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WHO: The Office of the Federal Register.

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Presidential Documents

Title 3—

The President

Proclamation 6454 of July 1, 1992

National Literacy Day, 1992

By the President of the United States of America

A Proclamation

Literacy not only constitutes a fundamental set of skills in a world where so much depends on the ability to read and to comprehend the written word—from city maps and children's school reports to job applications and tax forms—it also provides an inexhaustible source of opportunity and enrichment. Literacy gives us access to the great books and to other works that contain the creative genius and acquired wisdom of the ages. It also enables us to exercise more fully our rights and responsibilities as citizens, helping us to be more informed voters and more effective parents and teachers of our children. More than the ability to read and write, literacy is the priceless legacy of families who foster a love of learning and a commitment to education in each generation. It is also the vital tool of a work force that must have the knowledge and skills, including the technical skills, that are needed to excel in an increasingly competitive global environment.

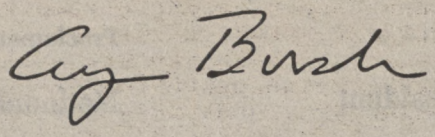
On this occasion, we reaffirm the importance of literacy to the social and economic advancement of individuals and to the continued productivity and prosperity of our Nation. We also recognize all those who are working to promote literacy—among adults, as well as youth. In addition to thousands of dedicated teachers, this includes countless volunteers who serve as tutors and mentors, businesses and community associations that support libraries and literacy programs, and, of course, millions of parents who read together with their children and who take an active interest in their homework and in their progress in school.

As part of our America 2000 campaign, the Federal Government has been working to achieve our National Education Goal of full literacy for all Americans. In 1990, I established a Task Force on Literacy to coordinate Federal literacy policies and programs and to spur efforts to improve literacy in the United States. Last year I was pleased to sign the National Literacy Act of 1991, which provides for greater coordination of literacy programs, an historic step toward a more literate America.

The Congress, by House Joint Resolution 499, has designated July 2, 1992, as "National Literacy Day" and has requested the President to issue a proclamation in observance of this day.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim July 2, 1992, as National Literacy Day. I call on all Americans to observe this day with appropriate programs and activities in recognition of the importance of literacy to individuals and to our Nation. I urge parents, especially, to recognize the importance of reading with their children and to encourage them, through word and example, to discover the rewards of lifelong learning.

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



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Rules and Regulations

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

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 157

[Docket No. RM92-4-001; Order No. 542-A]

Deletion of Certain Outdated or Nonessential Regulations Pertaining to the Commission's Jurisdiction Over Natural Gas; Order Denying Rehearing

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; order denying rehearing.

SUMMARY: On May 1, 1992, the Commission issued Order No. 542 (III FERC Stats. and Regs. ¶ 30,945, 57 FR 21891 (May 26, 1992)) which deleted certain outdated or nonessential regulations that pertained to the Commission's jurisdiction over natural gas. A request for rehearing was filed by Northwest Natural Gas Company (Northwest Natural) on May 28, 1992. This order denies Northwest Natural's request for rehearing.

EFFECTIVE DATE: June 29, 1992.

FOR FURTHER INFORMATION CONTACT: James Whitfield, Jr., Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 208-0119.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the Federal Register, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in room 3308, 941 North Capitol Street, NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208-1397. To access CIPS, set your communications software to use 300, 1200, or 2400 baud, full duplex, no parity, 8 data bits and 1 stop bit. The full text of this order will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's contractor, La Dorn Systems Corporation, also located in room 3308, 941 North Capitol Street, NE., Washington, DC 20426.

Before Commissioners: Martin L. Allday, Chairman; Charles A. Trabandt, Elizabeth Anne Moler, Jerry J. Langdon and Branko Terzic.

On May 1, 1992, the Commission issued Order No. 542,[1] which deleted certain outdated or nonessential regulations that pertained to the Commission's jurisdiction over natural gas. On May 28, 1992, Northwest Natural Gas Company (Northwest Natural) filed a request for rehearing of Order No. 542. In particular, Northwest Natural's request for rehearing pertains to the deletion of § 157.7(d) of the Commission's regulations. For the reasons discussed below, the Commission will deny Northwest Natural's request for rehearing.

Background

Northwest Natural, which is exempt from Commission jurisdiction under section 1(c) of the Natural Gas Act (Hinshaw amendment),[2] purchases, sells, and transports natural gas to customers in the states of Oregon and Washington. Northwest Pipeline Corporation (Northwest Pipeline), an interstate natural gas pipeline,[3] supplies most of this gas to Northwest Natural.

In Order No. 542, the Commission stated that certain of its regulations pertaining to natural gas matters were either outdated or served no useful purpose.[4] Accordingly, those regulations were deleted. The deleted regulations were included in 18 CFR parts 2, 154, 155, 157, 159, 160, 260,,281, and 375. The regulations deleted under part 157 are of concern here.

The Commission deleted §§ 157.7(b)-(g) and § 157.42 of part 157. Sections 157.7(b)-(g) set out rules for budget-type certificates for gas supply facilities, miscellaneous rearrangements of facilities, storage facilities, direct sales service and facilities, and field compression facilities. In deleting these sections, the Commission stated that the transactions covered by these sections are covered under subpart F of part 157 of the Commission's regulations.

In its request for rehearing, Northwest Natural opposes only the deletion of § 157.7(d). Basically § 157.7(d) provided for the submission of an abbreviated application for a budget-type certificate authorizing the construction and operation of natural gas pipeline and compression facilities for the testing and development of underground reservoirs for the possible storage of gas up to maximum of three-years, subject to certain volumetric and expenditure limitations.

Northwest Natural's Request for Rehearing

Northwest Natural states that during the 1970's it undertook a program of drilling in Oregon for the purpose of developing underground storage. According to Northwest Natural, its effort resulted in the discovery of commercially producible gas reserves in the Mist field. Northwest Natural also states that it believes that the Mist field has additional formations that may be feasible for storage development. Northwest Natural adds that it is considering the development of these

[1] Deletion of Certain Outdated or Nonessential Regulations Pertaining to the Commission's Jurisdiction Over Natural Gas, 59 FERC ¶ 61,123 (1992).

[2] 15 U.S.C. 717(c).

[3] By order issued May 20, 1992, the Commission announced, consistent with Order No. 636, its intent to terminate certificates issued to Northwest Pipeline Corporation, among others, that authorized certain firm and interruptible storage services on a self-implementing basis. 59 FERC ¶ 61,205 (1992).

[4] Contemporaneously with the issuance of Order No. 542, the Commission issued two additional orders that, among other things, deleted certain outdated or obsolete regulations pertaining to the Commission's jurisdiction over electric and hydroelectric power. See Order No. 540, Modification of Hydro Electric Procedural Regulations, Including the Deletion of Certain Outdated or Non-Essential Regulations, 59 FERC ¶ 61,124 (1992); and Order No. 541, Deletions of Certain Outdated or Nonessential Regulations Pertaining to the Commission's Jurisdiction Under Parts II and III of the Federal Power Act, the Public Utility Regulatory Policies Act of 1978, the Pacific Northwest Electric Power Planning and Conservation Act and Delegations from the Secretary of Energy, 59 FERC ¶ 61,122 (1992).

formations for use in interstate commerce with services provided through the Northwest Pipeline system and other pipeline systems. If feasible, according to Northwest Natural, interstate storage service could be provided by Northwest Natural's subsidiaries and affiliates, which would be subject to the Commission's Natural Gas Act jurisdiction.

Northwest Natural also asserts that § 157.7(d) allowed the certificate holder to evaluate the economic, physical, and financial viability of a storage project and contemplated that certificate applications would be filed, if justified based on that evaluation, to provide interstate services under other sections of the Commission's regulations. Northwest Natural contends that the § 157.7(d) budget-type certification authorization would be valuable for non-jurisdictional companies. Northwest Natural argues that the deletion of § 157.7(d) prevents it from evaluating storage development.

Northwest Natural argues that § 157.7(d) is needed and should be retained. Northwest Natural also argues that by eliminating § 157.7(d), the Commission discriminates against non-interstate pipelines in establishing a *de facto* preference for interstate pipelines in testing and developing storage projects for interstate service. Additionally, Northwest Natural asserts that the Commission erred (1) in failing to conclude that Order No. 636 [5] supports retention of § 157.7(d); (2) in finding that the authorization under § 157.7(d) is covered by sections in subpart F of part 157 of the Commission's regulations; (3) by not providing notice and an opportunity to comment on the deletion of § 157.7(d); and (4) in making the rule effective upon issuance.

Discussion

The Commission is unpersuaded by the arguments made in Northwest Natural's request for rehearing. Northwest Natural's arguments are grounded on two flawed premises: (1) That the budget-type authorizations under former § 157.7 of the Commission's regulations were still permitted after Order No. 234, and (2) that budget-type storage authorizations formerly available under § 157.7(d) also applied to non-interstate pipelines. Both premises are incorrect.

In Order No. 234,[6] which amended part 157 by adding subpart F to provide for interstate pipeline blanket certificate and abandonment authorization for certain activities, the Commission stated:

> [T]he Commission will not accept any new applications for budget-type certificates. It is expected that the blanket certificate eventually will replace the budget-type certificate.[7]

Furthermore, in Order No. 234–A, the Commission stated:

> The blanket certificate program is meant to supersede the budget-type authorizations previously available under § 157.7 of the regulations.[8]

Nothing could be more clear to show that budget-type authorizations were no longer being granted, and that § 157.7(d) was a remnant of a former regulatory era that was appropriately deleted.

Moreover, the Commission's regulations obviously apply only to pipelines regulated by the Commission. Thus, non-jurisdictional pipelines are not subject to the requirements of part 157 of the regulations, and the budget-type authorizations under § 157.7 have never been available to non-jurisdictional pipelines, including Northwest Natural,[9] even prior to their supersession by Order No. 234. Accordingly, Northwest Natural's premise that the budget-type authorization under § 157.7(d) was available to non-jurisdictional pipelines is wrong.

Inasmuch as the budget-type authorizations under § 157.7(d) were never available to intrastate pipelines, there is no merit to Northwest Natural's argument that the Commission, by eliminating § 157.7(d), discriminates against non-interstate pipelines, or establishes a *de facto* preference for interstate pipelines in the testing and development storage projects.

The Commission also finds unpersuasive Northwest Natural's argument that the Commission erred in finding that the former authorization under § 157.7(d) is now covered by subpart F of part 157. Order No. 234 stated clearly that the blanket certificate program provided for under subpart F of part 157 was meant to supersede the budget-type authorizations previously available under § 157.7.[10]

Northwest Natural's procedural argument that the Commission erred by not issuing notice and providing an opportunity for comments prior to the issuance of Order No. 542 is also based on the same illusory premise that the deleted regulation was still in use. Since, as indicated above, neither Northwest Natural nor any other pipeline could file for budget-type authorization under § 157.7 at the time it was rescinded, issuance of Order No. 542 could not alter any person's substantive rights or interests. In these circumstances, the Administrative Procedure Act does not require prior notice and comment.[11]

The Commission also rejects Northwest Natural's related procedural argument that it erred by making its rule effective immediately upon issuance. Since Order No. 542 did not affect the substantive rights or interests of any party, but merely deleted regulations that were no longer pertinent, there was no reason to provide for a period of time between issuance of the rule and its effectiveness.

In sum, the Commission finds no merit in Northwest Natural's argument that Order No. 636 supports retention of § 157.7(d). Order No. 234 concluded long ago that no new applications for budget-type certificates would be accepted, nor did Order No. 636 resurrect the budget-type certificate program. In any event, as will be discussed below, the deletion of § 157.7(d) does not forestall Northwest Natural from developing and testing storage projects if it so wishes.

If Northwest Natural wants to be involved in interstate activity, it must apply to the Commission for certificate authorization. Northwest Natural has two choices. First, if wants to maintain its non-jurisdictional status, and has storage capacity in excess of its existing intrastate requirements, it can apply for a limited jurisdiction blanket certificate under § 284.224 of the Commission's regulations to provide storage service that is subject to the Commission's jurisdiction under the Natural Gas Act. On the other hand, Northwest Natural can file for a stand-alone certificate to construct and operate facilities for interstate storage service.[12] However,

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[5] Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation Under part 284 of the Commission's Regulations and Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol. 57 FR 13267 (April 16, 1992), III FERC Stat. & Regs. ¶ 30,939 (1992).

[6] Order No. 234, 47 FR 24266 (June 4, 1982), FERC Stats. & Regs. [Regulations Preambles 1982–1985] ¶ 30,368 (1982), *reh'g granted in part and denied in part*, Order No. 234–A, 47 FR 38877 (September 3, 1982) FERC Stats. and Regs. [Regulations Preambles 1982–1985] ¶ 30,389 (1982).

[7] FERC Statutes and Regulations ¶ 30,368, at p. 30,203 (1982).

[8] FERC Statutes and Regulations ¶ 30,389, at p. 30,266 (1982).

[9] Northwest Natural never filed an application for budget-type authorization.

[10] FERC Statutes and Regulations ¶ 30,389, at p. 30,266 (1982).

[11] 5 U.S.C. 553(b).

[12] If Northwest Natural chooses to pursue this second option, it is encouraged to do so by establishing a separate entity to provide the jurisdictional storage service.

any certificate issued for service provided through those facilities would not be case-specific, but would be an open access blanket transportation certificate.[13]

The Commission orders: Northwest Natural's request for rehearing is denied.

By the Commission

Lois D. Cashell,

Secretary.

[FR Doc. 92–15664 Filed 7–2–92; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 4

[T.D. 92-61]

Addition of Finland to the Pleasure-Vessel List of Countries Entitled to Reciprocal Cruising Licenses

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations by adding Finland to the list of countries whose pleasure vessels may be issued U.S. cruising licenses. Customs has been duly informed that yachts used and employed exclusively as pleasure vessels belonging to any U.S. resident are allowed to arrive at and depart from Finnish ports and cruise in the waters of Finland without being subjected to formal entry and clearance procedures. Therefore, Customs is extending reciprocal entry and clearance privileges to Finnish-flag pleasure vessels.

EFFECTIVE DATE: This amendment is effective July 6, 1992. These reciprocal privileges became effective for Finland on March 19, 1992.

FOR FURTHER INFORMATION CONTACT: B. James Fritz, Carrier Rulings Branch (202) 566–5706.

SUPPLEMENTARY INFORMATION:

Background

Section 4.94(a), Customs Regulations (19 CFR 4.94(a)), provides that U.S.-documented vessels with a recreational endorsement, that are used exclusively for pleasure and not engaged in any trade and that do not violate the U.S. Customs or navigation laws, may proceed from port to port in the U.S. or to foreign ports without entering and clearing, provided they have not visited a hovering vessel. However, when returning from a foreign port or place, such pleasure vessels are required to report their arrival pursuant to § 4.2, Customs Regulations (19 CFR 4.2).

Foreign-flag yachts entering the U.S. are generally required to comply with the laws applicable to foreign vessels arriving at, departing from, and proceeding between ports of the U.S. See, for example Sections 433 and 1435, Tariff Act of 1930, as amended (19 U.S.C 1433 and 1435). However, § 4.94(b), Customs Regulations (19 CFR 4.94(b)), provides that pleasure vessels from certain countries found to exempt U.S. pleasure vessels from certain formal Customs procedures may be issued cruising licenses that reciprocally exempt them from similar, U.S. formal entry and clearance procedures (*e.g.*, filing manifests, obtaining permits to proceed, and paying entry and clearance fees). Then, upon arrival at each U.S. port of entry, the masters of such licensed vessels simply report the fact of arrival to the appropriate Customs office. Also, yachts or pleasure vessels not carrying passengers or merchandise in trade are exempt from paying tonnage tax and light money pursuant to § 4.21(b)(5), Customs Regulations (19 CFR 4.21(b)(5)). The list of such countries that have been granted reciprocal customs privileges is set forth at § 4.94(b).

