive Director.*

[FR Doc 92-11421 Filed 5-13-92; 8:45 am]

BILLING CODE 4150-04-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) a request for clearance of 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 June 15, 1992.

**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 Ms. Judith E. O'Brien, National Endowment for the Arts, Administrative Services Division, Room 203, 1100 Pennsylvania Avenue, NW., Washington, DC 20506; (202-682-5401).

**FOR FURTHER INFORMATION CONTACT:** Ms. Judith E. O'Brien, National Endowment for the Arts, Administrative Services Division, room 203, 1100 Pennsylvania Avenue, NW., Washington, DC 20506; (202-682-5401).

**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 subjected to 44 U.S.C. 3504(h).

**Title:** FY 93 State and Regional Program Arts in Underserved Communities Application Guidelines.

**Frequency of Collection:** Annually.  
**Respondents:** State or local governments.

**Use:** Guideline instructions and applications elicit relevant information from state or local arts agencies that apply for funding under the Arts in Underserved Communities category. This information is necessary for the accurate, fair and thorough consideration of competing proposals in the peer review process.

**Estimated Number of Respondents:** 65.

**Average Burden Hours per Response:** 20.

**Total Estimated Burden:** 1,273.

**Judith E. O'Brien,**

*Management Analyst, Administrative Services Division, National Endowment for the Arts.*

[FR Doc 92-11314 Filed 5-13-92; 8:45 am]

BILLING CODE 7537-01-M

#### 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) a request for clearance of 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 June 15, 1992.

**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 Ms. Judith E. O'Brien, National Endowment for the Arts, Administrative Services Division, room 203, 1100 Pennsylvania Avenue, NW., Washington, DC 20506; (202-682-5401).

**FOR FURTHER INFORMATION CONTACT:** Ms. Judith E. O'Brien, National Endowment for the Arts, Administrative Services Division, room 203, 1100 Pennsylvania Avenue, NW., Washington, DC 20506; (202-682-5401).

**SUPPLEMENTARY INFORMATION:** The Endowment requests the review of a revision of a currently approved collection of information. The 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 94 Literature Program Application Guidelines.

**Frequency of Collection:** One-time.

**Respondents:** Individuals; state or local governments; non-profit organizations.

**Use:** 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 Literature 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:** 2,500.

**Average Burden Hours per Response:** 17.

**Total Estimated Burden:** 42,500.

**Judith E. O'Brien,**

*Management Analyst, Administrative Services Division, National Endowment for the Arts.*

[FR Doc 92-11315 Filed 5-13-92; 8:45 am]

BILLING CODE 7537-01-M

#### NATIONAL SCIENCE FOUNDATION

##### Advisory Committee for Education and Human Resources; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

**Name:** Advisory Committee for Education and Human Resources  
**Date and Time:** June 8, 1992; 12:30 p.m.-5 p.m.; June 9, 1992; 8:30 a.m.-5 p.m.

**Place:** Room 540, National Science Foundation (NSF), 1800 G Street, NW., Washington, DC 20550

**Type of Meeting:** Open  
**Contact Person:** Peter E. Yankwich, Executive Secretary, Directorate for Education and Human Resources, NSF, rm. 516, Washington, DC 20550. Telephone: (202) 357-9522.

**Minutes:** May be obtained from the contact person listed above.

**Purpose of Meeting:** To provide advice and recommendations concerning NSF support for Education and Human Resources.

**Agenda:** Review of FY 1992 Programs and Initiatives, Review of FY 1993 Programs and Initiatives, Strategic Planning for FY 1994 and Beyond.

Dated: May 11, 1992.

M. Rebecca Winkler,

*Committee Management Officer.*

[FR Doc. 92-11328 Filed 5-13-92; 8:45 am]

BILLING CODE 7555-01-M

##### Introductory Statistics Instruction; Workshop

The National Science Foundation (NSF) will hold a two-day workshop on Introductory Statistics Instruction on June 29, 1992, 8 a.m. to 5 p.m. and June 30, 1992, 8:30 a.m. to 3 p.m. at the Grand Hotel, 2350 M Street, NW., Washington, DC 20037.

The goal of the workshop will be the exchange of information among participants and NSF staff about the projects. The focus will be on the ways the various projects do and do not depart from conventional ways of teaching statistics and ways to use assessment to enhance the effectiveness of the projects while they are still in progress.

Although the workshop will not operate as an advisory committee, the public is invited to attend. Participants will include approximately 20 Project Directors and Co-Directors of NSF supported projects and approximately eight other national leaders in statistics education.

For additional information, contact Dr. William Haver, Program Director, 1800 G Street, NW., Washington, DC 20550 (202) 357-7051 or 7892.

Dated: April 30, 1992.

Robert F. Watson,

Division Director, Undergraduate Science, Engineering, and Mathematics Education.

[FR Doc 92-11326 Filed 5-13-92; 8:45 am]

BILLING CODE 7555-01-M

### Special Emphasis Panel in design and Manufacturing Systems; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation (NSF) announces the following two meetings:

*Name:* Special Emphasis Panel in Design and Manufacturing Systems

*Date and Time:* June 3-5, 1992; 8:30 a.m. to 5 p.m.

*Place:* Rooms 500 A & B, NSF 1110 Vermont Ave., NW., Washington, DC 20005

*Contact Person:* Dr. F. Hank Grant, Program Director, Operations Research Program and Computer-Integrated Engineering Program or Dr. Louis A. Martin-Vega, Program Director, Production Systems Program and Engineering Design Program, Division of Design and Manufacturing Systems, NSF, room 1128, Washington, DC 20550. Telephone: (202) 357-5167.

*Agenda:* To review and evaluate unsolicited research proposals submitted to the Operations Research/Production Systems Programs and Computer-Integrated Engineering and Engineering Design Programs.

*Date and Time:* June 9, 1992; 8:30 a.m. to 5 p.m.

*Place:* Room 543, NSF, 1800 G St., NW., Washington, DC 20550

*Contact Person:* Dr. Suren B. Rao, Program Director, Manufacturing Machines and Equipment Engineering Program or Dr. Bruce M. Kramer, Program Director, Materials Processing and Manufacturing Program, Division of Design and Manufacturing Systems, NSF, room 1128, Washington, DC 20550. Telephone: (202) 357-7676.

*Agenda:* To review and evaluate research proposals submitted under the Strategic Manufacturing Initiative to the Manufacturing Machines and Equipment Program and the Materials Processing and Manufacturing Program.

*Types of Meetings:* Closed.

*Purpose of Meetings:* To provide advice and recommendations concerning proposals submitted to NSF for financial support.

*Reason for Closing:* The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b.(c) (4) and (8) of the Government in the Sunshine Act.

Dated: May 11, 1992.

M. Rebecca Winkler,  
Committee Management Officer.

[FR Doc. 92-11327 Filed 5-13-92; 8:45 am]

BILLING CODE 7555-01-M

### NUCLEAR REGULATORY COMMISSION

#### Advisory Committee on Nuclear Waste; Revision

The Federal Register notice previously published announcing the 43d Advisory Committee on Nuclear Waste (ACNW) meeting scheduled for May 28-29, 1991, room P-110, 7920 Norfolk Avenue, Bethesda, MD, 8:30 a.m. until 5 p.m. has been revised to include the following topic for discussion. All other items pertaining to this open meeting remain the same as previously published.

The Committee will review and comment on a number of regulatory guides being issued in final form that support the revised 10 CFR part 20, Standards for Protection Against Radiation.

Procedures for the conduct of and participation in ACNW meetings were published in the Federal Register on June 6, 1988 (53 FR 20699). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and staff. The office of the ACRS is providing staff support for the ACNW. Persons desiring to make oral statements should notify the Executive Director of the office of the ACRS as far in advance as practical so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting may be limited to selected portions of the meeting as determined by the ACNW Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the Executive Director of the office of the ACRS, Mr. Raymond F. Fraley (telephone 301/492-4516), prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACNW Executive Director or call the recording (301/492-4600) for the current schedule if such rescheduling would result in major inconvenience.

Dated: May 8, 1992.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc 92-11412 Filed 5-13-92; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 40-8902]

#### Atlantic Richfield Co., Bluewater Mill; Intent to Amend Source Material License SUA-1470 for The Bluewater Mill to Incorporate Reclamation Schedules

The U.S. Nuclear Regulatory Commission (NRC) and the Environmental Protection Agency (EPA) entered into a Memorandum of Understanding (MOU) which was published in the Federal Register on October 25, 1991 (FR 55434). The MOU requires that the NRC incorporate enforceable reclamation schedules for specific uranium mill sites into the corresponding licenses. The MOU also specified dates for completion of placement of a final earthen cover for each site.

As a result of the MOU, the NRC requested by letter dated October 22, 1991, that the licensee submit a proposed schedule for reclamation milestones for NRC review and subsequent incorporation into the license. The licensee provided a response on November 21, 1991, and further clarification by telephone on January 9, 1992, which changed the date of completion of ground-water corrective actions from June 20, 1990, to December 1, 1992.

The NRC staff review of the proposed schedule indicates that it calls for placement of the final cover by December 28, 1994, as specified in the MOU. In addition, the reclamation milestone schedule is reasonable, and adherence to the schedule should assure satisfactory progress toward placement of the final cover by the specified date.

The NRC intends to amend Source Material License SUA-1470 to incorporate the schedules proposed by the licensee by adding License Condition No. 38 to read as follows:

38. The licensee shall complete site reclamation in accordance with the approved reclamation plan and ground-water corrective action plan, as authorized by Licensee Condition Nos. 36 and 34, respectively, in accordance with the following schedules.

A. To ensure timely compliance with target completion dates established in the Memorandum of Understanding with the Environmental Protection Agency (FR 55432, October 25, 1991), the licensee shall complete reclamation to control radon emissions as

expeditiously as practicable, considering technological feasibility, in accordance with the following schedule:

(1) Windblown tailings retrieval and placement on the pile—August 31, 1992.

(2) Placement of the interim cover to decrease the potential for tailings dispersal and erosion—August 31, 1992.

(3) Placement of final radon barrier designed and constructed to limit radon emissions to an average flux of no more than 20 pCi/m<sup>2</sup>/s above background—December 28, 1994.

B. Reclamation, to ensure required longevity of the covered tailings and ground-water protection, shall be completed as expeditiously as is reasonably achievable, in accordance with the following target dates for completion:

(1) Placement of erosion protection as part of reclamation to comply with criterion 6 of appendix A of 10 CFR part 40—October 23, 1995.

(2) Projected completion of ground-water corrective actions to meet performance objectives specified in the ground-water corrective action plan—December 1, 1992.

C. Any license amendment request to revise the completion dates specified in section A must demonstrate that compliance was not technologically feasible (including inclement weather, litigation which compels delay to reclamation, or other factor beyond the control of the licensee).

D. Any license amendment request to change the target dates in section B above, must address added risk to the public health and safety and the environment, with due consideration to the economic costs involved and other factors justifying the request such as delays caused by inclement weather, regulatory delays, litigation, and other factors beyond the control of the licensee.

The NRC will accept comments on the above licensing action for a period of 45 days.

Copies of the response from the Atlantic Richfield Company and the staff evaluation of the licensee's request are available for inspection at the Uranium Recovery Field Office, 730 Simms, suite 100, Golden, Colorado, and at the Public Document Room, 2120 L Street, Washington, DC. Comments or questions regarding the response or the proposed licensing action may be directed to the Director, Uranium Recovery Field Office, P.O. Box 25325, Denver, Colorado 80225.

Dated at Denver, Colorado this 6th day of May 1992.

For the U.S. Nuclear Regulatory Commission.

Ramon E. Hall,

Director, Uranium Recovery Field Office, Region IV.

[FR Doc. 92-11392 Filed 5-13-92; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 40-8903]

**Homestake Mining Co., Milan Mill; Intent To Amend Source Material License SUA-1471 for the Milan Mill to Incorporate Reclamation Schedules**

The U.S. Nuclear Regulatory Commission (NRC) and the Environmental Protection Agency (EPA) entered into a Memorandum of Understanding (MOU) which was published in the *Federal Register* on October 25, 1991 (FR 55434). The MOU requires that the NRC incorporate enforceable reclamation schedules for specific uranium mill sites into the corresponding licenses. The MOU also listed expected dates for completion of placement of a final earthen cover for each site.

The NRC requested by letter dated October 22, 1991, that the licensee submit a proposed schedule for reclamation milestones for NRC review and incorporation into the license. The licensee provided responses on November 22, 1991, and January 8 and February 4, 1992.