By diplomatic note dated March 16, 1992, the Finnish Embassy in Washington, DC, informed the Department of State that Finland allows U.S. yachts and other pleasure boats to arrive at and depart from Finnish ports and to cruise without payment of import duties or taxes and free of import prohibitions and restrictions, subject to re-exportation and certain other conditions. By letter dated March 19, 1992, the Department of State advised the Chief, Carrier Rulings Branch, U.S. Customs Service, that the Finnish treatment of U.S. pleasure vessels in Finnish waters appeared to satisfy the conditions for reciprocal customs privileges and recommended that Finland be added to the list of countries under the provisions of 19 CFR 4.94(b). The Chief, Carrier Rulings Branch, is of the opinion that satisfactory evidence had been furnished to grant the reciprocal privileges allowed under § 4.94(b), effective March 19, 1992, and requested that Finland be added to the list of countries enumerated at § 4.94(b).

Authority to amend this section of the Customs Regulations has been delegated to the Chief, Regulations and Disclosure Law Branch.

Inapplicability of Public Notice and Comment Requirements, Delayed Effective Date Requirements, The Regulatory Flexibility Act, and Executive Order 12291

Because this amendment merely reflects a statutory requirement that confers a benefit upon the public, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure thereon are not required. Further, for the same reasons, good cause exists for dispensing with a delayed effective date under 5 U.S.C. 553(d)(1) and (3). Since this document is not subject to the notice and public procedure requirements of 5 U.S.C. 553, it is not subject to provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This amendment does not meet the criteria for a "major rule" as defined in E.O. 12291; therefore, a regulatory impact analysis is not required.

Drafting Information

The principal author of this document was Gregory R. Vilders, Regulations and Disclosure Law Branch.

List of Subjects in 19 CFR Part 4

Customs duties and inspection, Maritime carriers, Vessels, Yachts.

Amendment to the Regulations

To reflect the reciprocal privileges granted to vessels registered in Finland, Part 4, Customs Regulations (19 CFR part 4), is amended as set forth below:

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

1. The authority citation for part 4 continues to read in part as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1624; 46 U.S.C. App. 3;

* * * * *

Section 4.94 also issued under 19 U.S.C. 1433, 1434, 1435, 1441, 46 U.S.C. App. 91, 104, 313, 314;

* * * * *

§ 4.94 [Amended]

2. In § 4.94, paragraph (b) is amended by inserting, in appropriate alphabetical order, "Finland" in the list of countries whose yachts may be issued U.S. cruising licenses.

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[13] See Blue Lake Gas Storage Company, *et al.*, 59 FERC ¶ 61,118 (1992) (*Blue Lake*). In *Blue Lake*, the Commission, among other things, denied Blue Lake's request for case-specific certificate authority to provide storage service to ANR Pipeline Company, granted Blue Lake a blanket transportation certificate under part 284, subpart G, and announced that it will no longer grant case-specific storage certificates. The granting of case-specific storage certificates, is no longer warranted because of the role played by open access transportation in today's market, and because the granting of such certificates would conflict with the Commission's open access transportation policy to add major new facilities to the interstate system that are not now subject to open access.

Dated: June 26, 1992.

Kathryn C. Peterson,

Chief, Regulations and Disclosure Law Branch.

[FR Doc. 92-15590 Filed 7-2-92; 8:45 am]

BILLING CODE 4820-02-M

19 CFR Part 4

[T.D. 92-62]

Addition of St. Vincent and the Grenadines to the Coastwise-Trade List of Nations Entitled to Certain Reciprocal Vessel Privileges

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations by adding St. Vincent and the Grenadines to the list of nations whose vessels are entitled to certain reciprocal coastwise trade privileges relating to the transport of empty cargo vans, empty lift vans, and empty shipping tanks between points in the U.S. Customs has been duly informed that the Government of St. Vincent and the Grenadines places no restrictions on the carriage of empty cargo vans, empty lift vans, empty shipping tanks, and stevedoring equipment by U.S. vessels between its ports. Therefore, Customs is extending reciprocal coastwise trade privileges to St. Vincent and Grenadine-flag vessels.

DATES: This amendment is effective July 6, 1992. These reciprocal privileges for vessels registered in St. Vincent and the Grenadines became effective on January 14, 1992.

FOR FURTHER INFORMATION CONTACT: B. James Fritz, Carrier Rulings Branch (202) 566-5706.

SUPPLEMENTARY INFORMATION:

Background

Section 27, Merchant Marine Act of 1920, as amended (46 U.S.C. App. 883), referred to as the Jones Act, provides generally that no merchandise shall be transported by water, or by land and water, between points in the U.S. except in vessels built in and documented under the laws of the U.S. and owned by U.S. citizens. However, the sixth proviso, as amended, states that, upon a finding by the Secretary of the Treasury, pursuant to information obtained and furnished by the Secretary of State, that a foreign nation does not restrict the transportation of certain articles between its ports by vessels of the U.S., reciprocal privileges will be accorded to vessels of that nation, and the prohibition against the transportation of those articles between points in the U.S. will not apply to its vessels.

The regulations implementing these reciprocal coastwise transportation privilege provisions are found at § 4.93, Customs Regulations (19 CFR 4.93). Section 4.93(a)(1) provides for the exemption for certain nations' vessels transporting empty cargo vans, empty lift vans, and empty shipping tanks, and § 4.93(b)(1) enumerates those nations found to extend reciprocal privileges to U.S. vessels in this regard. Section 4.93(a)(2) provides for a similar exemption relating to stevedoring equipment and material, and § 4.93(b)(2) similarly enumerates those nations found to extend similar reciprocal privileges to U.S. vessels in this regard.

Based on diplomatic notes from the Government of St. Vincent and the Grenadines to the Department of State, on January 14, 1992, the Department of State advised the Chief, Carrier Rulings Branch, U.S. Customs Service, that the evidence of the St. Vincent and the Grenadines' treatment of U.S. vessels on the carriage of empty cargo vans, empty lift vans, empty shipping tanks, and stevedoring equipment between its ports appeared to satisfy the conditions for reciprocal privileges and recommended that St. Vincent and the Grenadines be added to the list of nations under the provisions of 19 CFR 4.93(b) (1) and (2). The Chief, Carrier Rulings Branch, is of the opinion that satisfactory evidence had been furnished to grant the reciprocal privileges allowed under § 4.93, effective January 14, 1992, and requested that St. Vincent and the Grenadines be added to the list of nations enumerated at § 4.93(b)(1) and (2).

Authority to amend this section of the Customs Regulations has been delegated to the Chief, Regulations and Disclosure Law Branch.

Inapplicability of Public Notice and Comment Requirements, Delayed Effective Date Requirements, the Regulatory Flexibility Act, and Executive Order 12291

Because this amendment merely reflects a statutory requirement that confers a benefit upon the public, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure thereon are not required. Further, for the same reasons, good cause exists for dispensing with a delayed effective date under 5 U.S.C. 553(d) (1) and (3). Since this document is not subject to the notice and public procedure requirements of 5 U.S.C. 553, it is not subject to provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This amendment does not meet the criteria for a "major rule" as defined in E.O. 12291; therefore, a regulatory impact analysis is not required.

Drafting Information

The principal author of this document was Gregory R. Vilders, Regulations and Disclosure Law Branch.

List of Subjects in 19 CFR Part 4

Customs duties and inspection, Maritime carriers, Vessels, Coastwise trade.

Amendment to the Regulations

To reflect the reciprocal privileges granted to vessels registered in St. Vincent and the Grenadines, part 4, Customs Regulations (19 CFR part 4), is amended as set forth below:

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

1. The authority citation for part 4 continues to read in part as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1624; 46 U.S.C. App. 3;

* * * * *

Section 4.93 also issued under 19 U.S.C. 1322(a), 46 U.S.C. App. 883;

* * * * *

§ 4.93 [Amended]

2. In § 4.93, paragraphs (b) (1) and (2) are amended by inserting, in appropriate alphabetical order, "St. Vincent and the Grenadines" in the list of nations entitled to reciprocal privileges.

Dated: June 26, 1992.

Kathryn C. Peterson,

Chief, Regulations and Disclosure Law Branch.

[FR Doc. 92-15591 Filed 7-2-92; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Parts 1, 2 and 3

[Docket No. 910246-2140]

RIN 0651-AA43

Changes in Patent and Trademark Assignment Practice

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The Patent and Trademark Office (Office) is amending the rules of practice regarding assignments in patent and trademark cases to improve and clarify the rules, to codify changes in practice and to consolidate the rules. The Office has combined the assignment

rules currently in parts 1 and 2 into a new part 3 directed to assignments.

EFFECTIVE DATE: September 4, 1992. These rules will be applicable to all documents filed with the Office on or after the effective date.

FOR FURTHER INFORMATION CONTACT: Trademark related matters: Lynne Beresford by telephone at (703) 305–9464 or by mail marked to her attention addressed to the Commissioner of Patents and Trademarks, Washington, DC 20231. Patent related matters: Jeffrey V. Nase by telephone at (703) 305–9282 or by mail marked to his attention and addressed to Commissioner of Patents and Trademarks, Box DAC, Washington, DC 20231.

SUPPLEMENTARY INFORMATION: In a Notice of Proposed Rulemaking published in the **Federal Register** on May 10, 1991 at 56 FR 21641 and in the Patent and Trademark Office "Official Gazette" of June 4, 1991 at 1127 O.G. 8–16, the Office proposed to amend the rules of practice in patent and trademark cases to revise, simplify, remove, or clarify existing assignment rules or to codify certain practices currently in effect. Changes were proposed for rules relating to the documents that will be recorded, to the requirements for recording a document, to the effect of recording, to new cover sheet requirements, to the appointment of domestic representatives; and to prosecution by assignees and issuance to assignees. While the existing rules do not require a cover sheet to accompany each document submitted for recording, typically a cover letter is submitted to ensure proper processing of the document.

The Office has encouraged the public to use a cover letter containing specific information concerning the document being submitted with each document submitted for recording. See "Helpful Hints", 1114 Official Gazette 77 (May 29, 1990). The public has adopted the suggested procedure to such an extent that most documents now submitted for recordation are accompanied by a cover letter which contains the suggested data. Documents submitted with these cover letters have enabled the Office to greatly improve the quality and efficiency of the recording process. To better ensure that the correct data is captured in recordation and recorded promptly, the Office is making a cover sheet mandatory.

The cover sheet will contain all the information necessary for the Assignment Branch to properly and promptly process the document.

Written comments were submitted by 12 firms, 2 individuals, 4 corporations and 1 organization. No one testified at the oral hearing held on July 17, 1991.

The following includes a brief discussion of the rules being changed and the reasons for those changes, a detailed section-by-section analysis of the final rules, and an analysis of the comments received in response to the notice of proposed rulemaking.

Specific Rules To Be Deleted or Added

The existing rules of practice in parts 1 and 2 of title 37 of the Code of Federal Regulations which are deleted are §§ 1.32, 1.331, 1.332, 1.333, 1.334, 2.185, 2.186 and 2.187. These rules are deleted in their entirety and rewritten and renumbered under a new part 3. Table 1 is provided to assist readers in correlating previous rules with the new rules.

TABLE 1

Old section	New section
1.32	3.71 and 3.73.
1.331(a)	3.11.
1.331(b)	3.26.
1.331(c)	3.21.
1.332	3.51.
1.333	3.56.
1.334	3.81.
2.185(a)	3.11.
2.185(a)(1)	3.31.
2.185(a)(2)	3.26.
2.185(a)(3)	3.41.
2.185(a)(4)	3.61.
2.185(b)	3.31(b).
2.185(c)	3.51.
2.186	3.71 and 3.73.
2.187	3.85.

Consideration was given to moving § 1.12 (Assignment records open to public inspection.) to part 3. However, since this section primarily relates to records maintained by the Office and procedures for accessing those records, and no comments were received regarding the placement of § 1.12, this section remains under the general heading "Records and Files" of the Patent and Trademark Office.

Discussion of Specific Sections To Be Changed or Added

Section 1.12(a) is revised to reflect the fact that all assignment records related to pre-1955 trademark records and pre-1957 patent records were transferred to the National Archives and Records Administration (NARA) during 1990. All assignments recorded on or after January 1, 1955, for trademarks and May 1, 1957, for patents continue to be maintained by the Office. The pre-1955/1957 records have been transferred to NARA to allow for greater accessibility to the public, improvement of file integrity for the older records, and preservation of these materials. The pre-1955/1957 assignment cards, digest books, and libers were stored in four locations: The Assignment Search Room (ASR) at the Office, the Federal Records Center in Suitland, Maryland, the National Archives in downtown Washington, DC, and the National Archives location in Alexandria, Virginia. Storage of information in these various locations made searching of old assignment records difficult. The materials located at the Federal Records Center could be ordered from the ASR. However, many times it took months to receive the materials.

All assignment records from 1837 to December 31, 1954, for trademarks and from 1837 to April 30, 1957, for patents are now maintained and are open for public inspection in the National Archives Research Room located at the Washington National Records Center Building, 4205 Suitland Road, Suitland, Maryland 20746. Assignments recorded before 1837 are maintained at the National Archives and Records Administration, 841 South Pickett Street, Alexandria, Virginia 22304.

All requests for abstracts of title continue to be provided by the Office upon request and payment of fees set forth in §§ 1.19 and 2.6. Requests for copies and certified copies of the pre-1955 records for trademarks and pre-1957 records for patents should be directed to NARA since those records are not maintained by the Office. Since these records are maintained by NARA, it is more expeditious to request copies directly from NARA, rather than the Office, which would then have to route the requests to NARA. Payment of the fees required by NARA should accompany all requests for copies.

Another change makes clear that separate assignment records are kept for patents and trademarks, and that an extra charge will be imposed by the Office on requests for copies of recorded assignments if the correct reel and frame number are not identified.

Sections 1.17 and 1.46 are amended to make reference to § 3.81, which replaces § 1.334, and delete reference to § 1.334. The amount of the fee for recording a document is not affected by this rule change.

Section 1.104(e) is amended to make reference to part 3, which replaces § 1.331, and delete reference to § 1.331.

Section 3.1 is added to set out definitions of terms used in part 3. Terms which are defined include "application," "assignment," "document," "Office" (meaning Patent and Trademark Office), "recorded document," and "registration."

Definitions are provided to make clear the intended meanings of the terms used in part 3. These definitions are intended to be applicable only to part 3. For example, the term "application" is defined, for the purpose of part 3, to mean a national application for patent, an international application for patent that designates the United States of America, or an application to register a trademark, unless otherwise indicated.

Section 3.11 replaces and modifies the practice set forth in §§ 1.331(a) and 2.185(a), which specify the documents the Office will record. This section specifies that assignments of patents and registrations will be recorded, as well as other documents which affect title to applications, registrations and patents. Section 3.11 requires that a completed cover sheet as specified in §§ 3.28 and 3.31 be submitted with the document to be recorded.

Section 3.16 is added to incorporate the limitation set out in 15 U.S.C. 1060 proscribing the assignment of an intent-to-use trademark application prior to the filing of a statement of use, except as a part of the sale of an on-going business. Because the rules in part 3 are intended to address all rules relating to assignments, it is appropriate to refer to the statutory requirements of an assignment of an intent-to-use trademark application.

Section 3.21 replaces and modifies the practice of § 1.331(c). Section 3.21 sets forth requirements for the identification of patents or patent applications in documents submitted for recording. An assignment relating to a patent must identify the patent by number. The name of the inventor, the issue date, and title of the invention as stated in the patent may also be given in the assignment to provide additional information on the patent being assigned. An assignment relating to a national patent application must identify the national patent application by application number (consisting of the series code and the serial number, e.g., 07/123,456) or serial number and filing date. An assignment relating to an international patent application which designates the United States of America must identify the international application number (e.g., PCT/US90/01234). The name of the inventor, date of filing, and title of the invention as stated in the patent application may also be given in the assignment. If an assignment is executed concurrently with, or subsequent to, the execution of the patent application, but before the patent application is filed, it must identify the patent application by its date of execution, name of each inventor, and title of the invention so that there can be no mistake as to the patent application intended. Assignments submitted for recording that do not identify the patent or patent application as required by this section will not be recorded, but will be returned to the correspondence address that is required to be provided on the cover sheet by § 3.31(e).

Section 3.24 is added to set out formal document requirements to facilitate and expedite the recording process. This section requires that documents, either the original or a true copy of the original, submitted for recording be legible, using only one side of each page. The paper used should be flexible, white, durable, and preferably no larger than 21.6 × 33.1 cm. (8½ × 14 inches), with a 2.5 cm. (one-inch) margin on all sides. Documents submitted in this form are camera-ready and can be recorded expeditiously with little additional handling required. Documents that fail to meet the legibility and single-sided paper requirements of this section will be returned as set forth in § 3.51.

Section 3.26 replaces and modifies the practice of §§ 1.331(b) and 2.185(a)(2). Section 3.26 provides that the Office will accept and record non-English documents provided they are accompanied by a verified English translation signed by the translator. Documents submitted that fail to meet the requirements of this section will be returned as set forth in § 3.51.

Section 3.27 is added to set out how documents submitted for recording should be addressed to the Office. To ensure prompt and proper processing, documents and their cover sheets should be addressed to the Commissioner of Patents and Trademarks, Box Assignments, Washington, DC 20231, unless they are filed together with new applications or with a petition under § 3.81(b). Petitions under § 3.81(b) should be addressed to the Commissioner of Patents and Trademarks, Box DAC, Washington, DC 20231. New applications and other petitions should be addressed to the Commissioner of Patents and Trademarks, Washington, DC 20231.

Section 3.28 is added to set out the requirement that all documents submitted to the Office for recording be accompanied by at least one cover sheet referring either to the patent applications and patents or to the trademark applications and registrations against which the document is to be recorded. Only one set of documents and cover sheets to be recorded should be filed. If a document to be recorded includes interests in, or transactions involving, both patents and trademarks, separate patent and trademark cover sheets must be submitted. If a document to be recorded is not accompanied by a completed cover sheet, the document and any incomplete cover sheet will be returned to the correspondence address for proper completion of the cover sheet and resubmission of the cover sheet and document. While the previous rules did not require a cover sheet to accompany each document submitted for recording, typically a cover letter is submitted to ensure proper processing of the document. The Office is making a cover sheet mandatory in order to better ensure prompt and proper processing of all documents submitted for recording. The cover sheet contains all the information necessary for the Office to process the document.

Section 3.31 is added to set out the formal requirements of the cover sheet. Section 3.31 requires that each patent or trademark cover sheet must contain (1) the name of the party conveying the interest; (2) the name and address of the party receiving the interest; (3) a brief description of the interest conveyed or transaction to be recorded (e.g., assignment, license, change of name, merger, security agreement, etc.); (4) each application number, patent number or registration number against which the document is to be recorded, or an indication that the document is filed together with a patent application; (5) the name and address of the party to whom correspondence concerning the document to be recorded should be mailed; (6) the number of applications, patents or registrations identified in the cover sheet and the total fee; (7) the date the document was executed; (8) an indication that the assignee of a trademark application or registration who is not domiciled in the United States has designated a domestic representative; (9) a statement by the party submitting the document that to the best of the person's knowledge and belief, the information contained on the cover sheet is true and correct, and (10) the signature of the party submitting the document. The term "party" as used in this rule means the person whose name appears on the documents to be recorded, that person's attorney or registered agent, or a corporate officer where a corporation's name appears on the document. Sample cover sheets for patent documents and for trademark documents are shown in appendices A and B.

Section 3.34 is added to set out the procedure to correct obvious errors in a recorded cover sheet. This section requires that if a recorded cover sheet contains an error that is apparent when

the cover sheet is compared with the recorded document, the error will be corrected only if a corrected cover sheet is filed for recordation. The corrected cover sheet must be accompanied by the originally recorded document or a copy of the originally recorded document and by a new assignment recording fee in the appropriate amount.

Section 3.41 replaces and consolidates practice under §§ 1.331(a) and 2.185(a)(3) regarding recording fees. Section 3.41 requires that all requests to record documents be accompanied by the appropriate fee. A fee is charged for each application, patent and registration identified in the cover sheet. The recording fee for patents and patent applications is specified in § 1.21(h). The recording fee for trademark registrations and applications is specified in § 2.6(q).

Section 3.51 replaces and modifies the practice of §§ 1.332 and 2.185(c). Section 3.51 sets the date of recording of a document as the date the document meeting the requirements for recording set forth in this Part is filed in the Office. A document which does not comply with the identification requirements of § 3.21 will not be recorded. For documents not accepted for recording, parties can petition under 37 CFR §§ 1.181 and 2.146(a). Other documents not meeting the requirements for recording, for example, a document submitted without a completed cover sheet, without the required fee, or without any required translation, will be returned for correction to the sender when a return address is available. The returned papers, stamped with the official date of receipt in the Office, will be accompanied by a letter indicating that if the returned papers are corrected and resubmitted to the Office within the time specified in the letter, the Office will consider the original date of filing of the papers as the date of recording of the papers. Submitters can use the certificate procedure under either § 1.8 or § 1.10 for resubmissions of returned papers if they desire to have the benefit of the date of deposit in the United States Postal Service. If the returned papers are not corrected and resubmitted within the specified period, the date of filing of the corrected papers will be considered to be the date of recording of the papers. Extensions of time will not be available to extend the specified period to resubmit the returned papers.

Section 3.54 is added to set out the effect of recording a document. This section states that the recording of a document is not a determination by the Office of the validity of the document or the effect that document has on the title to an application, a patent, or a registration. The Office will determine, when necessary, what effect a document has, including whether a party has the authority to take an action in a matter pending before the Office. Examples of when the Office will need to determine whether a party has the authority to take an action in a matter pending before the Office include: (1) Prosecution by the assignee as in § 3.71; (2) consent of an assignee to the filing of a reissue application as provided in § 1.172; and (3) execution of a disclaimer under § 1.321 by an assignee.

Section 3.56 replaces and modifies the practice of § 1.333. Section 3.56 provides that an assignment, which at the time of its execution is conditional on a given act or event, will be treated by the Office as an absolute assignment. This section serves as notification as to how a conditional assignment will be treated by the Office in any proceeding requiring a determination of the owner of an application, patent or registration. Since the Office will not determine whether a condition has been fulfilled, the Office will treat the submission of such an assignment for recordation as signifying that the act or event has occurred.

Section 3.61 replaces and modifies the practice of § 2.185(a)(4). Section 3.61 sets forth that an assignee of a trademark application or registration not domiciled in the United States must designate a domestic representative in writing to the Office. Assignees of patent applications or patents may designate domestic representatives if the assignee is not residing in the United States. 35 U.S.C. 293. The designation is required to state the name and address of a person residing within the United States on whom may be served process or notice of proceedings affecting the application, patent or registration or rights thereunder.

Section 3.71 replaces and modifies the practice of §§ 1.32 and 2.186. Section 3.71 sets forth that the assignee of record of the entire right, title and interest in an application for patent is entitled to conduct the prosecution of the patent application to the exclusion of the named inventor. Similarly, the assignee of an application for registration is entitled to conduct the prosecution of the trademark application to the exclusion of the applicant.

Section 3.73 is added to set out the procedure by which an assignee can establish the right to take action in an application, patent or registration. The inventor is presumed to be the original owner of a patent application and any patent that may issue therefrom, unless there is an assignment. The original applicant is presumed to be the original owner of a trademark application and any registration that may issue therefrom, unless there is an assignment. Any action before the Office with respect to an assigned patent application, patent, or reexamination may be taken by the assignee of the entire right, title, and interest, provided ownership is established to the satisfaction of the Commissioner. The assignee may establish ownership by submitting to the Office documentary evidence of a chain of title from the original owner to the assignee or by specifying (e.g., reel and frame number, etc.) where such evidence is recorded in the Office. Additionally, when a patent assignee is not represented by an attorney or registered agent, a statement signed by the assignee must also be submitted stating the evidence has been reviewed and certifying that, to the best of the party's knowledge and belief, title is in the party seeking to take the action. Documents submitted to establish ownership may be required to be recorded in the Office as a condition to permitting the requesting party to take action in a matter pending before the Office. Any action before the Office with respect to an assigned trademark registration, application or post-registration matter, may be taken by the assignee provided ownership is established to the satisfaction of the Commissioner by recording an assignment to the assignee or by submitting other proof of the assignment.

Section 3.81 replaces and modifies the practice of § 1.334. Section 3.81 sets forth the procedure for issuance of a patent to an assignee. If an assignment of the entire right, title, and interest is recorded before the issue fee is paid for a patent application, the patent may issue in the name of the assignee. If the assignee holds an undivided part interest, the patent may issue jointly to the inventor and the assignee. At the time the issue fee is paid, the name of the assignee must be provided if the patent is to issue solely or jointly to that assignee. If the assignment is submitted for recording after the date of payment of the issue fee, but prior to issuance of the patent, the assignee may petition that the patent issue to the assignee. Any such petition must be accompanied by the fee set forth in § 1.17(i)(1).

Section 3.85 replaces and modifies the practice of § 2.187. Section 3.85 sets forth the procedure for issuance of a registration to an assignee. The certificate of registration may be issued to the assignee of the applicant, or in a

new name of the applicant, provided that the party files a written request in the trademark application record by the time the application is being prepared for issuance of the certificate of registration, and an appropriate document is recorded in the Office. If the assignment or name change document has not been recorded in the Office, then the written request must state that the document has been filed for recordation. The address of the assignee must be made of record in the trademark application file.

Response to Comments on the Rules

The comments received in response to the notice of proposed rulemaking have been given careful consideration and a number of the suggested modifications have been adopted. The comments and responses are discussed below.

In this discussion, "Patent and Trademark Office" is abbreviated as "Office" or "PTO."

Comment: Two comments were received addressed to the overall rule package. One comment expressed concern over the potential confusion of instituting a new part 3. It was suggested that parts 1 and 2 be amended to contain the necessary changes. Another comment was concerned that the rules and specifically the new cover sheet requirement would impede promptness and accuracy of the recordation process.

Response: The Office has determined that the new rules will result in greater efficiency and accuracy in the recordation process and improve the integrity of the records maintained by the PTO. Further, the PTO believes that a new part 3, containing all rules relating to assignments, will be beneficial to the majority of patent and trademark system users.

Comment: Section 3.1 was proposed to define "application" as an application for patent or an application to register a trademark. One comment questioned whether international applications filed under the Patent Cooperation Treaty were included in the definition of the word "application."

Two comments were received concerning the definition of "assignment." As proposed, § 3.1 defines "assignment" of a trademark in terms of a "trademark application" or "registration." The comments suggested that because Section 10 of the Trademark Act, 15 U.S.C. 1060, speaks in terms of a "registered mark" or a "mark for which application to register has been filed," which was reflected in previous trademark rule 2.186, the different terminology may be construed to permit assignment of a trademark without assignment of the underlying goodwill.

Response: The wording of § 3.1 has been changed to include both national applications for patent and international applications that designate the United States in the term "application."

Also to avoid any potential confusion over the definition of a trademark assignment, the Office adopted the suggestion to reflect Section 10 of the Trademark Act and to refer to a "registered mark" or a "mark for which application to register has been filed" in its definition of assignment.

Comment: As proposed, § 3.16 provides that an application to register a mark under 15 U.S.C. 1051(b) cannot be assigned before a statement of use is filed except to a successor to an ongoing business of the original applicant. One comment suggested § 3.16 be further amended to correct a legislative oversight and permit assignment of the application after an amendment of allege use is filed.

One other comment suggested the PTO define the statutory language "successor to the business of the applicant."

Response: As proposed, Rule 3.16 merely restates the statute. To permit the filing of an assignment to a successor to an on-going business before an amendment to allege use has been filed would make the rule inconsistent with the statute.

As to the definition of "successor to the business of the applicant," it has been determined that in the absence of any statutory definition, it is better left to case law to establish the meaning. A business, or portion thereof, can be transferred or assigned in a variety of ways, and the question of valid ownership might arise in a variety of circumstances. For the PTO to define what constitutes a successor may be unduly restrictive.

Accordingly, the suggested modifications have not been adopted.

Comment: Section 3.21, as proposed, provides that an assignment of a patent or patent application must be identified by number. One comment requested a further amendment to allow the filing of a patent assignment after filing an application for patent but before knowing the application number by allowing identification by the execution date, inventors and title of the invention instead of the application number.

Another comment suggested that assignments relating to trademark applications and registrations should also be required to have the identifying serial and registration numbers within the body of the assignment document.

One comment questioned whether the patent identification number was required in the document or whether the number could just appear on the cover sheet.

Response: Providing the identifying number in the assignment document allows for greater efficiency and accuracy in recording assignments. However, unlike patents, trademarks can have an indefinite life. Assignments may be recorded years after an assignment has occurred to clear up the chain of title. It may not be possible to execute a new assignment to include identifying numbers in the document years later. Accordingly, it is preferable for the PTO to be more flexible in recording trademark assignments which may contain the identifying number in the cover sheet rather than in the document itself. Because of the nature of a patent, less flexibility is permitted. Patent rights, unlike trademark rights, do not exist apart from the issued patent. Accordingly, when an interest in a patent is transferred, the patent identifying number must be in the assignment document. This requirement only applies to assignments, not to documents other than assignments.

The PTO makes every effort to provide applicants with the application numbers for newly-filed patent applications as soon as possible. It is suggested, however, that assignment documents may be written to allow entry of the identifying number after the execution of the assignment. An example of acceptable wording is: "I hereby authorize and request my attorney, (Insert name), of (Insert address), to insert here in parentheses (Application number _____, filed _____) the filing date and application number of said application when known."

Accordingly, the suggested modifications have not been adopted.

Comment: Section 3.24, as proposed, provides the formal requirements for the documents which are to be recorded and the cover sheet. Three comments stated that the one-side only requirement was unreasonable in light of PTO's issuance of two-sided patent and trademark copies and of the practices of other governments and corporations over which the submitter would have no control.

One comment requested clarification of "bond weight paper" and suggested the language used in the rules setting out drawing requirements be adopted.

One comment stated that the document size requirements should only pertain to documents prepared and

executed by parties who wish to convey title.

Two comments questioned whether the PTO would permit the filing of copies or true copies in lieu of the original documents for recording.