The proposed schedule calls for placement of the radon barrier on the large pile by December 31, 1996, and on the small pile by December 31, 2001, which are the same dates as specified in the MOU for this mill. The radon barrier which is placed on the large tailings pile will be considered as interim cover until such time that Homestake Mining Company has demonstrated that settlement has not occurred or appropriate repairs have been completed. Therefore, identical milestone dates are used for both the interim cover completion and final radon barrier cover placement.

The NRC staff reviewed the reclamation milestone schedule and concluded that it is reasonable, and adherence to the schedule should assure satisfactory progress toward placement of the final cover by the specified date. The NRC intends to amend Source Material License SUA-1471 to incorporate the schedules proposed by the licensee by adding License Condition No. 36 as follows:

36. The licensee shall complete site reclamation in accordance with an approved reclamation plan. The ground-water corrective action plan, shall be conducted as authorized by License Condition No. 35. All activities shall be completed in accordance with the following schedules.

A. To ensure timely compliance with target completion dates established in the Memorandum of Understanding with Environmental Protection Agency (FR 55432, October 25, 1991), the licensee shall complete reclamation to control radon emissions as expeditiously as practicable, considering

technological feasibility, in accordance with the following schedule:

(1) Windblown tailings retrieval and placement on the pile—

For the Large Impoundment—December 31, 1996

For the Small Impoundment—May 31, 1997.

(2) Placement of the interim cover to decrease the potential for tailings dispersal and erosion:

For the Large Impoundment—December 31, 1996

For the Small Impoundment—May 31, 1997.

(3) Placement of final radon barrier designed and constructed to limit radon emissions to an average flux of no more than 20 pCi/m<sup>2</sup>/s above background: For the Large Impoundment which has no evaporation ponds—December 31, 1996.

For the Small Impoundment, tailing pile surface areas are essentially covered by evaporation ponds constructed as part of the ground-water corrective action program. Prior to December 31, 2001, the areas not covered by the evaporation ponds shall have final radon barrier in place. Final radon barrier placement over the entire pile shall be completed within 2 years of completion of ground-water corrective actions.

B. Reclamation, to ensure required longevity of the covered tailings and ground-water protection, shall be completed as expeditiously as is reasonably achievable, in accordance with the following target dates for completion:

(1) Placement of erosion protection as part of reclamation to comply with criterion 6 of appendix A of 10 CFR part 40:

For the Large Impoundment—September 30, 1999

For the Small Impoundment—July 1, 2014.

(2) Projected completion of ground-water corrective actions to meet performance objectives specified in the ground-water corrective action plan—May 1, 2010.

C. Any license amendment request to revise the completion dates specified in section A must demonstrate that compliance was not technologically feasible (including inclement weather, litigation which compels delay to reclamation, or other factors beyond the control of the licensee).

D. Any license amendment request to change the target dates in section B above, must address added risk to the public health and safety and the environment, with due consideration to the economic costs involved and other factors justifying the request such as delays caused by inclement weather, regulatory delays, litigation, and other factors beyond the control of the licensee.

Copies of the responses from Homestake Mining Company and the staff evaluation of the licensee's request are available for inspection at the Uranium Recovery Field Office, 730 Simms, suite 100, Golden, Colorado, and at the Public Document Room, 2120 L Street, Washington, DC. Comments or questions regarding the response or the proposed licensing action may be directed to the Director, Uranium

Recovery Field Office, P.O. Box 25325,  
Denver, Colorado 80225.

Dated at Denver, Colorado this 6th day of  
May 1992.

For the U.S. Nuclear Regulatory  
Commission.

Ramon E. Hall,

Director Uranium Recovery Field Office,  
Region IV.

[FR Doc. 92-11393 Filed 5-13-92; 8:45 am]

BILLING CODE 7590-01-M

### Union Pacific Resources-Minerals; Bear Creek Mill

[Docket No. 40-8452]

### Notice of Intent To Amend Source Material License SUA-1310 for the Bear Creek Mill to Incorporate Reclamation Schedules

The Nuclear Regulatory Commission (NRC) and the Environmental Protection Agency (EPA) entered into a Memorandum of Understanding (MOU) which was published in the Federal Register on October 25, 1991 (FR 55434). The MOU requires that the NRC incorporate enforceable reclamation schedules for specific uranium mill sites into the corresponding licenses. The MOU also specified dates for completion of placement of a final earthen cover for each site.

The NRC requested by letter dated October 22, 1991, that Union Pacific Resources-Minerals submit a proposed schedule for reclamation milestones for NRC review and incorporation into the license. The license provided a response on November 21, 1991.

The NRC staff review of the proposed schedule submitted by the licensee found one date inconsistent with the MOU. The date for the final cover was December 31, 1997, rather than 1996, as specified in the MOU. The licensee was contacted by telephone on February 4, 1992, and the Operations Manager of Union Pacific Resources-Minerals stated that placement of the final cover should be December 31, 1996, rather than December 31, 1997. Therefore, the staff believes the reclamation schedule is reasonable, and adherence to the schedule should assure satisfactory progress towards placement of the final earthen cover by December 31, 1996, which is compatible with the completion date in the MOU.

The NRC intends to amend Source Material License SUA-1310 to incorporate the schedules proposed by the licensee by adding License Condition No. 49 to read as follows:

49. The licensee shall complete site reclamation in accordance with the approved

reclamation plan and ground-water corrective action plan, as authorized by License Condition Nos. 44 and 47, respectively, in accordance with the following schedules.

A. To ensure timely compliance with target completion dates established in the Memorandum of Understanding with the Environmental Protection Agency (FR 55432, October 25, 1991), the license shall complete reclamation to control radon emissions as expeditiously as practicable, considering technological feasibility, in accordance with the following schedule:

(1) Windblown tailings retrieval and placement on the pile—complete.

(2) Placement of the interim cover to decrease the potential for tailings dispersal and erosion—complete.

(3) Placement of final radon barrier designed and constructed to limit radon emissions to an average flux of no more than 20 pCi/m<sup>2</sup>/s above background:

For tailings pile surface areas not covered by evaporation ponds constructed as part of the ground-water corrective action program—December 31, 1996.

For total tailings pile surface after evaporation pond removal—December 31, 1996.

B. Reclamation, to ensure required longevity of the covered tailings and ground-water protection, shall be completed as expeditiously as is reasonably achievable, in accordance with the following target dates for completion:

(1) Placement of erosion protection as part of reclamation to comply with criterion 6 of appendix A of 10 CFR part 40—December 31, 1997.

(2) Projected completion of ground-water corrective actions to meet performance objectives specified in the ground-water corrective action plan—September 1, 1996.

C. Any license amendment request to revise the completion dates specified in section A must demonstrate that compliance was not technologically feasible (including inclement weather, litigation which compels delay to reclamation, or other factors beyond the control of the licensee).

D. Any license amendment request to change the target dates in section B above, must address added risk to the public health and safety and the environment, with due consideration to the economic costs involved and other factors justifying the request such as delays caused by inclement weather, regulatory delays, litigation, and other factors beyond the control of the licensee.

The NRC will accept comments on the above licensing action for a period of 45 days.

Copies of the response from Union Pacific Resources-Minerals and the staff evaluation of the licensee's request are available for inspection at the Uranium Recovery Field Office, 730 Simms Street, suite 100, Golden, Colorado, and at the Public Document Room, 2120 L Street, Washington, DC. Comments or questions regarding the response or the proposed licensing action may be directed to the Director, Uranium

Recovery Field Office, P.O. Box 25325,  
Denver, Colorado 80225.

Dated at Denver, Colorado this 6th day of  
May 1992.

For the U.S. Nuclear Regulatory  
Commission.

Ramon E. Hall,

Director Uranium Recovery Field Office,  
Region IV.

[FR Doc. 92-11391 Filed 5-13-92; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-344]

### Portland General Electric Company, et al. (Trojan Nuclear Plant); Exemption

#### I

Portland General Electric Company, et al. (PGE or the licensee) is the holder of Facility Operating License No. NPP-1, which authorizes operation of the Trojan Nuclear Plant. The license provides, among other things, that the licensee is subject to all rules, regulations and orders of the Commission now or hereafter in effect.

The facility consists of a pressurized water reactor at the licensee's site located in Columbia County, Oregon, on the Columbia River.

#### II

Title 10 of the Code of Federal Regulations, part 50 (10 CFR part 50), "Domestic Licensing of Production and Utilization Facilities," provides specific leakage testing requirements in appendix J, "Primary Reactor Containment Leakage testing for Water-Cooled Power Reactors." One requirement of 10 CFR part 50, appendix J, is found in paragraph III.D.2.(b)(ii) which specifically states, "Air locks opened during periods when containment integrity is not required by the plant's Technical Specifications shall be tested at the end of such periods at not less than P<sub>a</sub>."

#### III

By letter dated April 1, 1992, Portland General Electric Company, et al., requested a permanent, partial exemption from title 10 of the Code of Federal Regulations, part 50, appendix J, paragraph III.D.2.(b)(ii). The requested exemption would allow the performance of a reduced pressure test at not less than 10 psig (rather than at P<sub>a</sub> of 60 psig) as is done for periods when containment integrity is required, provided no maintenance or modifications that could affect sealing capability was performed on the air lock during the period.

Whenever the plant is in cold shutdown (mode 5) or refueling (mode

6), containment integrity is not required. However, if an air lock is opened during modes 5 and 6, paragraph III.D.2(b)(ii) of 10 CFR part 50, appendix J requires that an overall air lock leakage test at not less than  $P_a$  be conducted before plant heatup and startup (i.e., entering mode 4). The existing air lock doors are so designed that a full-pressure (i.e.,  $P_a$  of 60 psig) test of an entire air lock can only be performed after "strong backs" (structural bracing) have been installed on the inner door. Strong backs are needed because the pressure exerted on the inner door during the test is in a direction opposite to that of the accident pressure direction. Installing strong backs, performing the test, and removing the strong backs requires several hours, during which access through the air lock is prohibited.

When no maintenance has been performed on the air lock that could affect its sealing capability, and the air lock doors have been closed in accordance with the licensee's procedure, and the periodic 6-month test at  $P_a$  required by paragraph III.D.2(b)(i) of 10 CFR part 50, appendix J has been performed on schedule, there is no reason to expect the air lock to leak excessively just because it has been opened in a shutdown or refueling mode. Performing the door seal leak test of paragraph III.D.2(b)(iii) of 10 CFR part 50, appendix J is sufficient, in this case, to demonstrate the continuing integrity of the air lock.

The staff concludes that the licensee's proposed approach of substituting the seal leakage test of paragraph III.D.2(b)(iii) for the full pressure test of paragraph III.D.2(b)(ii) of 10 CFR part 50, appendix J is acceptable when no maintenance that could affect sealing capability has been performed on an air lock. Whenever maintenance that could affect sealing capability has been performed on an air lock, the requirements of paragraph III.D.2(b)(ii) of 10 CFR part 50, appendix J must still be met by the licensee.

Pursuant to 10 CFR § 50.12(a), "The Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of the regulations of this part, which are—(1) Authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security. (2) The Commission will not consider granting an exemption unless special circumstances are present. Special circumstances are present whenever \* \* \* (ii) Application of the regulation in the particular circumstances would not serve the

underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule; or (iii) Compliance would result in undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted, or that are significantly in excess of those incurred by others similarly situated \* \* \*

The special circumstances for granting this exemption pursuant to 10 CFR 50.12 have also been identified. The purpose of appendix J to 10 CFR part 50 is to ensure that containment leaktight integrity can be verified periodically throughout service lifetime so as to maintain containment leakage within the limits specified in the facility Technical Specifications. The proposed alternative test method is sufficient to achieve this underlying purpose in that it provides adequate assurance of continued leaktight integrity of the air lock. In addition, at the time this section of appendix J was revised in 1980, the staff did not contemplate the undue hardship and cost that would result from the requirement to perform a time-consuming full-pressure test before starting up from even the shortest cold shutdown during which the air lock had been used for containment entry. Because of this, the staff has already granted this same exemption to numerous plants and intends to revise Appendix J to alleviate the need for further similar exemptions. Consequently, the special circumstances described by 10 CFR 50.12(a)(2) (ii) and (iii) exist in that application of the regulation in these particular circumstances is not necessary to achieve the underlying purpose of the rule because the licensee has proposed an acceptable alternative test method that accomplishes the intent of the regulation. Compliance would result in undue hardship that would be significantly in excess of that incurred by others similarly situated (plant startup would be delayed and unnecessary personnel radiation exposures would be incurred while an overall air lock leakage test was performed at full pressure).