Response: The formal requirements set out in § 3.24 are related to PTO's ability to capture on film papers filed with the PTO. The requirements are not related to the other printing or photocopying services PTO provides. Micrographics reproduction requires that only one side of each page be used for efficiency. If the original document is two-sided or the wrong size, the practitioner can comply with this requirement by providing a true copy of the original document using only one side of each page on the correct size paper. The language in § 3.24 has been changed to clarify that true copies or originals are acceptable. Further, the language describing the type of paper to be used has been changed to be consistent with the drawing requirement rules.

Comment: Section 3.28, as proposed, provides that all requests to record a document must be accompanied by the document to be recorded and at least one cover sheet. One comment expressed confusion over whether the document must be accompanied by a cover letter as well as a request for recording. One comment stated the requirement for a cover sheet did not help the PTO with the documents which are filed with applications and the commenter did not see the need for an additional paper included among the papers for a new application.

Response: The first sentence has been rewritten to clarify that only the document and a cover sheet(s) must be submitted. A separate request for recording is not required or needed. Because the cover sheet provides all pertinent information in one place, it will greatly assist the processing of assignments by the PTO. For those applications which are filed with an assignment, the additional cover sheet required for the assignment aids the processing of the assignment.

Comment: Numerous comments were received on the proposed cover sheet requirements of § 3.31. One comment questions whether the form or the contents of the form are being required and cautioned that the cover sheet should not become a technical obstacle to recordation.

Two comments claimed the cover sheet requirement would be burdensome and the documents recorded should speak for themselves.

Two comments objected to the requirement for the characterization of the interest being conveyed. One of the commentors indicated it was not the best evidence of what the interest is and may be misleading while the second commentor was concerned practitioners would be subject to malpractice claims and be made parties to litigation involving the transfer.

One comment stated that requiring the assignee's address was burdensome and excessive. Three comments questioned the lack of consistency between proposed subsections (a) and (b) of § 3.31 which requires only the name of the conveyor but both the name and address of the receiver.

Two comments stated that the language of the rule was unclear as to whether the list of properties within the assignment document should be retyped on the cover sheet, which would be burdensome and fraught with potential errors.

One comment was received suggesting that properties be identified with as much information as possible (i.e., serial number, patent number, filing date, inventors, etc.).

Four comments stated that the requirement for an execution date of the document is excessive and burdensome. One of the comments stated that the execution date may not be as important as the effective date of the document. One suggested the effective date would be more accurate and another suggested the document should speak for itself. One additional comment stated that a nunc pro tunc assignment of the substantive rights of an assignee or assignor may be unduly affected by the requirement for recitation of the execution date.

Nine comments were received objecting to the language of the proposed verification. Some comments recommended that the verification statement be deleted. Other comments recommended that the verification statement be based on "information and belief." The comments indicated (1) practitioners did not want to be held responsible for the information entered on the cover sheet, (2) there was no purpose served by signing the cover sheet because the documents should speak for themselves and (3) under 37 CFR 10.18, a registered practitioner's signature indicates that the filing is correct.

One comment suggested that proposed § 3.31(i) does not recognize the right of some non-lawyers to practice in trademark matters before the PTO.

Additionally, many comments and suggestions were received on the layout of the sample cover sheets.

Response: The proposed purpose of the cover sheet is to provide a synopsis of the vital information contained in a recorded document. The cover sheet form itself is not required, only the information outlined in § 3.31 is required. Use of the sample cover sheet formats appearing as Appendices A and B to the rule package is encouraged. The Office will make paper copies of the sample cover sheets available for customer use. Persons wishing to obtain paper copies of the sample cover sheets should contact the Public Service Center at (703) 305–HELP. Questions regarding the sample cover sheets should be directed to the Assignment and Certification Services Division at (703) 308–9700.

As indicated in the proposed rule package, a majority of documents presently filed for recording are accompanied by a cover letter containing much of the information required in § 3.31. The PTO does not believe standardization of the information submitted is an undue burden. Standardization ensures easy reference to all critical information. Further, the parties or their representatives are in a better position to know or ascertain the nature of the interest involved than the PTO. The document will always speak for itself. However, a characterization assists in putting others on notice as to the nature of the transaction.

It was determined that a verification is not required. The language has been changed to a statement on the cover sheet based on "information and belief." Further, § 3.31(i) has been divided into two paragraphs, one for the statement that is required and one for the signature.

The address of the assignee or receiving party is vital information for maintaining complete assignment records. The original owner is the applicant, for which the Office has the address of record. Each subsequent assignee address is then obtained under this requirement and is of record if the PTO or public needs to contact the present assignee. The execution date is required to determine whether an assignment has been recorded within three months provided in 35 U.S.C. 261 and 15 U.S.C. 1060.

When there is a listing of properties contained within a document, any listing may be copied and attached to the cover sheet to reduce the amount of typing necessary. A notation of this attachment can be made in lieu of entering every property identification number on the cover sheet. Should submitters provide information in addition to that required by § 3.31, it is always welcome, but not required.

The comments received on the layout of the sample cover sheets have all been considered and some modifications have been made. However, the sample cover sheet is not required and it is not part of the rules.

Comment: Section 3.34, as proposed, provides for correction of errors in a recorded cover sheet when the error is apparent by comparing the information on the cover sheet with the recorded document itself. One comment received expressed confusion regarding the correction procedure. Another comment suggested that corrections should not be limited to apparent errors.

Response: The PTO will not compare the cover sheet with the original documents during the recording process except to assure that application and patent numbers are present in patent assignments. Otherwise, it will only check to see that the cover sheet is complete. When a submitter discovers an obvious error on the recorded cover sheet, the PTO will consider a request to correct it when it receives: (1) the original recorded document (or a copy); (2) a corrected cover sheet; and (3) the appropriate fee for each property to be corrected. The PTO will then compare the cover sheet with the document to determine whether the error is apparent on its face. If the error is obvious, the corrected cover sheet will be recorded and the respective Office records corrected. If the error is not obvious, the procedure set forth in the Manual of Patent Examining Procedure, MPEP § 323 will govern for patents and the procedure set forth in *In re Abacab International Computers Ltd.* (Assignee of IHEC, Ltd.), 21 USPQ2d 1078 (Comm'r Pats. 1987), on reconsideration, 21 USPQ2d 1079 (Comm'r Pats. 1988) will govern for trademarks. Submitters may also petition under § 1.183 or § 2.146 for other corrections. Typographical errors made by the Office will be corrected without charge when brought to our attention.

Accordingly, the suggested modification has not been adopted. The rule has only been changed to correct a cross reference.

Comment: As proposed, § 3.51 provides that the date of recording is the date all of the required information is filed in the Office. Incomplete documents will be returned. If the returned documents are resubmitted timely, the document will retain the date on which it was received as incomplete. Two comments were received regarding the time period to be set by the PTO. One comment indicated that any delay may affect the requirements of 15 U.S.C. 1060. It was therefore recommended that the PTO make some type of "conditional entry" in the records indicating an assignment has been submitted so interested members of the public could ascertain that there may be an effective recording date. The other comment suggested the time period for resubmission be long enough to allow communication with foreign parties, but it should be no longer than six months.

Response: After a review of the proposed rule, it was determined that the language of § 3.51 should be clarified to reflect that the originally-submitted papers with the official Office date stamp indicating the original receipt date in the Office must be returned in order to retain the original date. It is the intent of the PTO to set the time for response at one month from the date of mailing of the returned documents from the PTO. It is believed that most correctable errors will involve an incomplete cover sheet or the amount of the fee submitted, both of which can be corrected within one month.

Further, it is the policy of the PTO to make of record only those documents which meet the requirements for recording. It is not beneficial to cloud title to properties with potential transfers.

Comment: Section 3.56, as proposed, is a restatement of former § 1.333 and is made applicable to trademarks. It provides that an assignment which is made conditional upon a condition subsequent will be regarded by the Office as an absolute assignment. One comment was received inquiring as to whether § 3.56 applied to security interests, another was received requesting a reference in the rules to recording of security agreements.

Response: Section 3.56 is applicable only to assignments, as they are defined by § 3.1, that is, a transfer of right, title and interest in a patent or a trademark. A security interest or a security agreement is in the nature of a lien, not an assignment. Accordingly, § 3.56 would not apply to security interests or security agreements which are also recordable. It applies to conditional assignments because the Office has no way of determining whether and when conditions are satisfied and therefore must address this type of assignment in a uniform manner. The reference to the recordability of security agreements is referred to here in the final rule package.

Comment: The second sentence of § 3.71, as proposed, provides: "(t)he assignee of record of the entire right title and interest in a trademark application or registration is entitled to conduct the prosecution of the trademark application or registration to the exclusion of the original applicant or previous assignee." One comment suggested, as had been recommended for the definitions in § 3.1, that language be adopted consistent with section 10 of the Trademark Act, 15 U.S.C. 1060, so there be no confusion as to what can be assigned in the trademark area and further, that the language requiring "entire right, title and interest" be deleted.

Response: As was the case with the PTO's review of § 3.1, the language in § 3.71 has also been modified to eliminate any confusion. Accordingly, § 3.71 now provides for assignments of registered marks or a mark for which an application for registration has been filed, making it consistent with § 3.1. While this change cannot prevent assignments from being made without the underlying goodwill, it may eliminate some confusion.

Comment: Section 3.73, as proposed, provided that a full assignee could take any action before the Office with respect to the assigned application, patent, or registration provided ownership is established to the satisfaction of the Commissioner. The rule further provided that ownership could be established by providing documentary evidence of the chain of title to the assignee. The assignee was also required to submit a verified statement stating the evidence had been reviewed and certifying to the best of the party's belief, title is in the party seeking to take the action. The Office reserved the right to require recordation of any ownership documents. One comment suggested the procedure was too "elaborate" and "confusing" to permit the submitting party to act rapidly. Another comment suggested the Office use the language of former § 2.186 which only required "the assignment has been recorded or that proof of the assignment has been submitted" to enable action by the assignee.

Another comment suggested that a simple statement identifying the documents thought to place ownership in a party should be sufficient. It was believed that no additional benefit accrued by having the party state that they believed they were entitled to take the action because whether or not a party can act is a determination the PTO must make.

Two comments suggested that a literal reading of the rule would require every paper filed on behalf of an assignee be accompanied by a proof of ownership. One comment suggested it was too harsh to preclude a party from taking action in a trademark matter until proof of ownership is established to the satisfaction of the Commissioner. Rather, it was suggested that a party be permitted to take action once documents establishing ownership are filed.

One comment received pointed to the proposed language of § 3.73 providing the statement must be signed by the party or its attorney or agent of record which was a greater requirement than § 1.34(a), if that was intended.

Another comment suggested that the proposed language be changed by deleting the provision that ownership must be established to the satisfaction of the Commissioner and substituting therefore "provided the assignee is owner of the entire right, title, and interest in the patent application, patent, registered mark or mark for which an application for registration has been filed."

One final comment suggested that § 3.73 be changed to specifically set forth that it applied to secure Office acceptance of a Section 8 or 15 affidavit or a section 9 application, 15 U.S.C. 1058, 1059, for trademark filings, and requested examples of the types of documents necessary to establish ownership.

Response: Ownership need only be established the first time the new party wants to act in patent and trademark cases, provided the appropriate documents are recorded. Section 3.73(b) is modified to provide that a statement of ownership need only be provided when a patent assignee wishes to act on a matter. For patents, the PTO believes it is appropriate for the patent assignee to review the documents it believes establishes its ownership prior to filing a paper signed by that assignee. Additionally, the statement will certify that to the best of the assignee's knowledge and belief, title is in that assignee. This will establish, to the satisfaction of the Commissioner, that the assignee knows of no other document establishing title in someone other than the assignee. The PTO will still make the determination of whether the assignee is entitled to take action after a review of the documents.

For trademarks the action sought to be taken can be submitted simultaneously by the party. The action will be examined as will the claim of ownership and the party will be notified whether it is satisfactory. As in the past, "any action" refers to post-registration documents as well.

Other Considerations

The rule changes are in conformity with the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), Executive Orders 12291 and 12612 and the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

The General Counsel of the Department of Commerce has certified to the Chief Counsel for Advocacy, Small Business Administration, that these rule changes will not have a significant adverse economic impact on a substantial number of small entities (Regulatory Flexibility Act, 5 U.S.C. 605(b)). The principal impact of these changes is to require that a cover sheet accompany each document submitted for recording. The rule change includes no additional or increased fees. Substantive rights to use trademarks and patents are not adversely affected.

The Office has determined that these rule changes are not a major rule under Executive Order 12291. The annual effect on the economy will be less than $100 million. Because most of the changes reduce procedural burdens, there will be no major increase in costs or prices for consumers; individual industries; Federal, State or local government agencies; or geographic regions. There will be no significant adverse effects on competition, employment, investment, productivity, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

These rule changes contain a collection-of-information requirement subject to the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* The rule changes add a requirement for a cover sheet to be submitted with each document to be recorded that will expedite the recording process and improve quality. This collection of information requirement is cleared under OMB Control No. 0651–0011. The public reporting burden for this requirement is estimated to be one-half hour per filing, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information.

The Office has also determined that this notice has no Federalism implications affecting the relationship between the National Government and the States as outlined in Executive Order 12612.

List of Subjects

37 CFR Part 1

Administrative practice and procedure, Courts, Freedom of information, Inventions and patents, Reporting and recordkeeping requirements, Small businesses.

37 CFR Part 2

Administrative practice and procedure, Courts, Lawyers, Trademarks.

37 CFR Part 3

Administrative practice and procedure, Inventions and patents, Reporting and recordkeeping requirements, Trademarks.

For the reasons set out in the preamble and pursuant to the authority contained in 15 U.S.C. 1123 and 35 U.S.C. 6, parts 1, 2 and 3 of title 37 of the Code of Federal Regulations are amended as set forth below.

PART 1—RULES OF PRACTICE IN PATENT CASES

1. The authority citation for 37 CFR part 1 would continue to read as follows:

Authority: 35 U.S.C. 6, unless otherwise noted.

2. Section 1.12 paragraphs (a) and (d) are revised to read as follows:

§ 1.12 Assignment records open to public inspection.

(a) (1) Separate assignment records are maintained in the Patent and Trademark Office for patents and trademarks. The assignment records, relating to original or reissue patents, including digests and indexes, for assignments recorded on or after May 1, 1957, and assignment records relating to pending or abandoned trademark applications and to trademark registrations, for assignments recorded on or after January 1, 1955, are open to public inspection at the Patent and Trademark Office, and copies of those assignment records may be obtained upon request and payment of the fee set forth in §§ 1.19 and 2.6 of this chapter.

(2) All records of assignments of patents recorded before May 1, 1957, and all records of trademark assignments recorded before January 1, 1955, are maintained by the National Archives and Records Administration (NARA). The records are open to public inspection. Certified and uncertified copies of those assignment records are provided by NARA upon request and payment of the fees required by NARA.

* * * * *

(d) An order for a copy of an assignment or other document should identify the reel and frame number where the assignment or document is recorded. If a document is identified without specifying its correct reel and frame, an extra charge as set forth in § 1.21(j) will be made for the time consumed in making a search for such assignment.

3. Section 1.17 is amended by revising paragraph (i) (1) to read as follows:

§ 1.17 Patent application processing fees.

* * * * *

(i) (1) For filing a petition to the Commissioner under a section of this part listed below which refers to this paragraph—$130.00.