Therefore, a permanent, partial exemption from 10 CFR part 50, appendix J, paragraph III.D.2(b)(ii) is justified and acceptable.

#### IV

Accordingly, the Commission has determined, pursuant to 10 CFR 50.12(a)(1), that an exemption as described in section III above is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. The

Commission has determined, pursuant to 10 CFR 50.12(a)(2) that special circumstances exist, as noted in section III above. Therefore, the Commission hereby grants Portland General Electric Company, et al., a permanent, partial exemption from the requirements of 10 CFR part 50, appendix J, paragraph III.D.2(b)(ii).

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant impact on the quality of the human environment (57 FR 19445).

This exemption is effective upon issuance.

Dated at Rockville, Maryland this 7th day of May 1992.

For the Nuclear Regulatory Commission.  
**Bruce A. Boger,**  
 Director, Division of Reactor Projects III/IV/  
 V, Office of Nuclear Reactor Regulation.  
 [FR Doc. 92-11395 Filed 5-13-92; 8:45 am]  
 BILLING CODE 7590-01-M

[Docket No. 52-312]

#### Sacramento Municipal Utility District; Consideration of Issuance of Exemption

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.75(e)(1)(ii) to the Sacramento Municipal Utility District (SMUD or the licensee) for the Rancho Seco Nuclear Generating Station (Rancho Seco or the facility) located in Sacramento County, California.

On April 24, 1992, (57 FR 15117) the NRC published a note of revocation of the exemption from 10 CFR 50.75(e)(1)(ii) granted to SMUD. In this notice, the NRC stated that, because the NRC staff had previously committed to seek public participation on license amendments and other regulatory relief regarding Rancho Seco decommissioning, it had revoked the exemption in a letter dated April 16, 1992, pending its reconsideration after providing an opportunity for public participation regarding the requested exemption and the Finding of No Significant Impact published on November 12, 1991, (56 FR 57536).

Therefore, the Commission is providing notice that it is considering issuance of an exemption to SMUD from the requirements of 10 CFR 50.75(e)(1)(ii) regarding the requirements to have all decommissioning funds collected when operations are terminated.

The proposed action, requested on July 24, 1990, and as supplemented on

March 26, 1991, and July 19, 1991, would exempt SMUD from the requirement to have full decommissioning funding at the time of the termination of operations. Further, by SMUD's proposed "Accumulation of Funds for Decommissioning" dated July 19, 1991, the exemption would allow SMUD to accumulate necessary decommissioning funds up to the end of its operating license in 2008.

The Commission is seeking public comments on this proposed exemption, and on the Finding of No Significant Impact published November 12, 1991, (56 FR 57536). Any comments received within thirty (30) days after the date of publication of this notice will be considered in taking final action on the request.

Written comments may be submitted by mail to the Rules and Directives Review Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555.

For further details with respect to this action, see the request for exemption dated July 24, 1990, as supplemented on March 26, 1991, and July 19, 1991, and Environmental Assessment published November 12, 1991, (56 FR 57536), which are 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 Martin Luther King Regional Library, 7340 24th Street Bypass, Sacramento, California 95822.

Dated at Rockville, Maryland this 8th day of May 1992.

For the Nuclear Regulatory Commission.  
**Seymour H. Weiss,**  
 Director, Non-Power Reactors,  
 Decommissioning and Environmental Project  
 Directorate, Division of Advanced Reactors  
 and Special Projects, Office of Nuclear  
 Reactor Regulation.

[FR Doc. 92-11394 Filed 5-13-92; 8:45 am]

BILLING CODE 7590-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-30679; File No. SR-NYSE-92-10]

May 8, 1992.

### Self-Regulatory Organizations; Filing of Proposed Rule Change by New York Stock Exchange, Inc., Relating to Amendments to Rule 350, Compensation or Gratuities to Employees of Others

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 13, 1992, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organizations. 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 proposed rule change consists of amendments to NYSE Rule 350, Compensation or Gratuities to Employees of Others.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

##### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The purpose of the proposed rule change is to amend NYSE rule 350 to change the limitation on gratuities and compensation payments. Currently, Rule 350(a) sets a limitation of \$50 per person per year for any gratuity given by members, member organizations, allied members and employees to certain persons (i.e., principals, officers or employees of the Exchange or of other

members or member organizations or of securities, commodities or news and financial organizations) without the prior written consent of the recipient's employer. Rule 350(a) permits gratuities in excess of the stated amount with the prior consent of the recipient's employer and, in the case of Floor employees, prior written consent of the employer and of the Exchange.

Rule 350(b) sets a limitation of \$100 per person per year for compensation for services rendered by specified types of Floor operations employees of members and member organizations, with prior employer approval.

One of the purposes of Rule 350 is to protect against any improprieties which might arise in connection with the giving of substantial gifts to certain persons without their employer's knowledge.

The \$50 limitation set forth in Rule 350(a) has been in effect since 1978 when the rule was amended to increase the monetary limitation from \$25 to \$50 due to inflation. The \$100 limitation set forth in Rule 350(b) was adopted in the 1960s and has not been increased since that time.

The proposed amendment to Rule 350(a) will increase from \$50 to \$100 the amount of a gratuity which a member, allied member, member organization or employee thereof may give to principals, officers or employees of other members or member organizations or of securities, commodities or news and financial organizations without the prior written consent of the recipient's employer.

The \$50 limitation will not change for gratuities given by a member, allied member, member organization or employee thereof to principals, officers or employees of the Exchange and its subsidiaries.

The proposed amendment to Rule 350(b) will increase from \$100 to \$200 the limitation on compensation for services rendered by operations employees of the type specified in the rule, with prior employer approval. The proposed amendments to Rule 250(b) will also clarify and codify that the rule applies to operations employees of other members and member organizations and not of the Exchange.

The proposed rule change will not change the categories of persons covered by the rule nor will it change the requirement that members and member organizations retain a record of all gratuities and compensation for at least three years.

###### 2. Statutory Basis

The proposed rule change is consistent with the requirements of

section 6(b)(5) of the Act which required that the rules of the Exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade and, in general, to protect investors and the public interest.

#### B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

#### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

#### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the Federal Register or within such other 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 the 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 at 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 NYSE. All submissions should refer to File No. SR-

NYSE-92-10 and should be submitted by June 4, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,  
 Deputy Secretary.

[FR Doc. 92-11375 Filed 5-13-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-30680; File Nos. SR-NYSE-92-09]

#### Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Accelerated Approval to Proposed Rule Change Relating to the Exchange's Procedures for Market-on-Close Orders Used on Expiration Fridays

May 8, 1992.

##### I. Introduction

On April 9, 1992, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission" or "SEC"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change relating to the Exchange's auxiliary closing procedures for handling market-on-close ("MOC")<sup>3</sup> orders on expiration Fridays.

The proposed rule change was noticed in Securities Exchange Act Release No. 30570 (April 10, 1992), 57 FR 13399 (April 16, 1992).<sup>4</sup> No comments were received on the proposal.

##### II. Description of the Proposal

The Exchange seeks to amend its current procedures for the handling of MOC orders on the third Friday of each month, known as "expiration Friday".<sup>5</sup> The changes to the procedures would: (1) Prohibit the cancellation or reduction of any MOC order in any NYSE stock after 3:45 p.m. on expiration Fridays; (2)

<sup>1</sup> 15 U.S.C. 78s(b)(1) (1988).

<sup>2</sup> 17 CFR 240.19b-4 (1991).

<sup>3</sup> NYSE Rule 13 defines a MOC order as a market order which is to be executed in its entirety at the closing price, on the Exchange, of the stock named in the order, and if not so executed, is to be treated as cancelled.

<sup>4</sup> This release also granted temporary accelerated approval to the proposed MOC procedures for utilization on the April 16, 1992 expiration Friday.

<sup>5</sup> Expiration Friday is the one Friday per month on which stock index futures, stock index options or options on stock index futures expire.

indicate that the Exchange will publish imbalances in the pilot stocks<sup>6</sup> as soon as practicable after 3:45 p.m. on those days; and (3) provide that the 3 p.m. deadline for entry of MOC orders related to a strategy involving any stock index future, stock index option or option on stock index futures (collectively, "derivative instruments") will apply to all NYSE stocks rather than only the pilot stocks. With respect to item (1) above, the Exchange will permit cancellations of MOC orders after 3:45 p.m. in those instances where a legitimate error has been made.

In its proposed rule change, the Exchange states its belief that prohibiting cancellations or reductions of MOC orders after 3:45 p.m. will give market participants an accurate picture, earlier in the trading day, of the interest at the close of trading. According to the Exchange, the proposal is based on its concern that cancellations of MOC orders very near the close may exacerbate an imbalance, or even result in a shift in an imbalance from one side of the market to the other. The Exchange believes that such developments may lead to significant volatility at the close, as there may be insufficient time to attract contra side interest, leaving the prospect of a large price movement at the close, or even a halt in trading due to a substantial order imbalance.

In its proposed rule change, the Exchange indicates that it will continue to work with the Commission, other self-regulatory organizations, its member organizations and other key constituents to arrive at the most appropriate means to ensure that orders entered on expiration Fridays are executed in a way that maximizes public investor confidence in the fairness and orderliness of the NYSE market. The Exchange believes that its proposed rule change should be viewed as an interim measure to help address the possibility of excess market volatility at the close on expiration Fridays.<sup>7</sup>

<sup>6</sup> The so-called pilot stocks are the 50 highest weighted Standard & Poor's ("S&P") 500 Index stocks, based on market values, and any stock included among the 20 Major Market Index stocks that are not included among the 50 highest-weighted S&P 500 stocks. Only imbalances of 50,000 shares or more will be disseminated.

<sup>7</sup> Because of its concern that large imbalances of MOC orders may have a significant impact on closing prices, the Exchange believes that the settlement of all derivative products should be based on opening prices so that reopening procedures on the NYSE may be followed, as required, to ensure that there is sufficient time to reach an appropriate pricing equilibrium.

### III. Discussion and Order Granting Accelerated Approval to the Proposed Rule Change

The Commission finds that the NYSE's proposed rule change to amend the MOC procedures applicable to expiration Fridays is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. More specifically, the Commission believes that the amendments are consistent with the section 6(b)(5)<sup>8</sup> requirement that the rules of the Exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Commission believes that the early submission of MOC orders and the dissemination of imbalances on expiration Fridays have helped to alleviate the market stress caused by the liquidation of stock positions related to index derivative product trading strategies. These procedures have enabled NYSE specialists to attract contra-side interest to existing imbalances, and thus effectuate a more orderly closing. The NYSE proposal to establish a 3:45 p.m. deadline for cancelling or reducing a previously entered MOC order in any stock, and to publish any imbalances in the pilot stocks as soon as possible after this 3:45 p.m. deadline, should further help in this regard. The proposal should ameliorate the problem of significant shifts in MOC imbalances near the close of the trading on expiration Fridays. The procedures also should provide customers and members with an accurate picture, at an earlier point in the trading day, of interest at the close on expiration Fridays. As a result, the proposed procedures should provide specialists with more time to attract contra-side interest, and reduce confusion over the size and direction of order imbalances, thereby leading to reduced volatility at the close.

In addition, the Commission believes that the NYSE proposal to make applicable to all stocks, not just the pilot stocks, the 3 p.m. deadline for the entry of MOC orders related to a strategy including any derivative instruments, is reasonable given that the most active and widely held index options and futures are on 100 and 500 stock indices, and index derivatives cover virtually every NYSE stock.

As noted above,<sup>9</sup> the Commission granted temporary accelerated approval

to the procedures proposed herein for utilization on the April 16, 1992 expiration Friday only. On May 7, 1992, the Exchange submitted a report to the Commission<sup>10</sup> illustrating the effect of the proposed procedures on the April 16 expiration. The Exchange's report provides data comparing the number of order cancellations in the pilot stocks, as well as the MOC imbalances and price changes in the pilot stocks, for the February, March and April expiration Fridays.

After assessing the data provided by the Exchange, the Commission believes that the new procedures worked well on the April 16, expiration. For example, on the February and March expiration Fridays, orders totalling more than 6 million shares were cancelled after 3:45 p.m. As a result of the new procedures, on the April expiration Friday, only 36,900 shares were cancelled after 3:45.<sup>11</sup> These figures demonstrate that customers and members were provided with a more accurate picture, earlier in the trading day, of interest at the close.

Furthermore, the Commission is not aware of any systemic problems resulting from the implementation of the new procedures on the April 16, expiration. In addition, the Commission has not received any complaints relating to the implementation of the new procedures on April 16. Finally, publication of the Commission's approval, on an accelerated basis, of the procedures for the April 16 expiration was provided in the *Federal Register*, along with notice of the NYSE's proposal to adopt the procedures on a permanent basis.<sup>12</sup> The proposal was noticed for the full statutory period, and the Commission has received no comments regarding either the proposal itself nor the approval of the procedures for the April 16 expiration.

The Commission also finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof. The procedures are important to reducing potential market destabilizing activity at the close on expiration Friday. Granting accelerated approval to the proposal will allow the Exchange to notify its members of the amended procedures prior to the May 15, 1992 expiration. Also, as noted *supra*, the proposal was published in the *Federal*

<sup>10</sup> See telefax from Donald Siemer, Director, Market Surveillance Division, NYSE, to Mary Revell, Branch Chief, Division of Market Regulation, SEC, dated May 7, 1992.

<sup>11</sup> The new procedures permit cancellations to be made only to correct a legitimate error.

<sup>12</sup> See text accompanying note 4, *supra*.

Register and no comments were received.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,<sup>13</sup> that the proposed rule change is approved.

For the Commission, by the Division of Market Regulations, pursuant to delegated authority.<sup>14</sup>

Margaret H. McFarland,  
Deputy Secretary.

[FR Doc. 92-11376 Filed 5-13-92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18699; International Series Rel. No. 384; 812-7902]

### AIM Convertible Securities, Inc., et al.; Notice of Application

May 8, 1992.

**AGENCY:** Securities and Exchange Commission ("SEC" or "Commission").

**ACTION:** Notice of Application for exemption under the Investment Company Act of 1940 (the "Act").

**APPLICANTS:** AIM Equity Funds, Inc., AIM Investment Securities Funds, Inc., AIM International Funds, Inc., Tax Free Investments Co., AIM Convertible Securities, Inc., AIM High Yield Securities, Inc., AIM Summit Fund, Inc., AIM Strategic Income Fund, Inc. ("AIM Strategic"), Short-Term Investments Co., and any existing or future series thereof (the "Funds"); and any registered investment company or series thereof that in the future is advised by AIM Advisors, Inc. ("AIM Advisors") or AIM Capital Management, Inc., an affiliate of AIM Advisors.

**RELEVANT ACT SECTIONS:** Exemption requested under section 6(c) from the provisions of section 12(d)(3) and rule 12d3-1.

**SUMMARY OF APPLICATION:** Applicants seek a conditional order permitting them to invest in equity and convertible debt securities of foreign issuers that, in each of their most recent fiscal years, derived more than 15% of their gross revenues from their activities as a broker, dealer, underwriter, or investment adviser ("foreign securities companies") in accordance with the conditions of the proposed amendments to rule 12d3-1.

**FILING DATE:** The application was filed on April 10, 1992.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a

<sup>13</sup> 15 U.S.C. 78s(b)(2) (1988).

<sup>14</sup> 17 CFR 200.30-3(a)(12) (1991).

<sup>8</sup> 15 U.S.C. 78f(b)(5) (1988).

<sup>9</sup> See *supra* note 4.

copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 2, 1992, and should be accompanied by proof of service on applicant in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons 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. Applicants, c/o Carol F. Relihan, Esq., AIM Advisors, Inc., 11 Greenway Plaza, Suite 1919, Houston, Texas 77046-1173.

**FOR FURTHER INFORMATION CONTACT:** James M. Curtis, Staff Attorney, at (202) 504-2406, or Barry D. Miller, Senior Special Counsel, at (202) 272-3018 (Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

#### Applicants' Representations

1. All the Funds except AIM Strategic are each open-end management investment companies registered under the Act. AIM Strategic is a closed-end management investment company registered under the Act. AIM advisors serves as investment adviser to each Fund.

2. Applicants wish to invest in the equity and convertible debt securities of foreign issuers that, in each of their most recent fiscal years, derived more than 15% of their gross revenues from their activities as a broker, dealer, underwriter, or investment adviser.

3. Applicants seek relief from section 12(d)(3) of the Act and rule 12d3-1 thereunder to invest in the equity securities of foreign securities companies, including American Depository Receipts and European Depository Receipts representing interests in such securities, to the extent permitted in the proposed amendments to rule 12d3-1. See Investment Company Act Release No. 17096 (Aug. 3, 1989), 54 FR 33027 (Aug. 11, 1989).

#### Applicants' Legal Conclusions

1. Section 12(d)(3) of the Act prohibits an investment company from acquiring any security issued by any person who is a broker, dealer, underwriter, or investment adviser. Rule 12d3-1 under the Act provides an exemption from

section 12(d)(3) for investment companies acquiring securities of an issuer that derived more than 15% of its gross revenues in its most recent fiscal year from securities-related activities, provided that the acquisitions satisfy certain conditions set forth in the rule.

2. Subparagraph (b)(4) of rules 12d3-1 provides that "any equity security of the issuer \* \* \* [Must be] a 'Margin security' as defined in Regulation T promulgated by the Board of Governors of the Federal Reserve System." While "margin security" status is generally available only to securities that are traded principally in United States markets, the Board of Governors of the Federal Reserve System amended Regulation T in 1990 to include "Foreign margin stock[s]." However, because the requirements for inclusion on the Board's "List of Foreign Margin Stocks" are generally more restrictive than the requirements for inclusion on its "List of Marginable OTC Stocks," securities issued by many foreign issuers are not "foreign margin stocks," and thus are not "margin securities" under Regulation T. See 12 CFR 220.2(i) and (j)(6). Accordingly, applicants seek an exemption from the "margin security" requirements of rule 12d3-1.

3. Proposed amended rule 12d3-1 provides that the "margin security" requirement would be excused if the acquiring company purchases the equity securities of foreign securities companies that meet criteria comparable to those applicable to equity securities of United States securities-related businesses. The criteria, as set forth in the proposed amendments, "are based particularly on the policies that underlie the requirements for inclusion on the list of over-the-counter margin stocks." Investment Company Act Release No. 17096 (Aug. 3, 1989), 54 FR 33027 (Aug. 11, 1989).

#### Applicants' Condition

Applicants agree to the following condition in connection with the relief requested:

Applicants will comply with the provisions of the proposed amendments to rule 12d3-1 under the Act (Investment Company Act Release No. 17096 (Aug. 3, 1989); 54 FR 33027 (Aug. 11, 1989)), as such amendments are currently proposed and as they may be repropoed, adopted, or amended.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-11373 Filed 5-13-92; 8:45 am]

BILLING CODE 8010-01-M

File No. 1-8495

#### Issuer Delisting; Application to Withdraw From Listing and Registration; (Canandaigua Wine Company, Inc., Class A Common Stock, \$.01 Par Value; Class B Common Stock, \$.01 Par Value; 7% Convertible Subordinated Debentures Due 2011

May 8, 1992.

Canandaigua Wine Company, Inc. ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and rule 12d2-2(d) promulgated thereunder, to withdraw the above specified securities from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing these securities from listing and registration include the following:

According to the Company, its Board of Directors unanimously consented to withdraw the Company's Common Stock and Debentures from listing on the Amex and, instead, list such Common Stock on the National Association of Securities Dealers Automated Quotations/National Market System ("NASDAQ/NMS") and the Debentures on the NASDAQ. The decision of the Board followed a study of the matter by management, and was based upon the belief that listing of the Common Stock and Debentures on NASDAQ will be more beneficial to its security holders than the present listing on the Amex. The Company further believes that:

(1) The NASDAQ system of competing market makers will result in increased visibility and sponsorship for its Common Stock and Debentures than is presently the case with the single specialist on the Amex;

(2) The NASDAQ system will offer the Company's investors more liquidity than is presently available on the Amex and less volatility in quoted prices when trading volume is slight;

(3) The NASDAQ system will offer the opportunity for the Company to secure its own group of market makers and expand the capital base available for trading in the Common Stock and Debentures; and

(4) The firms making a market in the Company's Common Stock and Debentures on the NASDAQ system will also be inclined to issue research reports concerning the Company, thereby increasing the number of firms

providing institutional research and advisory reports.

Any interested person may, on or before June 1, 1992 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,  
Secretary.

[FR Doc. 92-11295 Filed 5-13-92; 8:45 am]  
BILLING CODE 8010-01-M

#### File No. 1-10300

#### Issuer Delisting; Application to Withdraw From Listing and Registration; (Phoenix Laser Systems, Inc., Common Stock, \$0.000001 Par Value)

May 8, 1992.

Phoenix Laser Systems, Inc. ("Company") has filed an application with the Securities and Exchange Commission, pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and rule 12d2-2(d) promulgated thereunder, to withdraw the above specified security from listing and registration on the Pacific Stock Exchange, Inc. ("PSE") and Boston Stock Exchange, Inc. ("BSE"). The reasons alleged in the application for withdrawing this security from listing and registration include the following:

According to the Company, the trading volume has been relatively low on both the PSE and the BSE, trading on each exchange amounting to approximately a small percentage of the total trading in the Company's Common Stock. The Company believes that continued listing of the Common Stock on both the PSE and the BSE is costly to the Company. The Company's Common Stock will continue to be listed and traded on the American Stock Exchange, Inc.

Any interested person may, on or before June 1, 1992 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application

has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority

Jonathan G. Katz,  
Secretary.

[FR Doc. 92-11294 Filed 5-13-92; 8:45 am]  
BILLING CODE 8010-01-M

#### [Release No. 35-35529]

#### Filings Under the Public Utility Holding Company Act of 1935 ("Act")

May 8, 1992.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by June 1, 1992 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

#### Niagara Mohawk Power Corporation (70-7962)

Niagara Mohawk Power Corporation ("Niagara"), 300 Erie Boulevard West, Syracuse, New York 13202, a New York public-utility holding company exempt from registration under section 3(a)(2) of

the Act pursuant to rule 2, has filed an application under sections 9(a)(2) and 10 of the Act. Niagara proposes to acquire all of the issued and outstanding shares of common stock, no par value ("Syracuse Common Stock"), of Syracuse Suburban Gas Company, Inc. ("Syracuse"), a New York public-utility company.

Niagara provides gas service in areas totalling approximately 4,500 square miles in central, northern and eastern New York. In addition, Niagara provides electric service in an area of approximately 24,000 square miles extending from Lake Erie to the borders of New England, Canada and Pennsylvania.

Syracuse provides natural gas services to approximately 4,500 customers in the village of East Syracuse, New York and the immediate vicinity. Syracuse's service territory is completely surrounded by the gas service territory of Niagara and Syracuse takes its gas service exclusively through the pipelines of Niagara. There are currently 42,000 issued and outstanding shares of Syracuse Common Stock, held by 13 shareholders.

Pursuant to an Amended and Restated Merger Agreement, dated March 13, 1992, between Niagara and Syracuse, Niagara will acquire the Syracuse Common Stock and Syracuse will be merged with and into NM Suburban Gas, Inc. ("Newco"), a New York corporation created by Niagara for the sole purpose of effecting the acquisition of Syracuse. In connection with the merger and as the consideration for the acquisition, each share of Syracuse Common Stock will be converted into the right to receive, on the closing date, that number of shares of Niagara common stock, par value \$1.00 per share ("Niagara Common Stock"), having an aggregate value of approximately \$6,120,000, and to receive, periodically after the closing of the merger, a certain number of shares of additional Niagara Common Stock. Following the merger, Newco will be wholly owned subsidiary company of Niagara and will change its name to Suburban Gas, Inc.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,  
Deputy Secretary.

[FR Doc. 92-11374 Filed 5-13-92; 8:45 am]  
BILLING CODE 8010-01-M

[Release No. 35-25530; International Series Release No. 383]

### Filings Under the Public Utility Holding Company Act of 1935 ("Act")

May 8, 1992.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by June 1, 1992 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

#### UtiliCorp United Inc. (31-818)

UtiliCorp United Inc. ("UtiliCorp"), 911 Main Street, suite 3000, Kansas City, Missouri 64105, a Delaware public-utility holding company claiming exemption from registration under rule 10 of the Act, has filed an application requesting an order under section 3(b) granting exemptions from all provisions of the Act to certain partially owned, to-be-formed, domestic and foreign subsidiary companies. Alternatively, UtiliCorp requests an order of the Commission approving a proposed indirect acquisition of a partially owned foreign public-utility subsidiary company under sections 9(a)(2) and 10 of the Act and granting orders of exemption under section 3(a)(5) to all intermediate holding companies which are subsidiary companies of UtiliCorp.