§ 1.12—for access to an assignment record.
§ 1.14—for access to an application.
§ 1.53—to accord a filing date.
§ 1.55—for entry of late priority papers.
§ 1.60—to accord a filing date.
§ 1.62—to accord a filing date.
§ 1.103—to suspend action in application.
§ 1.177—for divisional reissues to issue separately.
§ 1.312—for amendment after payment of issue fee.
§ 1.313—to withdraw an application from issue.
§ 1.314—to defer issuance of a patent.
§ 1.666(b)—for access to interference settlement agreement.
§ 3.81—for patent to issue to assignee, assignment submitted after payment of the issue fee.

* * * * *

§ 1.32 [Reserved]

4. Section 1.32 is removed and reserved.

5. Section 1.46 is revised to read as follows:

§ 1.46 Assigned inventions and patents.

In case the whole or a part interest in the invention or in the patent to be issued is assigned, the application must still be made or authorized to be made, and an oath or declaration signed, by the inventor or one of the persons mentioned in §§ 1.42, 1.43, or 1.47. However, the patent may be issued to the assignee or jointly to the inventor and the assignee as provided in § 3.81.

6. Section 1.104 is amended by revising paragraph (e) to read as follows:

§ 1.104 Nature of examination; examiner's action.

* * * * *

(e) Co-pending applications will be considered by the examiner to be owned by, or subject to an obligation of assignment to, the same person if:

(1) The application files refer to assignments recorded in the Patent and Trademark Office in accordance with part 3 of this chapter which convey the entire rights in the applications to the same person or organization; or

(2) Copies of unrecorded assignments which convey the entire rights in the applications to the same person or organization are filed in each of the applications; or

(3) An affidavit or declaration by the common owner is filed which states that there is common ownership and states facts which explain why the affiant or declarant believes there is common ownership; or

(4) Other evidence is submitted which establishes common ownership of the applications.

In circumstances where the common owner is a corporation or other organization, an affidavit or declaration may be signed by an official of the corporation or organization empowered to act on behalf of the corporation or organization.

7. The undesignated centerhead above § 1.331 is revised to read as follows:

Arbitration Awards

1.331–1.334 [Reserved]

8. Sections 1.331 through 1.334 are removed and reserved.

PART 2—RULES OF PRACTICE IN TRADEMARK CASES

9. The authority citation for 37 CFR part 2 continues to read as follows:

Authority: 15 U.S.C. 1123; 35 U.S.C. 6, unless otherwise noted.

10. The undesignated centerhead above § 2.185 is removed.

§ 2.185–2.187 [Reserved]

11. Sections 2.185 through 2.187 are removed and reserved.

12. Part 3 is added to read as follows:

PART 3—ASSIGNMENT, RECORDING AND RIGHTS OF ASSIGNEE

Sec.

3.1 Definitions.

Documents Eligible for Recording

3.11 Documents which will be recorded.
3.16 Assignability of trademarks prior to filing of use statements.

Requirements for Recording

3.21 Identification of patents and patent applications.
3.24 Formal requirements for documents and cover sheets.
3.26 English language requirement.
3.27 Mailing address for submitting documents to be recorded.
3.28 Requests for recording.

Cover Sheet Requirements

3.31 Cover sheet content.
3.34 Correction of cover sheet errors.

Fees

3.41 Recording fees.

Date and Effect of Recording

3.51 Recording date.
3.54 Effect of recording.
3.56 Conditional assignments.

Domestic Representative

3.61 Domestic representative.

Prosecution by Assignee

3.71 Prosecution by assignee.
3.73 Establishing right of assignee to prosecute.

Issuance to Assignee

3.81 Issue of patent to assignee.
3.85 Issue of registration to assignee.

Authority: 15 U.S.C. 1123; 35 U.S.C. 6.

§ 3.1 Definitions.

For purposes of this part, the following definitions shall apply:

Application means a national application for patent, an international application that designates the United States of America, or an application to register a trademark unless otherwise indicated.

Assignment means a transfer by a party of all or part of its right, title and interest in a patent or patent application, or a transfer of its entire right, title and interest in a registered mark or a mark for which an application to register has been filed.

Document means a document which a party requests to be recorded in the Office pursuant to § 3.11 and which affects some interest in an application, patent, or registration.

Office means the Patent and Trademark Office.

Recorded document means a document which has been recorded in the Office pursuant to § 3.11.

Registration means a trademark registration issued by the Office.

Documents Eligible for Recording

§ 3.11 Documents which will be recorded.

Assignments of applications, patents, and registrations, accompanied by completed cover sheets as specified in §§ 3.28 and 3.31, will be recorded in the Office. Other documents, accompanied by completed cover sheets as specified in §§ 3.28 and 3.31, affecting title to applications, patents, or registrations, will be recorded as provided in this part or at the discretion of the Commissioner.

§ 3.16 Assignability of trademarks prior to filing of use statements.

No application to register a mark under 15 U.S.C. 1051(b) is assignable prior to the filing of the verified statement of use under 15 U.S.C. 1051(d) except to a successor to the business of the applicant, or portion thereof, to which the mark pertains, if that business is ongoing and existing.

Requirements for Recording

§ 3.21 Identification of patents and patent applications.

An assignment relating to a patent must identify the patent by the patent number. An assignment relating to a national patent application must identify the national patent application by the application number (consisting of the series code and the serial number, e.g., 07/123,456) or the serial number and filing date. An assignment relating to an international patent application which designates the United States of America must identify the international application by the international application number (e.g., PCT/US90/01234). If an assignment is executed concurrently with, or subsequent to, the execution of the patent application, but before the patent application is filed, it must identify the patent application by its date of execution, name of each inventor, and title of the invention so that there can be no mistake as to the patent application intended.

§ 3.24 Formal requirements for documents and cover sheets.

The document and cover sheet must be legible. Either the original document or a true copy of the original document, may be submitted for recording. Only one side of each page shall be used. The paper used should be flexible, strong, white, non-shiny, durable, and preferably no larger than 21.6 x 33.1 cm. (8½ x 14 inches) with a 2.5 cm. (one-inch) margin on all sides.

§ 3.26 English language requirement.

The Office will accept and record non-English language documents only if accompanied by a verified English translation signed by the individual making the translation.

§ 3.27 Mailing address for submitting documents to be recorded.

Documents and cover sheets to be recorded should be addressed to the Commissioner of Patents and Trademarks, Box Assignments, Washington, DC 20231, unless they are filed together with new applications or with a petition under § 3.81(b).

§ 3.28 Requests for recording.

Each document submitted to the Office for recording must be accompanied by at least one cover sheet as specified in § 3.31 referring either to those patent applications and patents, or to those trademark applications and registrations, against which the document is to be recorded. If a document to be recorded includes interests in, or transactions involving, both patents and trademarks, separate patent and trademark cover sheets must be submitted. Only one set of documents and cover sheets to be recorded should be filed. If a document to be recorded is not accompanied by a completed cover sheet, the document and any incomplete cover sheet will be returned pursuant to § 3.51 for proper completion of a cover sheet and resubmission of the document and a completed cover sheet.

Cover Sheet Requirements

§ 3.31 Cover sheet content.

(a) Each patent or trademark cover sheet required by § 3.28 must contain:

(1) The name of the party conveying the interest;

(2) The name and address of the party receiving the interest;

(3) A description of the interest conveyed or transaction to be recorded;

(4) Each application number, patent number or registration number against which the document is to be recorded, or an indication that the document is filed together with a patent application;

(5) The name and address of the party to whom correspondence concerning the request to record the document should be mailed;

(6) The number of applications, patents or registrations identified in the cover sheet and the total fee;

(7) The date the document was executed;

(8) An indication that the assignee of a trademark application or registration who is not domiciled in the United States has designated a domestic representative (see § 3.61); and

(9) A statement by the party submitting the document that to the best of the person's knowledge and belief, the information contained on the cover sheet is true and correct and any copy submitted is a true copy of the original document; and

(10) The signature of the party submitting the document.

(b) A cover sheet may not refer to both patents and trademarks.

§ 3.34 Correction of cover sheet errors.

(a) An error in a cover sheet recorded pursuant to § 3.11 will be corrected only if:

(1) The error is apparent when the cover sheet is compared with the recorded document to which it pertains, and

(2) A corrected cover sheet is filed for recordation.

(b) The corrected cover sheet must be accompanied by the originally recorded document or a copy of the originally recorded document and by the recording fee as set forth in § 3.41.

Fees

§ 3.41 Recording fees.

All requests to record documents must be accompanied by the appropriate fee. A fee is required for each application, patent and registration against which the document is recorded as identified in the cover sheet. The recording fee is set in § 1.21(h) of this chapter for patents and in § 2.6(q) of this chapter for trademarks.

Date and Effect of Recording

§ 3.51 Recording date.

The date of recording of a document is the date the document meeting the requirements for recording set forth in this part is filed in the Office. A document which does not comply with the identification requirements of § 3.21 will not be recorded. Documents not meeting the other requirements for recording, for example, a document submitted without a completed cover sheet or without the required fee, will be returned for correction to the sender where a correspondence address is available. The returned papers, stamped with the original date of receipt by the Office, will be accompanied by a letter which will indicate that if the returned papers are corrected and resubmitted to the Office within the time specified in the letter, the Office will consider the original date of filing of the papers as the date of recording of the document. The certification procedure under either § 1.8 or § 1.10 of this chapter may be used for resubmissions of returned papers to have the benefit of the date of deposit in the United States Postal Service. If the returned papers are not corrected and resubmitted within the specified period, the date of filing of the corrected papers will be considered to be the date of recording of the document. The specified period to resubmit the returned papers will not be extended.

§ 3.54 Effect of recording.

The recording of a document pursuant to § 3.11 is not a determination by the Office of the validity of the document or the effect that document has on the title

to an application, a patent, or a registration. When necessary, the Office will determine what effect a document has, including whether a party has the authority to take an action in a matter pending before the Office.

§ 3.56 Conditional assignments.

Assignments which are made conditional on the performance of certain acts or events, such as the payment of money or other condition subsequent, if recorded in the Office, are regarded as absolute assignments for Office purposes until cancelled with the written consent of all parties or by the decree of a court of competent jurisdiction. The Office does not determine whether such conditions have been fulfilled.

Domestic Representative

§ 3.61 Domestic representative.

If the assignee of a trademark application or registration is not domiciled in the United States, the assignee must designate, in writing to the Office, a domestic representative. An assignee of a patent application or patent may designate a domestic representative if the assignee is not residing in the United States. The designation shall state the name and address of a person residing within the United States on whom may be served process or notice of proceedings affecting the application, patent or registration or rights thereunder.

Prosecution by Assignee

§ 3.71 Prosecution by assignee.

The assignee of record of the entire right, title and interest in an application for patent is entitled to conduct the prosecution of the patent application to the exclusion of the named inventor or previous assignee. The assignee of a registered trademark or a trademark for which an application to register has been filed is entitled to conduct the prosecution of the trademark application or registration to the exclusion of the original applicant or previous assignee.

§ 3.73 Establishing right of assignee to prosecute.

(a) The inventor is presumed to be the owner of a patent application, and any patent that may issue therefrom, unless there is an assignment. The original applicant is presumed to be the owner of a trademark application unless there is an assignment.

(b) When the assignee of the entire right, title and interest seeks to take action in a matter before the Office with respect to a patent application, trademark application, patent, registration, or reexamination proceeding, the assignee must establish its ownership of the property to the satisfaction of the Commissioner. Ownership is established by submitting to the Office documentary evidence of a chain of title from the original owner to the assignee or by specifying (e.g. reel and frame number, etc.) where such evidence is recorded in the Office. Documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office. In addition, the assignee of a patent application or patent must submit a statement specifying that the evidentiary documents have been reviewed and certifying that, to the best of assignee's knowledge and belief, title is in the assignee seeking to take the action.

Issuance to Assignee

§ 3.81 Issue of patent to assignee.

(a) For a patent application, if an assignment of the entire right, title, and interest is recorded before the issue fee is paid, the patent may issue in the name of the assignee. If the assignee holds an undivided part interest, the patent may issue jointly to the inventor and the assignee. At the time the issue fee is paid, the name of the assignee must be provided if the patent is to issue solely or jointly to that assignee.

(b) If the assignment is submitted for recording after the date of payment of the issue fee, but prior to issuance of the patent, the assignee may petition that the patent issue to the assignee. Any such petition must be accompanied by the fee set forth in § 1.17(i)(1) of this chapter.

§ 3.85 Issue of registration to assignee.

The certificate of registration may be issued to the assignee of the applicant, or in a new name of the applicant, provided that the party files a written request in the trademark application by the time the application is being prepared for issuance of the certificate of registration, and the appropriate document is recorded in the Office. If the assignment or name change document has not been recorded in the Office, then the written request must state that the document has been filed for recordation. The address of the assignee must be made of record in the application file.

Dated: June 24, 1992.

Douglas B. Comer,

Acting Assistant Secretary and Acting Commissioner of Patents and Trademarks

BILLING CODE 3510-16-M

Appendix A

Note--The following appendix will not appear in the Code of Federal Regulations

FORM PTO-1594
1-31-92

RECORDATION FORM COVER SHEET
TRADEMARKS ONLY

U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office

Tab settings ⇨⇨⇨ ▼ ▼ ▼ ▼ ▼ ▼ ▼

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):

❑ Individual(s) ❑ Association
❑ General Partnership ❑ Limited Partnership
❑ Corporation-State
❑ Other _____

Additional name(s) of conveying party(ies) attached? ❑ Yes ❑ No

2. Name and address of receiving party(ies):

Name: _____

Internal Address: _____

Street Address: _____

City: _____ State: _____ ZIP: _____

❑ Individual(s) citizenship _____
❑ Association _____
❑ General Partnership _____
❑ Limited Partnership _____
❑ Corporation-State _____
❑ Other _____

If assignee is not domiciled in the United States, a domestic representative designation is attached: ❑ Yes ❑ No
(Designations must be a separate document from Assignment)
Additional name(s) & address(es) attached? ❑ Yes ❑ No

3. Nature of conveyance:

❑ Assignment ❑ Merger
❑ Security Agreement ❑ Change of Name
❑ Other _____

Execution Date: _____

4. Application number(s) or registration number(s):

A. Trademark Application No.(s)

B. Trademark registration No.(s)

Additional numbers attached? ❑ Yes ❑ No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: _____

Internal Address: _____

Street Address: _____

City: _____ State: _____ ZIP: _____

6. Total number of applications and registrations involved: .....

7. Total fee (37 CFR 3.41):..... $ _____

❑ Enclosed

❑ Authorized to be charged to deposit account

8. Deposit account number:

_____

(Attach duplicate copy of this page if paying by deposit account)

DO NOT USE THIS SPACE

9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

_____ _____ _____
Name of Person Signing Signature Date

Total number of pages comprising cover sheet:

OMB No. 0651-0011 (exp. 4/94)

Do not detach this portion

Mail documents to be recorded with required cover sheet information to:

Commissioner of Patents and Trademarks
Box Assignments
Washington, D.C. 20231

Public burden reporting for this sample cover sheet is estimated to average about 30 minutes per document to be recorded, including time for reviewing the document and gathering the data needed, and completing and reviewing the sample cover sheet. Send comments regarding this burden estimate to the U.S. Patent and Trademark Office, Office of information Systems, PK2-1000C, Washington, D.C. 20231, and to the Office of Management and Budget, Paperwork Reduction Project (0651-0011), Washington, D.C. 20503.