UtiliCorp is a publicly traded corporation which engages primarily, through divisions, in the sale and distribution of gas and electricity to

retail and wholesale customers in eight states. UtiliCorp is a public-utility holding company solely because of its ownership of West Kootenay Power and Light Company, Limited, a Canadian public-utility company.<sup>1</sup> On December 31, 1992, UtiliCorp had assets of over \$2,400,000,000.

Servicios Electricos del Gran Buenos Aires, S.A. ("SEGBA") is a government-owned Argentine corporation engaged primarily in the marketing and distribution of electricity to residential, commercial, industrial and other types of Argentine customers in and around the City of Buenos Aires. SEGBA intends to form Franchisee Corporation ("Franchisee Corp.") to hold the facilities and equipment used for the distribution of electricity in Buenos Aires ("Facilities") and to sell up to 60% of Franchisee Corp. to private investors. The remaining 40% of the shares of Franchisee Corp. will be held 30% by the Government of Argentina and 10% is expected to be sold to the employees of Franchisee Corp. pursuant to an employee stock ownership plan. It is contemplated that the 30% interest held by the Government will be sold in a public offering within approximately one year. Upon consummation of the proposed transactions, Franchisee Corp. will be an electric utility company within the meaning of section 2(a)(3) of the Act.

UtiliCorp intends to acquire 77% of the voting securities of UtiliCorp Sub, a to-be-formed Delaware corporation. UtiliCorp Sub will in turn acquire a 16.98% interest in X Corp., a to-be-formed Argentina corporation that will bid for up to 60% of the voting securities of Franchisee Corp.<sup>2</sup> If X Corp.'s bid is accepted, UtiliCorp will thus have an indirect ownership interest of 7.84% in Franchisee Corp.

The parties anticipate that Franchisee Corp. and either X Corp. or the individual shareholders of X Corp. will enter into a management contract concerning the Facilities with the government of Argentina. The only UtiliCorp entity which will potentially engage in any transaction with any of the Argentine entities is UtiliCorp Sub, which may be a party to the management contract. UtiliCorp will not guarantee any loans in connection with the proposed transactions.

<sup>1</sup> UtiliCorp United Inc., Holding Company Act Release No. 24204 (Sept. 29, 1986).

<sup>2</sup> The other shareholders of X Corp. will be Iberdrola, a Spanish utility company (25.01%), Tractebel, a Belgian utility company (25.01%), Sociedad Comercial del Plata, S.A., an Argentine company (25%), and other Argentine companies (8%) (collectively with UtiliCorp Sub, "Consortium Members").

It is expected that X Corp. will be capitalized solely by the equity contributions of the Consortium Members in proportion to their ownership in X Corp. UtiliCorp's 16.98% equity investment in X Corp. will be made by way of a capital contribution to UtiliCorp Sub not to exceed \$45 million. Such amount will initially be financed by short-term borrowings by UtiliCorp which will ultimately be replaced by equity (40%) and long-term debt (60%). UtiliCorp states that the proposed \$45 million investment represents approximately 2% of its total assets.

UtiliCorp requests an order under section 3(b) of the Act exempting UtiliCorp Sub, X Corp. and Franchisee Corp. from all provisions of the Act. UtiliCorp states that none of UtiliCorp Sub, X Corp. or Franchisee Corp. will derive any material part of its income, directly or indirectly, from sources within the United States. Further, none of UtiliCorp Sub, X Corp. or Franchisee Corp. will be, or have any subsidiary company which is, a public-utility company operating in the United States. UtiliCorp asserts that rule 10(a)(1) will provide an exemption for UtiliCorp, UtiliCorp Sub and X Corp. insofar as they are holding companies of Franchisee Corp. Further, UtiliCorp asserts that rule 11(b)(1), together with rule 10(a)(1), will provide an exemption from the approval requirements of sections 9(a)(2) and 10 to which UtiliCorp would otherwise be subject. In the event the Commission does not grant an unqualified order under section 3(b), however, UtiliCorp requests Commission approval of its indirect acquisition of Franchisee Corp. under sections 9(a)(2) and 10. UtiliCorp further requests orders granting exemption under section 3(a)(5) to UtiliCorp Sub and X Corp.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-11377 Filed 5-13-92; 8:45 am]

BILLING CODE 8010-01-M

### SELECTIVE SERVICE SYSTEM

#### Computer Matching Between the Selective Service System and the Department of Education

AGENCY: Selective Service System.

ACTION: Notice.

In accordance with the Privacy Act of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy

protection Act of 1988 (Pub. L. 100-503), and the Office of Management and Budget (OMB) Guidelines on the Conduct of Matching Programs (54 FR 25818 (June 19, 1989)), and OMB Bulletin 89-22, the following information is provided:

**1. Name of participating agencies**

The Selective Service System and the Department of Education.

**2. Purpose of the match**

The purpose of this matching program is to ensure that the requirements of section 12(f) of the Military Selective Service Act (50 U.S.C. App. 462(f)) are met.

**3. Authority for conducting the matching program**

Computerized access to the Selective Service Registrant Registration Records (SSS 10) enables the U.S. Department of Education to confirm the registration status of applicants for assistance under Title IV of the Higher Education Act of 1965 (HEA), as amended (20 U.S.C. 1070 *et. seq.*). Section 12(f) of the Military Selective Service Act, as amended (50 U.S.C. App. 462(f)), denies eligibility for any form of assistance or benefit under Title IV of the HEA to any person required to present himself and submit to registration under Section 3 of the Military Selective Service Act who fails to do so in accordance with that section and any rules and regulations issued under that section. In addition, the Military Selective Service Act and 34 CFR 668.33 specify that any person required to present himself and submit to registration under section 3 of the Military Selective Service Act file a statement that he is in compliance with the Military Selective Service Act. Furthermore, section 12(f)(3) of the Military Selective Service Act authorizes the Secretary of Education, in agreement with the Director of the Selective Service, to prescribe methods for verifying the statements of compliance filed by students.

**4. Categories of records and individuals covered**

1. Federal Student Aid Application File (18-40-0014). Individuals covered are men born after December 31, 1959, but at least 18 years old by June 30 of the applicable award year.

2. Selective Service Registration Records (SSS 10).

**5. Inclusive dates of the matching program**

Commence on July 1, 1992 or 30 days after copies of the matching agreement are transmitted simultaneously to the

Committee on Governmental Affairs of the Senate, the Committee on Government Operations of the House of Representatives, and the Office of Management and Budget, whichever is later, and remain in effect for eighteen months unless earlier terminated or modified by agreement of the parties.

**6. Address for receipt of public comments or inquiries**

Mr. Richard S. Flahavan, Associate Director for Operations, The Selective Service System, Washington, DC 20435.

Dated: May 17, 1992.

Cipriano F. Guerra, Jr.,  
Deputy Director.

[FR Doc 92-11306 Filed 5-13-92; 8:45 am]

BILLING CODE 8015-01-M

**SMALL BUSINESS ADMINISTRATION**

**[Declaration of Disaster Loan Area #2558]**

**Illinois; Declaration of Disaster Loan Area**

As a result of the President's major disaster declaration on April 15, 1992, I find that the City of Chicago constitutes a disaster area as a result of damages caused by flooding beginning on April 13, 1992, and continuing. Applications for loans for physical damage may be filed until the close of business on June 15, 1992, and for loans for economic injury until the close of business on January 15, 1993, at the address listed below: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, Georgia 30308 or other locally announced locations. In addition, applications for economic injury loans from small businesses located in Cook County and the contiguous counties of Du Page, Kane, Lake, McHenry, and Will in the State of Illinois, and Lake County in the State of Indiana may be filed until the specified date at the above location.

The interest rates are:

For physical damage:	Percent
Homeowners with credit available elsewhere .....	8.000
Homeowners without credit available elsewhere .....	4.000
Businesses with credit available elsewhere .....	6.500
Businesses and non-profit organizations without credit available elsewhere .....	4.000
Others (including non-profit organizations) with credit available elsewhere .....	8.500

For economic injury:

Businesses and small agricultural cooperatives without credit available elsewhere ..... 4.000

The number assigned to this disaster damage is 255806 and for economic injury the numbers are 782100 for Illinois and 782200 for Indiana.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: April 20, 1992.

**Bernard Kulik,**

Assistant Administrator for Disaster Assistance.

[FR Doc. 92-11278 Filed 5-13-92; 8:45 am]

BILLING CODE 8025-01-M

**[Declaration of Economic Injury Disaster Loan Area #7620]**

**Pennsylvania; Declaration of Disaster of Disaster Loan Area**

Clearfield County and the contiguous counties of Blair, Cambria, Cameron, Centre, Clinton, Elk, Indiana, and Jefferson in the State of Pennsylvania constitute an Economic Injury Disaster Loan Area due to damages caused by a fire which occurred on March 20, 1992 in Curwensville Borough. Eligible small business without credit available elsewhere and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance until the close of business on January 20, 1993 at the address listed below: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, suite 300, Atlanta, GA 30308 or other locally announced locations. The interest rate for eligible small businesses and small agricultural cooperatives is 4 percent.

(Catalog of Federal Domestic Assistance Program No. 59002)

Dated: May 20, 1992.

**Patricia Saiki,**

Administrator.

[FR Doc. 92-11279 Filed 5-13-92; 8:45 am]

BILLING CODE 8025-01-M

**Privacy Act of 1974; Computer Matching Program Between the United States Department of Defense, Defense Manpower Data Center (DoD, DMD) and the United States Small Business Administration (SBA)**

**AGENCY:** Small Business Administration.

**ACTION:** Notice of a computer matching program between the Department of Defense (DoD) and the Small Business

Administration (SBA) for public comment.

**SUMMARY:** The SBA, as the recipient agency under the Privacy Act of 1974, as amended, (5 U.S.C. 552a), is hereby giving constructive notice in lieu of direct notice to the record subjects of a computer matching program between DoD and SBA that their records are being matched by computer. The match will compare records of delinquent SBA debtors against records of Federal employees and military members, active or retired. If matches are found, SBA will use the information to collect the delinquent debt through salary offset or administrative offset.

**DATES:** This proposed action will become effective June 15, 1992, and the computer matching will proceed accordingly without further notice, unless comments are received which would result in a contrary determination or if the Office of Management and Budget or Congress objects thereto. Any public comment must be received before the effective date.

**ADDRESSES:** Any interested party may submit written comments to the Chief, Freedom of Information/Privacy Acts Office, 409 Third Street SW., Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** Pursuant to subsection (f) of the Privacy Act of 1974, as amended, (5 U.S.C. 552a), the SBA and DoD have concluded an agreement to conduct a computer matching program between the agencies. The purpose of the match is to compare SBA delinquent loan data with personnel records stored at the Defense Manpower Data Center of the DoD. The DoD records contain information on Federal personnel, civilian and military, employed and retired.

SBA will provide tapes or other magnetic media containing delinquent debtor data to DoD. DoD will perform the match, return SBA's data, and report any "hits". A "hit" will show that a delinquent debtor is a Federal employee, a retired Federal employee, an active member of the military, or a retired member of the military.

SBA will learn the debtor's service or agency, category and current work or home address. SBA will use the information to collect the delinquent debt through administrative or salary offset as provided by the Debt Collection Act of 1982 and SBA regulations.

The parties to this agreement have determined that a computer matching program is the most efficient, effective and expeditious method of obtaining and processing the information needed

to determine whether SBA delinquent debtors are receiving salaries or other benefits that can be offset. The principal alternative to using a computer matching program for identifying such employee would be a manual comparison of all records of SBA delinquent debtors with the records of all military members and all Federal retirees.

By comparing the data received through this matching program on a recurring basis, SBA will be able to collect delinquent debts.

Computer matching appears to be the most efficient and effective manner to accomplish this task with the least amount of intrusion into the personal privacy of the individuals concerned. It was therefore concluded and agreed that computer matching would be the best and least obtrusive manner and choice to accomplish this requirement.

A copy of the computer matching agreement between DoD and SBA is available upon request to the public. Requests should be submitted to the Chief, Freedom of Information/Privacy Acts Office, 409 Third Street SW., Washington, DC 20416.

Set forth below is a notice of the establishment of a computer matching program required by paragraph 6.c. of the Office of Management and Budget Guidelines on Computer Matching published in the *Federal Register* at 54 FR 25818 on June 19, 1989.

The matching agreement and an advance copy of this notice must be submitted to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget. This matching program is subject to review by OMB and Congress and shall not become effective until that review period has elapsed.

Dated: April 30, 1992.

Patricia Saiki,  
Administrator.

[FR Doc 92-11280 Filed 5-13-92; 8:45 am]

BILLING CODE 8025-01-M

### Privacy Act; System of Records; Debt Collection

**AGENCY:** Small Business Administration.  
**ACTION:** Notice of revision of Privacy Act systems of records.

**SUMMARY:** Notice is hereby given that SBA is revising two of its Privacy Act systems of records: SBA 070, Litigation and claims files and SBA 075, Loan Case Files, are being revised to include as

routine uses certain computer matching programs and disclosure to consumer reporting agencies and to update the location of files. SBA 075, Loan Case Files, is further revised to prohibit release to the public of the name and address of a loan obligor who has not paid a loan in full and the amount of any loss incurred by the government, absent the borrower's consent or unless such a disclosure is required by the Freedom of Information Act.

**DATES:** This rule is effective June 15, 1992. Comments must be received at the address listed below by June 15, 1992.

**ADDRESS:** Beverly Linden, Chief, Freedom of Information/Privacy Acts, Small Business Administration, Washington, DC 20416, (202) 653-6460.

**FOR FURTHER INFORMATION CONTACT:** Beverly Linden, Chief, Freedom of Information/Privacy Acts, Small Business Administration, Washington, DC 20416, (202) 653-6460.

**SUPPLEMENTARY INFORMATION:** SBA is amending two systems of records in recognition of new debt collection procedures under the Debt Collection Act of 1982 and the Computer Matching and Privacy Protection Act of 1988. The Routine Uses Notice of System 075, Loan Case files, is being amended to specifically list those agencies with which SBA intends to engage in computer matches and clarify that some disclosures already listed may be made via computer matches. It is also being amended to list disclosure to a consumer reporting bureau. Location of files is being amended to show that information provided for computer matches to be performed by the Department of Housing and Urban Development (HUD) will be maintained at HUD.

System 075, Loan Case files, also is being amended to prohibit release to the general public of the names, addresses, and amount of loss incurred by the government (amount written off from Agency assets) due to non-payment of obligations by individuals, unless the individual borrower has consented to such release or the release is required by the Freedom of Information Act, 5 U.S.C. 552.

System 070, Litigation and Claims files, is being amended to include the new information listed above, as well as related information now in system 075. These changes are being made so that SBA can pursue debt collection on claims that did not originate as Disaster Home Loans, but have become claims against individuals, and may therefore fall under the Privacy Act.

## 1. SBA 075

## SYSTEM NAME:

Loan Case File—SBA 075.

## SYSTEM LOCATION:

SBA Area Disaster Offices, District and Branch Offices, and HUD. See Appendix A for SBA addresses. HUD publishes the address for records located in its files in its system notice.

2. The third paragraph of Routine Uses will be changed as follows:

To provide information, under certain conditions, to the general public on losses incurred by the government due to non-payment of obligations by individuals. In these cases, the name and address of the borrower amount charged-off will not be released for public information purposes unless the individual borrower consents to the release, or the release is required by the Freedom of Information Act, 5 U.S.C. 552.

3. The fifth paragraph under routine uses is amended by adding a sentence at the end as follows:

To request information from a Federal, State or local agency or a private credit agency maintaining civil, criminal or other information relevant to determining an applicant's suitability for a loan. Such information may be requested individually or as part of a computer matching program.

4. The seventh paragraph under routine uses is amended by adding two sentences at the end as follows:

To provide information to State and Federal agencies, in response to their requests, in connection with the issuance of a grant, loan, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. Such information may be requested and provided on a case-by-case basis or as part of a computer match. SBA will provide such information to the Department of Housing and Urban Development to be maintained in a central repository where agencies can request information on a case-by-case basis or as part of a computer match.

5. The first sentence in the thirteenth paragraph under Routine Uses is amended by adding the U.S. Postal Service and the Department of Housing and Urban Development as follows:

To provide information to another Federal Agency, including the Defense Manpower Data Center of the Department of Defense, the US Postal Service and the Department of Housing and Urban Development, to conduct computer matching programs for the purpose of identifying and locating

delinquent SBA borrowers who are receiving Federal salaries or Federal benefit payments.

6. A paragraph is added at the end of Routine Uses as follows:

To make disclosures to a consumer reporting agency.

## 7. SBA 070

## SYSTEM NAME:

Litigation and Claims Files—SBA 070.

## SYSTEM LOCATION:

Central Office, District and Branch Office, Federal Records Centers and the Department of Housing and Urban Development. See Appendix A for SBA addresses and Appendix B for FRC addresses. Addresses for HUD are published by HUD.

8. Routine Uses is amended by adding the following paragraphs at the end:

To request information from a Federal, State or local agency or a private credit agency maintaining civil, criminal or other information relevant to determining an applicant's suitability for a loan. Such information may be requested individually or as part of a computer matching program.

To provide information to State and Federal agencies, in response to their requests, in connection with the issuance of a grant, loan, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. Such information may be requested and provided on a case-by-case basis or as part of a computer match. SBA will provide such information to the Department of Housing and Urban Development to be maintained in a central repository where agencies can request information on a case-by-case basis or as part of a computer match.

To provide information to another Federal Agency, including the Defense Manpower Data Center of the Department of Defense, the US Postal Service and the Department of Housing and Urban Development, to conduct computer matching programs for the purpose of identifying and locating delinquent SBA borrowers who are receiving Federal salaries or Federal benefit payments.

To make disclosures to a consumer reporting agency.

Dated: April 30, 1992.

Patricia Saiki,  
Administrator.

[FR Doc. 92-11281 Filed 5-13-92; 8:45 am]

BILLING CODE 8025-01-M

### Privacy Act of 1974; Computer Matching Program Between the United States Department of Housing and Urban Development and the United States Small Business Administration

**AGENCY:** Small Business Administration.

**ACTION:** Privacy Act Notice of establishment of a computer matching program between the United States Department of Housing and Urban Development (HUD), and the Small Business Administration (SBA), and constructive notice to record subjects.

**SUMMARY:** The SBA, as the recipient agency under the Privacy Act of 1974, as amended, (5 U.S.C. 552a), is hereby giving 30 days public notice of a computer matching program between HUD and SBA.

HUD maintains the Credit Alert Interactive Voice Response System (CAIVRS), a computer information system. CAIVRS contains information on persons who are delinquent on their debts to the Federal Government. SBA has agreed to be a source agency, supplying information to HUD for storage in CAIVRS.

SBA has also agreed to be a recipient agency. The purpose of a match is to determine whether applicants for disaster home loans have delinquent federal debt reported on CAIVRS.

**DATES:** This action will become effective June 15, 1992, and the computer matching will proceed accordingly without further notice, unless comments are received which would result in a contrary determination or if the Office of Management and Budget or Congress objects thereto. Any public comment must be received before the effective date.

**ADDRESSES:** Any interested party may submit written comments to the Chief, Freedom of Information/Privacy Acts Office, 409 3rd Street SW., Washington, DC 20416.

**FOR FURTHER INFORMATION CONTACT:** Walter Intlekofer, Chief, Operations Assistance Branch, (202) 205-6481.

**SUPPLEMENTARY INFORMATION:** Pursuant to subsection (o) of the Privacy Act of 1974, as amended, (5 U.S.C. 552a), the SBA and HUD have concluded an agreement to conduct a computer matching program between the agencies.

SBA is both a source and a recipient agency under the agreement. As a source, SBA is providing information on delinquent disaster home loan borrowers to HUD to be stored and made available for further matching through CAIVRS. HUD published a

notice of this match on September 25, 1991 at 56 FR 48571.

As a recipient agency, SBA will compare information in its system of records known as loan case files—SBA 075, against data in CAIVRS to determine whether the applicants have delinquent outstanding federal debt.

The parties to this agreement have determined that a computer matching program is the most efficient, effective and expeditious method of obtaining and processing the information needed to determine whether SBA disaster home loan applicants have outstanding delinquent debt. The principal alternative to using a computer matching program for identifying such applicants would be a manual comparison of names and identifying information about applicants with the records of HUD, SBA and other agencies who report delinquent debt to CAIVRS.

A copy of the computer matching agreement between HUD and SBA is available upon request to the public. Requests should be submitted to the address captioned above or to Robin Clay, SBA, 409 Third Street, SW., Room 8368, Washington, DC 20416.

The matching agreement and an advance copy of this notice must be submitted to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget. This matching program is subject to review by OMB and Congress and shall not become effective until that review period has elapsed.

Dated: April 30, 1992.

Patricia Saiki,  
Administrator.

[FR Doc. 92-11282 Filed 5-13-92; 8:45 am]

BILLING CODE 8025-01-M

## DEPARTMENT OF STATE

[Public Notice 1625]

### Advisory Committee on International Investment; Closed Meeting

The Department of State announces a meeting of the Advisory Committee on International Investment on Thursday, June 4, from 9 a.m. to 12:30 p.m. in room 1107, Department of State, 2201 C Street, NW., Washington, DC.

This meeting will discuss on-going investment treaty and other negotiations with nations in Eastern Europe and republics of the former Soviet Union. Pursuant to section 10(d) of the Federal Advisory Committee Act and 5 U.S.C.

552b(c)(9), it has been determined that this meeting of the Advisory Committee on International Investment will be closed to the public. The meeting will involve the discussion of the substance of treaty negotiations which have not yet been concluded, the public disclosure of which could adversely affect U.S. interests.

Access to the Department of State is controlled. Advisory Committee members planning to attend this meeting should enter the Department through the Diplomatic ("C" Street) Entrance. Members are asked to confirm their attendance in advance by contacting Ms. Kim Butler or Ms. JoAnne Adams on 202-647-2585.

Dated: May 5, 1992.

Daniel T. Fantozzi,

Executive Secretary, Advisory Committee on International Investment.

[FR Doc. 92-11361 Filed 5-13-92; 8:45 am]

BILLING CODE 6710-07-M

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

[CGD 92-034]

### Towing Safety Advisory Committee; Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meetings.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given of a meeting of the Towing Safety Advisory Committee (TSAC) and Subcommittees. A preliminary meeting of the TSAC Subcommittees will be held on Wednesday, June 17, 1992, in room 2415 of U.S. Coast Guard Headquarters. This meeting is scheduled to run from 8 a.m. to 11:30 a.m. Attendance is open to the public. The full Committee meeting will be held from 12 noon to 4 p.m. in the same room. This meeting is also open to the public. The agenda follows:

#### 1. Subcommittee Reports

- a. Personnel Manning and Licensing
- b. Tug-Barge Construction, Certification and Operations
- c. Personnel Safety and Workplace Standards
- d. Oil Pollution Act of 1990 Implementation

#### 2. Other Topics of Discussion

With advance notice, and at the discretion of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should notify the TSAC Executive Director no later than the day before the meeting. Written

statements or materials may be submitted for presentation to the Committee at any time; however, to ensure distribution to each Committee member, 20 copies of the written material should be submitted to the Executive Director by June 12, 1992.

#### FOR FURTHER INFORMATION CONTACT:

CDR Robert Letourneau, Executive Director, Towing Safety Advisory Committee, room 1300, U.S. Coast Guard Headquarters (G-MTH-2), 2100 Second Street, SW., Washington, DC 20593-0001, (202) 267-2206.

Dated: May 8, 1992.

R.C. North,

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

[FR Doc 92-11383 Filed 5-13-92; 8:45 am]

BILLING CODE 4910-14-M

## Research and Special Programs Administration

### Office of Hazardous Materials Safety; Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carry aircraft.

DATES: Comments must be received on or before June 15, 1992.

ADDRESS COMMENTS TO: Dockets Branch, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption application number.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, room 8426, Nassif Building, 400 7th Street SW., Washington, DC.