Guidelines for Completing Trademarks Cover Sheets

Cover Sheet information must be submitted with each document to be recorded. If the document to be recorded concerns both patents and trademarks, separate patent and trademark cover sheets, including any attached pages for continuing information, must accompany the document. All pages of the cover sheet should be numbered consecutively, for example, if both a patent and trademark cover sheet is used, and information is continued on one additional page for both patents and trademarks, the pages of the cover sheet would be numbered from 1 to 4.

Item 1. Name of Conveying Party(ies).

Enter the full name of the party(ies) conveying the interest. If there is more than one conveying party, enter a check mark in the "Yes" box to indicate that additional information is attached. The name of the second and any subsequent conveying party(ies) should be placed on an attached page clearly identified as a continuation of the information in Item 1. Enter a check mark in the "No" box, if no information is contained on an attached page.

Item 2. Name and Address of Receiving Party(ies).

Enter the name and full address of the first party receiving the interest. If there is more than one party receiving the interest, enter a check mark in the "Yes" to indicate that additional information is attached. An entity type must be indicated for each receiving party, and the citizenship of individuals must be indicated. If the receiving party is an assignee not domiciled in the United States, a designation of domestic representative is required. A designation of domestic representative must be contained in a document separate from the assignment document. Place a check mark in appropriate box to indicate whether or not a designation of domestic representative is attached. Enter a check mark in the "No" box, if no information is contained on an attached page.

Item 3. Nature of Conveyance.

Place a check mark in the appropriate box describing the nature of the conveying assignment document. If the "Other" box is checked, specify the nature of the conveyance. Enter the execution date of the document. It is preferable to use the name of the month, or an abbreviation of that name, in order that confusion over dates is minimized.

Item 4. Application Number(s) or Registration number(s).

Indicate the application number(s) including series code and serial number, and/or registration number(s) against which the document is to be recorded. Enter a check mark in the appropriate box: "Yes" or "No" if additional numbers appear on attached pages. Be sure to identify numbers included on attached pages as the continuation of Item 4.

Item 5. Name and Address of Party to whom correspondence concerning the document should be mailed.

Enter the name and full address of the party to whom correspondence is to be mailed.

Item 6. Total Applications and Registration Involved.

Enter the total number of applications and trademarks identified for recordation. Be sure to include all applications and registrations identified on the cover sheet and on additional pages.

Block 7. Total Fee Enclosed.

Enter the total fee enclosed or authorized to be charged. A fee is required for each application and registration against which the document is recorded.

Item 8. Deposit Account Number.

Enter the deposit account number to authorize charges. Attach a duplicate copy of cover sheet to be used for the deposit charge account transaction.

Item 9. Statement and Signature.

Enter the name of the person submitting the document. The submitter must sign and date the cover sheet, confirming that to the best of the persons knowledge and belief, the information contained on the cover sheet is correct and that any copy of the document is a true copy of the original document. Enter the total number of pages contained in the cover sheet package, including any attached pages containing information continued from items on the cover sheet.

Appendix B

Note--The following appendix will not appear in the Code of Federal Regulations

FORM PTO-1595
1-31-92

RECORDATION FORM COVER SHEET
PATENTS ONLY

U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office

Tab settings ⇨ ⇨ ⇨ ▼ ▼ ▼ ▼ ▼ ▼ ▼ ▼

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):

Additional name(s) of conveying party(ies) attached? ❑ Yes ❑ No

2. Name and address of receiving party(ies):

Name: _____

Internal Address: _____

_____

_____

Street Address: _____

_____

City: _____ State: _____ ZIP: _____

Additional name(s) & address(es) attached? ❑ Yes ❑ No

3. Nature of conveyance:

❑ Assignment ❑ Merger

❑ Security Agreement ❑ Change of Name

❑ Other _____

Execution Date: _____

4. Application number(s) or patent number(s):

If this document is being filed together with a new application, the execution date of the application is: _____

A. Patent Application No.(s)

B. Patent No.(s)

Additional numbers attached? ❑ Yes ❑ No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: _____

Internal Address: _____

_____

_____

Street Address: _____

_____

City: _____ State: _____ ZIP: _____

6. Total number of applications and patents involved: ____

7. Total fee (37 CFR 3.41):..... $ _____

❑ Enclosed

❑ Authorized to be charged to deposit account

8. Deposit account number:

_____

(Attach duplicate copy of this page if paying by deposit account)

DO NOT USE THIS SPACE

9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

_____ _____ _____

Name of Person Signing Signature Date

Total number of pages comprising cover sheet: ____

OMB No. 0651-0011 (exp. 4/94)

Do not detach this portion

Mail documents to be recorded with required cover sheet information to:

Commissioner of Patents and Trademarks
Box Assignments
Washington, D.C. 20231

Public burden reporting for this sample cover sheet is estimated to average about 30 minutes per document to be recorded, including time for reviewing the document and gathering the data needed, and completing and reviewing the sample cover sheet. Send comments regarding this burden estimate to the U.S. Patent and Trademark Office, Office of information Systems, PK2-1000C, Washington, D.C. 20231, and to the Office of Management and Budget, Paperwork Reduction Project (0651-0011), Washington, D.C. 20503.

Guidelines for Completing Patents Cover Sheets

Cover Sheet information must be submitted with each document to be recorded. If the document to be recorded concerns both patents and trademarks, separate patent and trademark cover sheets, including any attached pages for continuing information, must accompany the document. All pages of the cover sheet should be numbered consecutively, for example, if both a patent and trademark cover sheet is used, and information is continued on one additional page for both patents and trademarks, the pages of the cover sheet would be numbered from 1 to 4.

Item 1. Name of Conveying Party(ies).

Enter the full name of the party(ies) conveying the interest. If there is insufficient space, enter a check mark in the "Yes" box to indicate that additional information is attached. The name of the additional conveying party(ies) should be placed on an attached page clearly identified as a continuation of the information in Item 1. Enter a check mark in the "No" box, if no information is contained on an attached page.

Item 2. Name and Address of Receiving Party(ies).

Enter the name and full address of the first party receiving the interest. If there is more than one party receiving the interest, enter a check mark in the "Yes" box to indicate that additional information is attached. Enter a check mark in the "No" box, if no information is contained on an attached page.

Item 3. Nature of Conveyance.

Place a check mark in the appropriate box describing the nature of the conveying document. If the "Other" box is checked, specify the nature of the conveyance. Enter the execution date of the document. It is preferable to use the name of the month, or an abbreviation of that name, in order that confusion over dates is minimized.

Item 4. Application Number(s) or Patent number(s).

Indicate the application number(s), and/or patent number(s) against which the document is to be recorded. National application numbers must include both the series code and the serial number; and international application numbers must be complete, e.g., 07/123,456 for national application numbers, and PCT/US91/12345 for international application numbers. Enter a check mark in the appropriate box: "Yes" or "No" if additional numbers appear on attached pages. Be sure to identify numbers included on attached pages as the continuation of Item 4.

Item 5. Name and Address of Party to whom correspondence concerning the document should be mailed.

Enter the name and full address of the party to whom correspondence is to be mailed.

Item 6. Total Applications and Patents Involved.

Enter the total number of applications and patents identified for recordation. Be sure to include all applications and patents identified on the cover sheet and on additional pages.

Block 7. Total Fee Enclosed.

Enter the total fee enclosed or authorized to be charged. A fee is required for each application and patent against which the document is recorded.

Item 8. Deposit Account Number.

Enter the deposit account number to authorize charges. Attach a duplicate copy of cover sheet to be used for the deposit charge account transaction.

Item 9. Statement and Signature.

Enter the name of the person submitting the document. The submitter must sign and date the cover sheet, confirming that to the best of the persons knowledge and belief, the information contained on the cover sheet is correct and that any copy of the document is a true copy of the original document. Enter the total number of pages contained in the cover sheet, including any attached pages containing information continued from Items on the cover sheet.

[FR Doc. 92-15378 Filed 7-2-92; 8:45 am]

BILLING CODE 3510-16-C

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60 and 61

[FRL-4150-8]

Standards of Performance for New Stationary Sources; National Emission Standards for Hazardous Air Pollutants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Informational notice.

SUMMARY: On July 15, 1991, the Western North Carolina Regional Air Pollution Control Agency (WNCRAPCA) requested delegation of authority for the implementation and enforcement of the National Emission Standards for Hazardous Air Pollutants (NESHAPS) and the New Source Performance Standards (NSPS). On February 25, 1992, EPA granted delegation of authority as requested. On April 22, 1992, EPA notified the WNCRAPCA that the February 25, 1992, action included the authority to administer certain NSPS and NESHAPS that had not been adopted into the Rules and Regulations of the WNCRAPCA. Since these Rules and Regulations have not been adopted, the February 25, 1992, action cannot include the delegation of authority to administer them.

EFFECTIVE DATE: The effective date is April 22, 1992.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations:

Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30365.

Western North Carolina Regional Air Pollution Control Agency, Buncombe County Courthouse, Asheville, North Carolina 28801–3569.

North Carolina Department of Environment, Health, and Natural Resources, Division of Environmental Management, Air Quality Section, P.O. Box 29535, Raleigh, North Carolina 27616–0535.

FOR FURTHER INFORMATION CONTACT: Michelle Patmon, Air Programs Branch, EPA Region IV, 345 Courtland Street NE. Atlanta, Georgia 30365, and telephone number (404) 347–2864.

SUPPLEMENTARY INFORMATION: Sections 301, in conjunction with sections 110, 111(c)(1), and 112(d)(1) of the Clean Air Act as amended, authorizes the Administrator to delegate his authority to implement and enforce the NSPS and NESHAPS to any State which has submitted adequate implementation and enforcement procedures. On July 15, 1991, the WNCRAPCA requested delegation of authority to administer NSPS and NESHAPS. On February 25, 1992, Region IV granted the request. This delegation of authority included the following NSPS and NESHAPS subparts:

40 CFR Part 60

Subpart Dc—Small-Industrial-Commercial-Institutional Steam Generating Units except § 60.48c(a)(4)

Subpart Ea—Municipal Waste Combustors

Subpart DDD—VOC Emissions from the Polymer Manufacturing Industry except § 60.562–2(c)

Subpart NNN—VOC Emissions from SOCMI Distillation Operations except § 60.663(e)

40 CFR Part 61

Subpart BB—Benzene Emissions From Benzene Transfer Operations

However, the above NSPS and NESHAPS subparts have not been adopted into the Rules and Regulations of the WNCRAPCA. Therefore, as stated in our April 22, 1992, letter, our February 25, 1992, action cannot include the delegation of authority to administer them.

This notice is issued under the authority of sections 101, 110, 111, 112, and 301 of the Clean Air Act, as amended (42 U.S.C. 7401, 7410, 74121, 7412, and 7601).

Dated: June 18, 1992.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 92–15742 Filed 7–2–92; 8:45 am]

BILLING CODE 6560–01–M

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40 CFR Part 61

[FRL-4150-6]

National Emission Standards for Hazardous Air Pollutants Supplemental Delegation of Authority to Nashville-Davidson County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Informational notice.

SUMMARY: On April 1, 1992, the Nashville-Davidson County Metropolitan Health Department of the State of Tennessee requested delegation of authority for the implementation and enforcement of an additional category of the National Emission Standards for Hazardous Air Pollutants (NESHAPS). EPA's review of Nashville-Davidson County's laws, rules, and regulations showed them to be adequate for the implementation and enforcement of this federal standard. EPA granted the delegation as requested.

EFFECTIVE DATE: The effective date of the delegation of authority is May 11, 1992.

ADDRESSES: Copies of the request for delegation of authority and EPA's letter of delegation are available for public inspection during normal business hours at the following locations:

Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365.

Tennessee Department of Environment and Conservation, Customs House, 4th Floor, Nashville, Tennessee 37243–1531.

Metropolitan Health Department, Nashville-Davidson County, 311 23rd Avenue, North, Nashville, Tennessee 37203.

Effective immediately, all requests, applications, reports and other correspondence required pursuant to the newly delegated standards should not be submitted to the Region IV office, but should instead be submitted to the following address: Paul J. Bontrager, P.E., Director, Bureau of Environmental Health Services, Metropolitan Health Department, Nashville-Davidson County, 311 23rd Avenue, North, Nashville, Tennessee 37203.

FOR FURTHER INFORMATION CONTACT: Andrew Fischer, Air Programs Branch, EPA Region IV, 345 Courtland Street NE., Atlanta, Georgia 30365, and telephone number (404) 347–2864.

SUPPLEMENTARY INFORMATION: Section 301, in conjunction with sections 110, 111(c)(1), and 112(d)(1) of the Clean Air Act as amended November 15, 1990 authorize the Administrator to delegate his authority to implement and enforce the standards set out in 40 CFR part 61, National Emission Standards for Hazardous Air Pollutants (NESHAPS).

After a thorough review of the category requested for delegation, the Regional Administrator determined that such delegation was appropriate for this source category with the conditions set forth in the initial delegation letter of August 5, 1975, and subsequent delegation letters of March 29, 1982, April 5, 1985; June 2, 1987; December 2, 1988; and February 20, 1991.

EPA, thereby, delegated its authority for 40 CFR part 61 subpart M, National Emission Standard for Asbestos, except § 61.149(c)(2), § 61.150(a)(4), § 61.151(c), § 61.152(b)(3), § 61.154(d), § 61.155(a).

The Administrator retains the exclusive right to approve equivalent

and alternative test methods, continuous monitoring procedures, and reporting requirements. Therefore, the sections mentioned above of 40 CFR part 61, subpart M are among the sections which may not be delegated.

The EPA hereby notifies the public that it has delegated the authority over certain NESHAP subparts to Nashville-Davidson County of the State of Tennessee.

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

This notice is issued under the authority of sections 101, 110, 111, 112, and 301 of the Clean Air Act, as amended (42 U.S.C. 7401, 7410, 74121, 7412, and 7601).

Dated: June 16, 1992.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 92-15741 Filed 7-2-92; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3260

[WO-610-4141-24 1A]; Circular No. 2636]

RIN 1004-AB90

Geothermal Resources Operations

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations governing appeals of decisions relating to geothermal resources operations to allow an authorized officer's decision to remain in effect during the pendency of an appeal. The amendment allows the Interior Board of Land Appeals (IBLA) to determine whether the issues involved in an appeal warrant a stay of geothermal resources operations and the accompanying delays and economic consequences.

EFFECTIVE DATE: August 5, 1992.

ADDRESSES: Inquiries or suggestions should be sent to: Director (140), Bureau of Land Management, room 5555, Main Interior Building, 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Erick Kaarlela, (202) 653-2127.

SUPPLEMENTARY INFORMATION: This rule amends the "Appeals" section at 43 CFR 3266.1 to provide that a decision of the authorized officer remains in full force and effect during the pendency of an appeal, unless otherwise determined by the IBLA, and to state how petitions for stay of decisions may be filed. The amendment provides the IBLA the opportunity to determine whether the issues raised in an appeal, especially with regard to the environmental sensitivity of the area affected and the potential for significant environmental or public health and safety impact, warrant a stay of the approval until the IBLA rules on the appeal.

A proposed rule to amend 43 CFR part 3260 to allow decisions on geothermal resources operations to be placed in full force and effect pending appeal was published in the **Federal Register** on November 25, 1991. Public comments were invited for 60 days, until January 24, 1992. The Bureau of Land Management (BLM) received 9 letters concerning the proposed rule during the 60-day public comment period. Five of the letters came from corporations, 2 from attorneys, 1 from an association, and 1 from an office of a Federal agency. All of the comments supported the proposed rule.