## NEW EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
10770-N	Mesa Airlines, d/b/a/ United Express, Denver, CO.	49 CFR 175.10(a)(7)	To authorize the transportation of oxygen, classed as nonflammable liquid, in 3AL cylinders in the cargo compartment of passenger carrying aircraft. (Mode 5.)
10771-N	Tomco Equipment Company, Loganville, GA.	49 CFR 178.337-6(b)	To authorize the manufacture, mark and sell of non-DOT specification cargo tanks with front head manway mounted on flat-bed truck for use in transporting carbon dioxide, refrigerated liquid. (Mode 1.)
10772-N	Gardner Cryogenics, Bethlehem, PA	49 CFR 178.338-18(a)(1), 178.338-4(c).	To authorize the transportation of hydrogen, refrigerated liquid, classed as a flammable gas, in non-DOT specification cargo tanks constructed of 304N stainless steel with intersecting welds and nozzles. (Mode 1.)
10773-N	Witco Corporation, Phillipsburg, NJ	49 CFR 174.74 (i) and (j)	To authorize chlorine filled tank cars to remain connected without the physical presence of an operator. (Mode 2.)
10774-N	Applied Data Technology, Inc., Elmendorf AFB, AK.	49 CFR 172.101 table, column 6	To authorize the shipment of liquefied petroleum gas, classed as a flammable gas in 6,000 gallon capacity DOT Specification 51 skid mounted portable tanks by cargo aircraft to remote areas in Alaska. (Mode 4.)
10775-N	Elkhart Plastics, Incorporated, Middlebury, IN.	49 CFR 173.173.119, 173.125, 173.245, 173.249, 173.249(a), 173.250(a), 173.256, 173.257, 173.262, 173.263, 173.264, 173.265, 173.266, 173.269, 173.272, 173.276, 173.277, 173.283, 173.287, 173.288, 173.289, 173.292, 173.297, 173.299(a).	To authorize the manufacture, mark and sell of composite intermediate bulk container with a capacity up to 330 gallons, consisting of a rotationally molded polyethylene inner receptacle within a wire frame outer casing, for the shipment of certain hazardous materials. (Modes 1 and 2.)
10776-N	P.S.I. Plus, Inc. Middletown, CT	49 CFR 173.302(a)(1), 175.3, 178.42.	To authorize the manufacture, mark and sell of non-DOT specification steel cylinders comparable to a DOT specification 3E for use in transporting certain hazardous materials. (Modes 1, 2, 3, 4, and 5.)
10777-N	SIGRI Corporation, Bedminster, NJ	49 CFR 173.119, 173.302, 173.304, 173.327, 173.328, 173.34, 173.346.	To authorize the manufacture, mark and sell of non-DOT specification salvage cylinder constructed of carbon steel for overpacking damaged or leaking packages of hazardous materials. (Mode 1.)
10778-N	Liquid Carbonic Specialty Gas Corporation, Chicago, IL.	49 CFR 173.34(15)	To authorize alternative testing criteria for cylinders in service banks that have been used for transporting flammable and non-flammable gases or oxidizers. (Mode 1.)

This notice of receipt of applications for new exemptions is published in accordance with part 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on May 7, 1992.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Exemptions and Approvals.

[FR Doc. 92-11311 Filed 5-13-92; 8:45 am]

BILLING CODE 4910-60-M

### Office of Hazardous Materials Safety; Applications for Modification of Exemptions or Applications To Become a Party to an Exemption

**AGENCY:** Research and Special Programs Administration, DOT.

**ACTION:** List of applications for modification of exemptions or applications to become a party to an exemption.

**SUMMARY:** In accordance with the procedures governing the application for, and the processing of, exemptions

from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier Federal Register publications, they are not repeated here. Requests for modifications of exemptions (e.g., to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with the suffix "X" denote a modification request. Application numbers with the suffix "P" denote a party to the request. These applications have been separated from the new applications for exemptions to facilitate processing.

**DATES:** Comments must be received on or before May 29, 1992.

**ADDRESS COMMENTS TO:** Dockets Unit, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption number.

#### FOR FURTHER INFORMATION CONTACT:

Copies of the applications are available for inspection in the Dockets Unit, Room 8426, Nassif Building, 400 7th Street SW., Washington, DC.

Application No.	Applicant	Renewal of exemption
1862-X	Greer Hydraulics, Inc., Santa Fe Springs, CA (see footnote 1).	1862
8886-X	Amerex Corporation, Trussville, AL (see footnote 2).	8886
10256-X	Comdyne I, Inc., West Liberty, OH (see footnote 3).	10256

<sup>1</sup> To modify exemption to provide for additional accumulation not to exceed 5 gallons with a design

pressure not to exceed 3,000 for use in transporting nitrogen.

<sup>2</sup> To modify exemption to provide for cargo vessel as an additional mode of transportation.

<sup>3</sup> To modify exemption to provide for rail as an additional mode of transportation.

Application number	Applicant	Parties to exemption
3941-P	Western Electrochemical Company, Cedar City, UT.	3941
4453-P	Slurry Explosive Corporation, Columbus, KS.	4453
5704-P	United Technologies Corp./ Chemical Systems Div., San Jose, CA.	5704
6691-P	Albany Welding Supply Company, Inc., Albany, NY.	6691
6691-P	JWS Technologies, Inc., Oakland, NJ.	6691
6691-P	The Red Oak Machine Company, Inc., Red Oak, IA.	6691
6691-P	ABCO Welding & Industrial Supply, Waterford, CT.	6691
6691-P	T.W. Smith Corporation, Brooklyn, NY.	6691
6691-P	N.H. Bragg & Sons, Bangor, ME.	6691
7052-P	Stuart Cody Inc. d/b/a Automated Media Systems, Allston, MA.	7052
7268-P	Valley Welding Supply Company, Wheeling, WV.	7268
7616-P	Paducah & Louisville Railway, Inc., Paducah, KY.	7616
7716-P	Slurry Explosive Corporation, Columbus, KS.	7716
7835-P	Arizona Welding Equipment Company, Phoenix, AZ.	7835
7945-P	Northrop Corporation, Hawthorne, CA.	7945
8156-P	Valley Welding Supply Company, Wheeling, WV.	8156
8214-P	Automotive Systems Laboratory, Inc., Farmington Hills, MI.	8214
8236-P	Automotive Systems Laboratory, Inc., Farmington Hills, MI.	8236
8273-P	Automotive Systems Laboratory, Inc., Farmington Hills, MI.	8273
8451-P	AAI Corporation, Hunt Valley, MD (See Footnote 1).	8451
8554-P	Slurry Explosive Corporation, Columbus, KS.	8554
8582-P	Keokuk Junction Railway, Keokuk, IA.	8582
8582-P	Seagraves, Whiteface & Lubbock Railroad, Brownfield, TX.	8582
8815-P	Austin Powder Company, Cleveland, OH.	8815
8877-P	Ashland Chemical, Inc., Columbus, OH.	8877
9723-P	Advanced Environmental Technology Corp. (AETC), Flanders, NJ.	9723
9723-P	Division Transport, El Dorado, AR.	9723
9723-P	California Advanced Environmental Technology Corp., Hayward, CA.	9723
9953-P	CMI Transportation, Inc., White Pigeon, MI.	9953
10247-P	Kin-Tek Laboratories, Inc., Texas City, TX.	10247
10307-P	ICI Americas Inc., Wilmington, DE.	10307
10442-P	Quantic Industries, Inc., Millipitas, CA.	10442

<sup>1</sup> To authorize party status and modify exemptions to provide for shipment of limited quantities of class B explosives contained in a steel pipe configuration.

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with part 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on May 7, 1992.

**J. Suzanne Hedgepeth,**  
Chief, Exemptions Branch, Office of Hazardous Materials Exemptions and Approvals.

[FR Doc. 92-11312 Filed 5-13-92; 8:45 am]

BILLING CODE 4910-60-M

[Docket No. WPDA-1]

**City of New York; Application for Waiver of Preemption as to Fire Department Regulations Concerning Pickup/Delivery Transportation of Flammable and Combustible Liquids and Flammable and Combustible Gases**

**AGENCY:** Research and Special Programs Administration, U.S. Department of Transportation.

**ACTION:** Notice closing the docket.

**SUMMARY:** The Research and Special Programs Administration (RSPA) advises all interested parties that it has received and placed in the docket all substantive information it considers necessary to process the October 10, 1991 application of the City of New York (City) for a waiver of preemption, under the Hazardous Materials Transportation Act, as to certain provisions of the City's Fire Department Fire Prevention Directives. These regulatory provisions concern the transportation of flammable and combustible liquids and compressed gases for pickup or delivery within the City. This notice also identifies certain materials which have been placed in the docket recently.

**ADDRESSES:** The City's waiver application and all comments and materials submitted may be reviewed in the Docket Unit, Research and Special Programs Administration, room 8421, Nassif Building, 400 Seventh Street SW., Washington, DC 20590-0001.

**FOR FURTHER INFORMATION CONTACT:** Frazer C. Hilder, Office of the Chief Counsel, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590-0001 (Tel. No. 202-366-4400).

**SUPPLEMENTARY INFORMATION:** In an October 10, 1991 application, the City requested a waiver of preemption as to requirements set forth in parts or all of

19 separate sections of the City's Fire Prevention Directives 3-76, 5-63, 6-76 and 7-74. The specific requirements are set forth in full in Part I of the City's application; that application (without its exhibits) is reproduced in appendix A to RSPA's November 15, 1991 Public Notice and Invitation to Comment. 56 FR 58126, 58128. In summary, these requirements limit the size and type of trucks that can be used for the pickup and delivery of flammable and combustible liquids and gases; prescribe certain procedures for handling such materials and for transfers of flammable and combustible liquids in an emergency; prohibit smoking on trucks transporting flammable and combustible liquids; and establish an inspection and permit system.

In the November 15, 1991 notice, RSPA solicited public comments on the City's waiver application. RSPA twice reopened the public comment period, in order to assure all interested parties an opportunity to submit comments. 57 FR 6767 (Feb. 27, 1992), 57 FR 11984 (Apr. 8, 1992). The last comment period closed on April 20, 1992.

In an April 23, 1992 letter, the City corrected an error in Exhibit 37, which had been submitted as part of the City's April 17, 1992 final comments in this matter. Even though it was submitted after the close of the comment period, the City's April 23, 1992 letter will be included in the docket and considered by RSPA, because it corrects an error in a timely-filed document.

In a May 1, 1992 letter, three parties opposing the City's application (American Trucking Associations, Inc., National Tank Truck Carriers, Inc., and National Paint and Coatings Association, Inc.) objected to the City's Exhibit 37 and April 23, 1992 letter. These three parties "request[ed] an opportunity to comment on both documents," and urged RSPA "to exclude the City's \* \* \* exhibit [37] and comments related thereto." That request is denied because RSPA finds that (1) the May 1 letter attempts to provide substantive comments after the comment period has closed, rather than correct a previously-submitted document, and (2) further comments on this subject are not necessary in light of these three parties' previous submissions. The May 1 letter has been placed in the docket, but the comments therein will not be considered in this proceeding.

In addition to the comments and other materials submitted by the City and other interested parties, RSPA recently has placed in the docket the following additional materials:

(1) Trucks Involved in Fatal Accidents (TIFA) Factbook 1987, published by the Center for National Truck Statistics at the University of Michigan Transportation Research Institute (UMTRI), and an April 24, 1992 letter from UMTRI to RSPA containing further information about data published in the 1987 TIFA Factbook;

(2) R.D. Ervin et al., "Future Configuration of Tank Vehicles Hauling Flammable Liquids in Michigan," Dec. 1980, University of Michigan Highway Safety Research Institute, Report No. UM-HSRI-80-73-1;

(3) J.J. Keller & Associates, Inc., Vehicle Sizes & Weights Manual, pp. FED 1 & 2, NY-1 to NY-9;

(4) A letter from the Mosholu-Montefiore Senior Center to Secretary of Transportation Andrew Card;

(5) A letter from Senator Bill Bradley to RSPA Administrator Travis P. Dungan; and

(6) A comment received by RSPA which the commenter failed to send to the parties as required by RSPA's Federal Register notices.

This constitutes notice that RSPA has received and placed in the docket all substantive information it considers necessary to process the City's application for a waiver of preemption.

Issued in Washington, DC, on May 7, 1992.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 92-11333 Filed 5-13-92; 8:45 am]

BILLING CODE 4910-30-M

## DEPARTMENT OF THE TREASURY

### Public Information Collection Requirements Submitted to OMB for Review

Date: May 8, 1992.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1989, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171, Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

#### Internal Revenue Service

OMB Number: 1545-0192.

Form Number: IRS Form 4970.

Type of Review: Extension.

Title: Tax on Accumulation Distribution of Trusts.