Only one comment letter suggested amending the proposed rule. This comment urged the BLM to "require the appellant to serve the stay request on the geothermal operator whose activities are subject to the appeal," and to provide the operator "with an opportunity to oppose the stay." Finally, it suggested that a deadline "be established within which a stay request must be filed by the appellant." These amendments are not necessary to accomplish the purposes put forward by the correspondent, because they are covered in 43 CFR part 4. Existing regulations at 43 CFR 4.22(b) and 4.413 require that a "copy of each document filed in a proceeding before the Office of Hearings and Appeals must be served by the filing party on the other party or parties in the case," except for documents requesting limitation of disclosure of confidential documents. Existing regulations at 43 CFR 4.414 provide the operator or any party served with a notice of appeal opportunity to participate in the appeal by filing an answer to the appeal. Section 4.411 allows the appellant 30 days to file the appeal. Petitions for stay, to be of any use to the appellant, would normally be filed at the same time as the appeal, if the appellant's purpose is to prevent or stop the operation before the damage alleged by the appellant occurs. For an appellant to delay filing a petition for stay would defeat the purpose as well as create equitable arguments against the petition. The suggestions in the comment are not adopted in the final rule.

The regulatory language in § 3266.1(b) has been expanded somewhat from the proposed rule to state clearly the standards that need to be met before a stay of a decision can be obtained, and also to make clear that the IBLA has been delegated the authority to determine whether a stay is warranted.

The principal author of this final rule is Douglas Koza, Division of Fluid Mineral Lease and Reservoir Management, assisted by the staff of the Division of Legislation and Regulatory Management.

It is hereby determined that this final rule does not constitute a major Federal action significantly affecting the quality of the human environment, and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required. The BLM has determined that this final rule is categorically excluded from further environmental review pursuant to 516 Departmental Manual (DM), chapter 2, appendix 1, Item 1.10, and that the rule does not significantly affect the 10 criteria for exceptions listed in 516 DM 2, appendix 2. Pursuant to the Council on Environmental Quality regulations (40 CFR 1508.4) and environmental policies and procedures of the Department of the Interior, "categorical exclusions" means a category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency and for which neither an environmental assessment nor an environmental impact statement is required.

The Department of the Interior has determined under Executive Order 12291 that this document is not a major rule. A major rule is any regulation that is likely to result in an annual effect on the economy of $100 million or more, a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. While this rule is expected to have a favorable effect on geothermal operators, such benefits will not approach the $100 million threshold, and should have only a favorable effect on costs to consumers and others, and only favorable effects on competition, employment, investment, productivity, innovation, or on the ability of United

States-based enterprises to compete with foreign-based enterprises. Further, for the same reasons, the Department has determined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that it will not have a significant economic impact on a substantial number of small entities.

The Department certifies that this final rule does not represent a government action capable of interference with constitutionally protected property rights. No provision in the rule relates to a taking of property or interests in property. Therefore, as required by Executive Order 12630, the Department of the Interior has determined that the rule would not cause a taking of private property.

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

List of Subjects for 43 CFR Part 3260

Environmental protection, Geothermal energy, Government contracts, Public lands–mineral resources, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, and under the authorities cited below, part 3260, group 3200, subchapter C, chapter II of title 43 of the Code of Federal Regulations is amended as set forth below.

PART 3260—GEOTHERMAL RESOURCES OPERATIONS

1. The Authority citation for 43 CFR part 3260 is revised to read as follows:

Authority: 30 U.S.C. 1001–1025.

Subpart 3266—Appeals

2. Section 3266.1 is revised to read as follows:

§ 3266.1 Appeals.

(a) A party adversely affected by a decision of the authorized officer may appeal that decision to the Interior Board of Land Appeals as set forth in part 4 of this title.

(b) All decisions or approvals of the authorized officer under this part shall remain effective pending appeal unless the Interior Board of Land Appeals determines otherwise upon consideration of the standards stated in this paragraph. The provisions of 43 CFR 4.21(a) shall not apply to any decision or approval of the authorized officer under this subpart. A petition for a stay of a decision or approval of the authorized officer shall be filed with the Interior Board of Land Appeals, Office of Hearings and Appeals, Department of the Interior, and shall show sufficient justification based on the following standards:

(1) The relative harm to the parties if the stay is granted or denied;

(2) The likelihood of the appellant's success on the merits;

(3) The likelihood of irreparable harm to the appellant or resources if the stay is not granted; and

(4) Whether the public interest favors granting the stay.

Dated: June 4, 1992.

Richard Roldan,

Deputy Assistant Secretary of the Interior.

[FR Doc. 92–15627 Filed 7–2–92; 8:45 am]

BILLING CODE 4310–84–M

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43 CFR Part 4700

[WO–250–4370–02–24 1A; Circular No. 2637]

RIN 1004–AB87

Protection, Management, and Control of Wild Free-Roaming Horses and Burros; Prohibited Acts, Administrative Remedies, and Penalties; Administrative Remedies

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: This final rule allows the authorized officer of the Bureau of Land Management (BLM) to place in full force and effect, pending appeal, decisions to remove excess wild free-roaming horses and burros from public or private land. The timely removal of excess animals will maintain appropriate management levels, prevent injury to, or death of, wild horses and burros, reduce damage to public land resources, and reduce future costs associated with removal and disposition.

EFFECTIVE DATE: August 5, 1992.

ADDRESSES: Suggestions or inquiries should be sent to Director (250), Bureau of Land Management, 1849 C Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Vernon R. Schulze, (202) 653–9215.

SUPPLEMENTARY INFORMATION: A proposed rule to amend 43 CFR part 4700 to allow decisions on gathering excess wild free-roaming horses and burros from public or private lands to be placed in full force and effect pending appeal was published in the **Federal Register** on July 2, 1991. Public comments were invited for 30 days, until August 1, 1991. The BLM received 15 letters concerning the proposed rule during the 30-day public comment period. Three of the letters came from private individuals, nine from associations, and three from State government agencies. Of the 15 letters received, 8 expressed opposition and 5 expressed support for the proposed rule. The remaining two letters contained no comments addressing provisions of the proposed rule. The specific comments contained in these letters and the responses to the comments are provided below.

Two comments suggested that the proposed rule is in conflict with the Wild Free-Roaming Horse and Burro Act (the Act). Neither comment indicated in what way the rule was inconsistent with the Act. Therefore, it is difficult to respond directly to these comments. However, the Act states: "Where the Secretary determines * * * that an overpopulation exists on a given area of public lands and that action is necessary to remove excess animals, he shall immediately remove excess animals from the range so as to achieve appropriate management levels." The rule provides a mechanism for complying with this section of the Act by assuring that excess animals can be removed immediately when that action is needed to protect individual excess animals or the habitat of the remaining population.

Several comments suggested that the BLM already has the authority to expedite the removal of excess animals, when needed, under provisions of 43 CFR 4.21(a). This section of the Code of Federal Regulations (CFR) states "a decision will not be effective during the time in which a person adversely affected may file a notice of appeal, and the timely filing of a notice of appeal will suspend the effect of the decision appealed from pending the decision on appeal. However, when the public interest requires, the Director (Office of Hearings and Appeals) or an Appeals Board may provide that a decision or any part of it shall be in full force and effect immediately." Although this provision allows the Director of the Office of Hearings and Appeals, or the IBLA, to place a decision to remove animals in full force and effect, the time needed to file a brief explaining the need for an expedited decision and receiving a decision from the Director or the IBLA normally exceeds 2 months. In emergency situations, a delay of 2 months or more could cause severe or permanent injury to the animals and/or the habitat. In addition, the authority for determining the need for placing a decision in full force and effect should rest with the BLM field official who is accountable for the action and is in the best position to judge the need for immediate action to remove excess animals to protect the health of both the

removed and remaining animals and to maintain a thriving ecological balance. For these reasons, the provisions of 43 CFR 4.21(a) are not an adequate substitute for the proposed regulations. The comment is not adopted in the final rule.

Several comments suggested the proposed rule would invalidate or inhibit the appeals process. The proposed rule would in no way reduce the public's opportunity to file an appeal nor would it increase the appellant's burden of proof to show why the agency's action was incorrect. Nonetheless, unless the appellant is granted a stay of the agency's decision, the excess animals would normally be removed prior to a ruling on the merits of the appeal by the Interior Board of Land Appeals (IBLA). If, upon appeal, the IBLA were to subsequently rule that a BLM removal action was incorrect, there are at least two courses of action for mitigating the effects of erroneously removing animals. First, a similar number of animals from another herd area could be moved to the area where animals were removed in error. Second, as suggested by the IBLA in its decision in Animal Protection Institute of America, et al, 118 IBLA 63 (1991), future removals could be deferred until the herd size increases through normal reproduction and population levels again are consistent with maintenance of a thriving natural ecological balance. Thus even if a BLM full force and effect removal action was invalidated by the IBLA, an appellant would still receive the full benefit from filing an appeal.

However, even if an appeal is given expedited review, an IBLA ruling in favor of the BLM can come 6 months after the BLM removal decision is issued. In such cases, BLM's removal of the excess animals may not be completed before another generation of foals is added to the wild horse population. Resulting delays increase the Government's cost to remove the excess animals and allow an additional season of overgrazing to occur before corrective action can be taken to re-establish a thriving natural ecological balance. Such costs cannot be recovered, and the damages can only be mitigated at great additional cost.

Two comments suggested that the proposed rule will require an appellant to file a Petition for a Stay of Decision with the IBLA whenever the appellant wishes to prevent removal of animals after the BLM has placed a decision to remove excess wild horses or burros in full force and effect. We agree that the proposed rule would require filing a Petition for Stay of a removal decision if the appellant wished to stop a planned removal action prior to the IBLA's final decision on the merits of the appeal. Because the damage to the animals or their habitat and the extra cost to the Government caused by a delay in removing excess animals far outweigh the costs of filing a Petition for Stay, requiring the appellant to file a Petition for Stay of a removal decision with the IBLA is both reasonable and in the public interest.

Another comment stated that, because IBLA rules do not provide for expedited consideration of a Petition for a Stay of Decision, most removal actions would be completed before a Stay could be issued. We agree that this is a possibility. However, even if the IBLA were to ultimately find the BLM removal decision to be incorrect, animals that were removed in error could either be replaced with animals from another herd area having excess animals or the herd could be allowed to increase through normal reproduction until the population again reached a thriving natural ecological balance. Consequently, no permanent or significant damage would result from failure of the IBLA to hear a Petition for Stay of a Decision prior to completion of a removal action. Nonetheless, if a Petition for Stay were denied by the IBLA, the appellant could request a judicial review of the BLM's removal action in Federal court.

Three of the comments suggested that the proposed rule would encourage the BLM to remove animals without proper data and justification. In 1988 and 1989, several BLM wild horse and burro removal plans in Nevada were appealed to the IBLA. In their two rulings partially overturning the BLM removal decisions, the IBLA concluded that BLM has "not established that removal is warranted in order to restore the range to a thriving natural ecological balance and prevent a deterioration of the range threatened by an overpopulation of wild horses." Animal Protection Institute of America, 109 IBLA 112, 115 (1989), and Animal Protection Institute of America, 116 IBLA 239, 243 (1990). The IBLA rulings outlined the requirements the BLM must satisfy for proper justification of removal decisions. The requirements outlined in these two rulings have been incorporated in BLM policy and all subsequent BLM decisions have been consistent with this policy. In addition, the IBLA has upheld all of the BLM removal decisions on which appeals have been filed since November 1990. As a result, we believe the present policy requiring current resource data be used to support removal decisions is sound and in full compliance with the Act. This policy will continue to be applied for all removal decisions whether or not the decisions are placed in full force and effect. For that reason, we disagree with the comments suggesting that the proposed rule will encourage removal of wild horses and burros without data and justification.

One comment suggested that the proposed rule should include a requirement to conduct inventories and monitoring. The present regulations state at 43 CFR 4720.1, "Upon examination of current information and a determination by the authorized officer that an excess of wild horses or burros exists, the authorized officer shall remove the excess animals immediately in the following order. * * *" Consequently, the suggested requirement exists in the current regulations. We agree that data collection is needed to determine if a thriving natural ecological balance is being maintained and if there are excess wild horses or burros. Because of its importance, this requirement is being further defined and expanded in the proposed revision of the BLM Management Considerations Manual Section 4710. Thus, there is no need to incorporate further requirements for data collection in this final rule.

Another comment suggested adding a requirement that full force and effect wild horse or burro removal decisions be issued as multiple-use decisions incorporating all other grazing uses such livestock and wildlife found in an area. We agree to a certain extent. When decisions about forage and habitat usage are being made for a herd area, a single multiple-use decision addressing all proposed forage and habitat changes for each major species should be issued rather than individual decisions for each grazing species. Guidance concerning this process is included in the latest revision of the BLM Management Considerations Manual, section 4710. Under this guidance, decisions that propose changes in the forage or habitat use of more than one species will almost always be issued as multiple-use decisions. However, in many circumstances where full force and effect decisions are contemplated, a multiple-use decision would not be appropriate. The BLM expects that many wild horse or burro removal decisions placed in full force and effect will be issued in response to emergency situations such as sudden habitat loss (fire, deep snow, drought), when other grazing species are not using the area, or when data indicate that removal of only wild horses or burros is needed to re-

establish a thriving natural ecological balance. Therefore, the final rule does not require wild horse or burro removal decisions placed in full force and effect to be issued as multiple-use decisions.

Three comments suggested that the final rule should incorporate criteria developed by the BLM Nevada State Office for declaring an emergency, which would require placing decisions for removal of wild horses or burros in full force and effect. We agree criteria should be established for designation of emergency conditions. However, these criteria are more appropriate for inclusion in the BLM's Manuals and Handbooks. For that reason, the final rule contains no criteria for declaring an emergency. While the Nevada State Office guidelines for declaring an emergency are very good, they are not all-inclusive and do not include criteria for placing decisions in full force and effect when no emergency exists. As indicated in the preamble to the proposed rule, the BLM intends to place decisions to remove wild horses or burros in full force and effect in situations where damage to public or private land is expected to be significant or when failure to remove animals expeditiously will cause an unacceptable expenditure of public funds. The criteria for assessing the need for immediate removal of excess animals under these circumstances or emergency conditions will be issued as a draft policy prior to being incorporated in the BLM directive system. Nonetheless, it is not possible to anticipate all conditions that may require immediate removal of wild horses or burros. Therefore, after the final guidance has been issued, local managers will have the authority to determine the need for placing in full force and effect decisions to remove excess wild horses or burros.

Two comments suggested that the increased cost of removals associated with delays caused by appeals to removal plans is not sufficient reason for implementation of the proposed rule. The ability to remove excess wild horses and burros quickly, in accordance with the proposed rule, provides the public at least the following major benefits: (1) Protects the health and welfare of wild horses, (2) protects the habitat from damage caused by overgrazing, (3) reduces the cost of removal and placement of excess wild horses. At the present rate of appeals being filed and funding capability the proposed rule could prevent delays in removal of over 5,000 animals annually. Assuming that an appeal can be resolved in one year or less, the cost of removal of 5,000 animals would increase by at least $277,000 due to the increased number of animals that would have to be removed the following year. In addition to the increased cost of removal, the Government would be faced with an increased number of animals to prepare for adoption, ship to adoption centers, adopt, and convey title. Using the average adoption cost in fiscal year 1991, placing the additional animals would cost at least $660,000. A Government savings of almost $1,000,000 annually is a major benefit resulting from implementation of the proposed regulations. If resolution of an appeal required more than one year, savings would be substantially large. While the cost savings may by themselves not be sufficient justification for the proposed rule, they are certainly a major benefit or implementing the rule.