Description: Form 4970 is used by a beneficiary of a domestic or foreign trust to compute the tax adjustment attributable to an accumulation distribution. The form is used to verify whether the correct tax has been paid on the accumulation distribution.

Respondents: Individuals or households.

Estimated Number of Responses/

Recordkeepers: 30,000.

Estimated Burden Hours Per

Respondent/Recordkeeper:

Recordkeeping—1 hour, 12 minutes.

Learning about the law or the form—16 minutes.

Preparing the form—1 hour, 30 minutes.

Copying, assembling, and sending the form to the IRS—20 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden:

99,300 hours.

OMB Number: 1545-1057.

Form Number: IRS Form 8800.

Type of Review: Revision.

Title: Application for Additional Extension of Time to File U.S. Return for a Partnership, REMIC, or for Certain Trusts.

Description: Form 8800 is used by partnerships, Real Estate Mortgage Investment Conduits (REMICs), and by certain trusts to request an additional extension of time (of up to 3 months) to file Form 1065, Form 1041, or Form 1066. Form 8800 contains data needed by the IRS to determine whether or not a taxpayer qualifies for such an extension.

Respondents: Farm, Businesses or other for-profit, Small business or organizations.

Estimated Number of Responses: 20,000.

Estimated Burden Hours Per

Respondent: 13 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 4,482 hours.

Clearance Officer: Garrick Shear, (202) 535-4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 92-11355 Filed 5-13-92; 8:45 am]

BILLING CODE 4830-01-M

## Office of the Secretary

[Supplement to Dept. Cir.—Public Debt Series—No. 16-92]

### Treasury Notes, Series A-2002

Washington, May 7, 1992.

The Secretary announced on May 6, 1992, that the interest rate on the notes designated Series A-2002, described in Department Circular—Public Debt Series—No. 16-92 dated April 29, 1992, will be 7½ percent. Interest on the notes will be payable at the rate of 7½ percent per annum.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 92-11331 Filed 5-13-92; 8:45 am]

BILLING CODE 4810-40-M

[Supplement to Dept. Cir.—Public Debt Series—No. 15-92]

### Treasury Notes, Series P-1995

Washington, May 8, 1992.

The Secretary announced on May 5, 1992, that the interest rate on the notes designated Series P-1995, described in Department Circular—Public Debt Series—No. 15-92 dated April 29, 1992, will be 5½ percent. Interest on the notes will be payable at the rate of 5½ percent per annum.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 92-11330 Filed 5-13-92; 8:45 am]

BILLING CODE 4810-40-M

[Number: 16-13]

### Operating Center for Government Accounting and Financial Reporting

Date: May 8, 1992.

1. *Delegation*: By the authority granted to the Fiscal Assistant Secretary by Treasury Order (TO) 101-05, this directive delegates to the Commissioner, Financial Management Service, all authority vested in the Secretary of the Treasury by section 114(b) and (c) of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 3513) relating to the facilities and internal organization necessary to provide the operating center within the Financial Management Service for Governmentwide accounting and financial reporting.

2. *Redelegation*. The Commissioner may establish component organizations within the Service and assign functions to these organizations in such manner as he may determine to be in the interest of efficiency or economy of operation. Any

organizational changes should comply with Treasury Directive (TD) 21-01.

3. *Cancellation.* TD 16-13, "Operating Center for Government Accounting and Financial Reporting," dated September 22, 1986, is superseded.

4. *Authority.* TO 101-05, "Reporting Relationships and Supervision of Officials, Offices and Bureaus, Delegation of Certain Authority, and Order of Succession in the Department of the Treasury."

5. *Reference.* TD 21-01, "Organizational Changes."

6. *Office of Primary Interest.* Office of the Fiscal Assistant Secretary.

Gerald Murphy,

*Fiscal Assistant Secretary.*

[FR Doc. 92-11359 Filed 5-13-92; 8:45 am]

BILLING CODE 4810-25-M

### Customs Service

[TD 92-48]

#### Extension of Amspec, Inc., Customs Approval to Include Accreditations to Perform Certain Laboratory Analyses

**AGENCY:** U.S. Customs Service, Department of the Treasury.

**ACTION:** Notice of the extension of Amspec, Inc., Customs approval to include the accreditation of certain laboratory analyses to be performed for Customs purposes.

**SUMMARY:** Amspec, Inc., of Linden, New Jersey, a Customs approved gauger under § 151.13 of the Customs Regulations (19 CFR 151.13), has been given an extension of its Customs approval to include accreditations to perform the following laboratory analyses at its Linden, New Jersey facility: API Gravity, sediment and water, distillation characteristics, percent by weight of sulphur, Saybolt Universal Viscosity, and anti-knock index.

**SUPPLEMENTARY INFORMATION:** Part 151 of the Customs Regulations provides for the acceptance at Customs Districts of laboratory analyses and gauging reports for certain products from Customs accredited commercial laboratories and approved gaugers. Amspec, Inc., a Customs-approved commercial gauger, has applied to Customs to extend its Customs approval to include the laboratory analyses named above. Review of Amspec, Inc., qualifications shows that the extension is warranted and, accordingly, has been granted.

**EFFECTIVE DATE:** May 4, 1992.

**FOR FURTHER INFORMATION CONTACT:** Ira S. Reese, Special Assistant for Commercial and Tariff Affairs, Office of Laboratories and Scientific Services, U.S. Customs Service, 1301 Constitution Ave. NW., Washington, DC 20229 at (202) 566-2446.

Dated: May 8, 1992.

Ira S. Reese,

*Acting Director, Office of Laboratories and Scientific Services.*

[FR Doc 92-11322 Filed 5-13-92; 8:45 am]

BILLING CODE 4820-02-M

### DEPARTMENT OF VETERANS AFFAIRS

#### Information Collection Under OMB Review

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need

and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

**ADDRESSES:** Copies of the proposed information collection and supporting documents may be obtained from Ann Bickoff, Veterans Health Administration (161B3), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 (202) 535-7407.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395-7316. Do not send requests for benefits to this address.

**DATES:** Comments on the information collection should be directed to the OMB Desk Officer on or before June 15, 1992.

Dated: May 8, 1992.

By direction of the Secretary:

Frank E. Lalley,

*Associate Deputy Assistant Secretary for Information Resources Policies and Oversight.*

#### New Collection

1. A Study of Reproductive Health Outcomes Among Women Vietnam Veterans
2. The purpose of the study is to determine the association of military service in Vietnam with any adverse reproductive health outcomes
3. Individuals or households
4. 6,000 hours
5. 50 minutes
6. One-time
7. 7,200 respondents.

[FR Doc. 92-11329 Filed 5-13-92; 8:45 am]

BILLING CODE 8320-04-M

# Sunshine Act Meetings

Federal Register

Vol. 57, No. 94

Thursday, May 14, 1992

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 ELECTION COMMISSION

"FEDERAL REGISTER" NUMBER: 92-10272.

**PREVIOUSLY ANNOUNCED DATE AND TIME:**  
Thursday, May 7, 1992, 10:00 a.m.,  
Meeting Open to the Public.

The following item was added to the agenda:

Americans for Robertson, Inc.—Extension of Time to Respond to the Final Audit Report.

**DATE AND TIME:** Tuesday, May 19, 1992, 10:00 a.m.

**PLACE:** 999 E Street, N.W., Washington, DC.

**STATUS:** This Meeting Will Be Closed to the Public.

**ITEMS TO BE DISCUSSED:**

Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration internal personnel rules and procedures or matters affecting a particular employee

**DATE AND TIME:** Wednesday, June 3, 1992, 10:00 a.m.

**PLACE:** 999 E Street, N.W., Washington, D.C. (Ninth Floor.)

**STATUS:** This Special Meeting Will Be Open to the Public.

**ITEM TO BE DISCUSSED:**

Notice of Proposed Rulemaking on the MCFL decision.

**PERSON TO CONTACT FOR INFORMATION:**

Mr. Fred Eiland, Press Officer,  
Telephone: (202) 219-4155.

Delores Harris,

*Administrative Assistant.*

[FR Doc. 92-11491 Filed 5-12-92; 2:24 pm]

BILLING CODE 6715-01-M

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## Corrections

Federal Register

Vol. 57, No. 94

Thursday, May 14, 1992

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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.

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### DEPARTMENT OF HEALTH AND HUMAN SERVICES

#### Health Resources and Services Administration

#### National Organ Transplant Act; Grants to increase Organ Donation

##### *Correction*

In notice document 92-9898 beginning on page 18158 in the issue of Wednesday, April 29, 1992, in the second column under **FOR FURTHER INFORMATION CONTACT:**, in the seventh line, the telephone number should read "301-443-2280".

BILLING CODE 1505-01-D

# Reader Aids

Federal Register

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Thursday, May 14, 1992

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**LIST OF PUBLIC LAWS**

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202-523-6641. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202-512-2470).

**S.J. Res. 174/P.L. 102-278**  
 Designating the month of May 1992, as "National Amyotrophic Lateral Sclerosis Awareness Month". (May 9, 1992; 106 Stat. 128; 2 pages) Price: \$1.00

**S.J. Res. 222/P.L. 102-279**  
 To designate 1992 as the "Year of Reconciliation Between American Indians and non-Indians". (May 9, 1992; 106 Stat. 130; 2 pages) Price: \$1.00

**H.J. Res. 430/P.L. 102-280**  
 To designate May 4, 1992, through May 10, 1992, as "Public Service Recognition Week". (May 11, 1992; 106 Stat. 132; 1 page) Price: \$1.00

Last List May 1, 1992

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# The United States Government Manual 1990/91

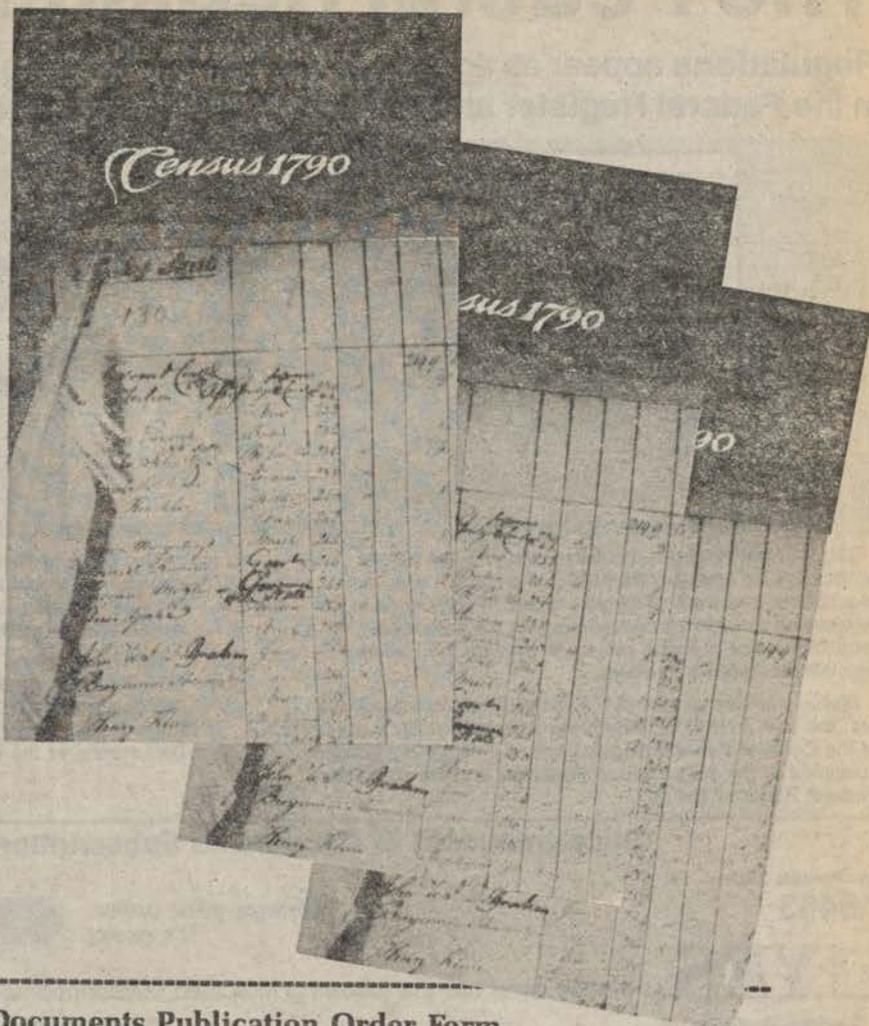
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