Two comments suggested amendments of the proposed rule to clarify the Secretary's authority concerning removal of wild horses or burros from private lands. One comment suggested that full force and effect removal decisions be limited to situations when the "owner(s) of these private lands have requested removal of horses from their lands pursuant to section 4 of Public Law 92–195, and have stated in writing that they are in agreement with the removal decision, if removal is required by applicable law or to preserve or maintain a thriving ecological balance and multiple use relationship as determined in the Land Use Plan." Requiring the Secretary to obtain a written agreement from the landowner prior to removal of wild horses or burros from private land would be contrary to the Act which gives the Secretary sole authority to manage wild horses and burros. However, if removal operations require entry upon private lands, the BLM will first secure the landowner's permission.

On the other hand, the second comment suggested that authority to remove wild horses or burros from private land was not needed because the present regulation (Section 4720.2–1) "grants the Secretary the authority to immediately remove horses from private lands." We agree that the Secretary has the authority to remove wild horses and burros from private lands. The proposed rule was written to state clearly that decisions could be placed in full force and effect to remove animals from private lands when necessary to protect the animals or to maintain a thriving natural ecological balance on the public lands without the landowner's permission or a written request to remove wild horses or burros. Such removals would be accomplished without entry of private land by helicopter herding. As stated in the previous paragraph, if transporting the animals or conducting capture operations requires BLM presence on private land, BLM will first obtain permission from the landowner.

An editorial change has been made in paragraph (c) added in the proposed rule to make it clear that the criteria stated in the paragraph relate to removal of horses and burros rather than to placing such removal in full force and effect pending appeal. Also, a new § 4700.0–9 is added in the final rule to contain the information formerly stated in the "Note" at the beginning of part 4700. This addition is nonsubstantive and does not add any regulatory requirements.

The principal author of this final rule is Vernon R. Schulze of the BLM Division of Wild Horses and Burros, assisted by the staff of the Division of Legislation and Regulatory Management.

It is hereby determined that this final rule does not constitute a major Federal action significantly affecting the quality of the human environment, and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required. The BLM has determined that this final rule is categorically excluded from further environmental review pursuant to 516 Departmental Manual (DM), chapter 2, appendix 1, Item 1.10, and that the rule would not significantly affect the 10 criteria for exceptions listed in 516 DM 2, appendix 2. Pursuant to the Council on Environmental Quality regulations (40 CFR 1508.4) and environmental policies and procedures of the Department of the Interior, "categorical exclusions" means a category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency and for which neither an environmental assessment nor an environmental impact statement is required.

The Department of the Interior has determined under Executive Order 12291 that this document is not a major rule. A major rule is any regulation that is likely to result in an annual effect on the economy of $100 million or more, a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, or significant adverse effects on competition, employment, investment,

productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Reducing delays in removals of excess animals will result in smaller numbers of animals requiring removal and adoption, and concomitant savings by both the United States and members of the adopting public. Based on average delays and associated population increases, and average annual removals of 5,000 animals, annual savings would be at least $1,000,000. In no case could the effect on the economy approach $100,000,000. Further, for the same reasons, the Department has determined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that it will not have a significant economic impact on a substantial number of small entities.

The Department certifies that this final rule does not represent a governmental action capable of interference with constitutionally protected property rights. No private property would be affected without permission. Therefore, as required by Executive Order 12630, the Department of the Interior has determined that the rule would not because a taking of private property.

This rule does not contain information collection requirements that require approval by the Office of Management and Budget (OMB) under 44 U.S.C. 3501 *et seq.* However, the collections of information contained in Group 4700 have been approved by the OMB under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1004–0042.

List of Subjects in 43 CFR Part 4700

Advisory committees, Aircraft, Animal welfare, Intergovernmental relations, Penalties, Public lands, Range management, Reporting and recordkeeping requirements, Wild horses and burros, Wildlife.

For the reasons stated in the preamble, and under the authorities cited below, part 4700, subchapter D, chapter II, title 43 of the Code of Federal Regulations is amended as set forth below.

PART 4700—PROTECTION, MANAGEMENT, AND CONTROL OF WILD FREE-ROAMING HORSES AND BURROS

1. The authority citation for part 4700 is revised to read as follows:

Authority: 16 U.S.C. 1331–1340, 43 U.S.C. 1701 *et seq.*, 18 U.S.C. 47, 43 U.S.C. 315.

2. Section 4700.0–9 is added to read as follows:

§ 4700.0–9 Collections of information.

(a) The collections of information contained in this part have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1004–0042. The information will be used to permit the authorized officer to remove wild horses and burros from private lands and to determine whether an application for adoption of and title to wild horses or burros should be granted. Response is required to obtain benefits under 16 U.S.C. 1333 and 1334.

(b) Public reporting burden for this information is estimated to average 0.1652 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Information Collection Clearance Officer (783), Bureau of Land Management, Washington, DC 20240, and the Office of Management and Budget, Paperwork Reduction Project, 1004–0042, Washington, DC 20503.

3. Section 4770.3 is amended by adding paragraph (c) to read as follows:

§ 4770.3 Administrative remedies.

* * * * *

(c) The authorized officer may place in full force and effect decisions to remove wild horses or burros from public or private lands if removal is required by applicable law or to preserve or maintain a thriving ecological balance and multiple use relationship. Full force and effect decisions shall take effect on the date specified, regardless of an appeal. Appeals and petitions for stay of decisions shall be filed with the Interior Board of Land Appeals as specified in this part.

Dated: June 5, 1992.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 92–15628 Filed 7–2–92; 8:45 am]

BILLING CODE 4310–84–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 92–56; RM–7551]

Radio Broadcasting Services; Bay City and Edna, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 269C1 for Channel 241C2 at Bay City, Texas, and modifies the construction permit of Station KXGJ, Bay City, Texas, to specify operation on Channel 269C1. In order to accommodate this upgrade, this document also substitutes Channel 241A for Channel 269A at Edna, Texas. See 57 FR 11058, published April 1, 1992. The reference coordinates for the Channel 269C1 allotment at Bay City, Texas are 28–45–58 and 96–04–11. The reference coordinates for the Channel 241A allotment at Edna, Texas are 28–58–42 and 96–38–48. With this action, this proceeding is terminated.

DATES: *Effective:* August 13, 1992.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 92–56, adopted June 17, 1992, and released June 29, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452–1422, 1714 21st Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing Channel 241C2 and adding Channel 269C1 at Bay City, and removing Channel 269A and adding Channel 241A at Edna.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-15637 Filed 7-2-92; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-469; RM-6815, RM-7513]

Radio Broadcasting Services; Naples Park, Solona, and Cypress Lake, FL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 288C3 for Channel 288A at Naples Park, Florida, and modifies the license of Station WIXI, Naples Park, Florida to specify operation on Channel 288C3. In order to accommodate this upgrade, this document also substitutes Channel 285A for Channel 287A at Solana, Florida, and modifies the construction permit of Station WMMY, Solana, Florida, to specify operation on Channel 285A. See 54 FR 46633, published November 6, 1989. Both of these actions are conditioned on the final outcome of the judicial appeal in *Edens Broadcasting, Inc.* v. *FCC,* Case No. 91-1387 (D.C. Cir.). Finally, this document dismisses a counterproposal by FW Communications, Inc. for a Channel 285A allotment at Cypress Lake, Florida, and denies a counterproposal by West Florida Media, Inc. for a Channel 285C3 substitution at Solana, Florida. The reference coordinates for Channel 288C3 at Naples Park, Florida, are 26-13-56 and 81-45-10. The reference coordinates for the Channel 285A allotment at Solana, Florida, are 26-50-41 and 82-02-15. With this action, the proceeding is terminated.

DATES: Effective August 13, 1992.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-469, adopted June 17, 1992, and released June 29, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Florida, is amended by removing Channel 288A and adding Channel 288C3 at Naples Park, and removing Channel 287A and adding Channel 285A at Solana.

Federal Communications Commission.

Beverly McKittrick,

Assistant Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-15639 Filed 7-2-92; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 90-164; RM-6814, RM-6926, RM-7706, RM-7707]

Radio Broadcasting Services; St. Augustine, St. Augustine Beach, and Gainesville, FL

AGENCY: Federal Communications Commission.

ACTION: Final rule..

SUMMARY: This document allots Channel 288A to St. Augustine Beach, Florida, as the community's first local FM service. At the request of WSOS-FM, this document also substitutes Channel 231C3 for Channel 288A at St. Augustine, Florida. See 55 FR 12390, April 3, 1990, and Supplemental Information, *Infra.*

DATES: *Effective* August 13, 1992, the window period for filing applications at St. Augustine Beach, Florida, will open on August 14, 1992, and close on September 14, 1992.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90-164, adopted June 12, 1992, and released June 29, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452-1422, 1714 21st Street NW., Washington, DC 20036.

Channel 288A can be allotted to St. Augustine Beach in compliance with the Commission's minimum distance separation requirements. The coordinates for Channel 288A at St. Augustine Beach are North Latitude 29-50-52 and West Longitude 81-19-42. Channel 231C3 can be allotted to St. Augustine in compliance with the Commission's minimum distance separation requirements with a site restriction of 7.6 kilometers (4.7 miles) west-northwest. The coordinates for St. Augustine are North Latitude 29-55-05 and West Longitude 81-23-26. This document also denies a petition for rule making seeking the allotment of Channel 231A to St. Augustine Beach, Florida (RM-6926), it denies the petition for rule making requesting the allotment of Channel 231C3 to St. Augustine Beach, Florida (RM-7706), and the petition for rule making requesting the substitution of Channel 288C3 for Channel 288A at St. Augustine, and the substitution of Channel 287A for Channel 288A at Gainesville, Florida (RM-7707). With this action, this proceeding is terminated.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Florida, is amended by adding St. Augustine Beach, Channel 288A, and by removing Channel 288A and adding Channel 231C3 at St. Augustine.

Federal Communications Commission.

Beverly McKittrick,

Assistant Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-15638 Filed 7-2-92; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 910102-1312]

Atlantic Tuna Fisheries; Bluefin Tuna

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

ACTION: Closure of the longline component of the Incidental Catch category.

SUMMARY: NMFS issues this notice to close the fishery for Atlantic bluefin tuna conducted by longline vessels permitted in the Incidental Catch category and operating in all parts of the Regulatory Area. Closure of this fishery is necessary because the total annual quota of 132 mt of Atlantic bluefin tuna allocated for this category has been attained. The intent of this action is to prevent overharvest of the quota established for this fishery.

EFFECTIVE DATES: The closure is effective 0001 hours local time July 8, 1992 through December 31, 1992.

FOR FURTHER INFORMATION CONTACT: Richard B. Stone, 301–713–2347.

SUPPLEMENTARY INFORMATION: Regulations promulgated under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*) regulating the harvest of Atlantic bluefin tuna by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 285.

Section 285.22(f)(1) of the regulations provides for an annual quota of 132 mt of Atlantic bluefin tuna to be harvested from the Regulatory Area by longline vessels permitted in the Incidental Catch category. The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), is authorized under § 285.20(b)(1) to monitor the catch and landing statistics and, on the basis of these statistics, to project a date when the total catch of Atlantic bluefin tuna will equal any quota under § 285.22. The Assistant Administrator is further authorized under § 285.20(b)(1) to prohibit the fishing for, or retention of, Atlantic bluefin tuna by those fishing in the category subject to the quota when the catch of tuna equals the quota established under § 285.22. The Assistant Administrator has determined, based on the reported catch, that the annual quota of Atlantic bluefin tuna for longline vessels fishing in the Regulatory Area will be attained by July 8, 1992. Fishing for, and retention of, any Atlantic bluefin tuna harvested under § 285.22(f)(1) must cease at 0001 local time on July 8, 1992.

Classification

This action is required by 50 CFR 285.20(b)(1) and complies with E.O. 12291.

Authority: 16 U.S.C. 971 *et seq.*

List of Subjects in 50 CFR Part 285

Fisheries, Penalties, Reporting and recordkeeping requirements, Treaties.

Dated: June 29, 1992.

Richard H. Schaefer,

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

[FR Doc. 92–15662 Filed 6–29–92; 4:59 pm]

BILLING CODE 3510–22–M

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50 CFR Part 675

[Docket No. 911172–2021]

Groundfish of the Bering Sea and Aleutian Islands Area

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

ACTION: Prohibition of retention.

SUMMARY: NMFS is prohibiting retention of the shortraker/rougheye species group (SRRE) in the Aleutian Islands subarea (AI) of the Bering Sea and Aleutian Islands Management Area (BSAI) and is requiring that incidental catches of SRRE be treated in the same manner as prohibited species and discarded at sea with a minimum of injury. This action is necessary because the total allowable catch (TAC) for SRRE in the AI has been reached.

DATES: Effective 12 noon, Alaska local time (A.l.t.), June 29, 1992, through 12 midnight, A.l.t., December 31, 1992.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, Resource Management Specialist, Fisheries Management Division, NMFS, 907–586–7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by the Secretary of Commerce according to the Fishery Management Plan for Groundfish of the BSAI (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

The 1992 TAC for SRRE in the AI was established by the final notice of specifications (57 FR 3952, February 3, 1992) as 1,037 metric tons.

The Director of the Alaska Region, NMFS, has determined, in accordance with § 675.20(a)(9), that the TAC for SRRE in the AI has been reached. Therefore, NMFS is requiring that SRRE be treated as prohibited species. Under § 675.20(c), NMFS is prohibiting retention of SRRE in the AI effective from 12 noon, Alaska local time (A.l.t.), June 29, 1992, through 12 midnight, A.l.t., December 31, 1992.

Classification

This action is taken under 50 CFR 675.20 and is in compliance 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.*

Dated: June 29, 1992.

Richard H. Schaefer,

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

[FR Doc. 92–15660 Filed 6–29–92; 4:59 pm]

BILLING CODE 3510–22–M

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50 CFR Part 675

[Docket No. 911172–2021]

Groundfish of the Bering Sea and Aleutian Islands Area

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

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for yellowfin sole by vessels using trawl gear in Herring Savings Areas of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary because the 1992 prohibited species catch (PSC) bycatch allowance of Pacific herring for the yellowfin sole fishery in the BSAI has been caught.

DATES: Effective 12 noon, Alaska local time (A.l.t.), June 29, 1992, through 12 noon, A.l.t., March 1, 1993.

FOR FURTHER INFORMATION CONTACT: David R. Cormany, Resource Management Specialist, NMFS, 907–586–7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by the Secretary of Commerce according to the Fishery Management Plan for the Groundfish Fishery of the BSAI Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

The prohibited species trawl bycatch allowance of Pacific herring for the BSAI yellowfin sole fishery, which is defined at § 675.21(g)(4)(ii)(A), was established by emergency rule (57 FR 11433, April 3, 1992) as 134 metric tons.

The Director of the Alaska Region, NMFS, has determined, in accordance with § 675.21(h)(2), that U.S. fishing vessels in the BSAI have caught the 1992 bycatch allowance of Pacific herring for the yellowfin sole fishery. Therefore, NMFS is prohibiting directed fishing for yellowfin sole by vessels using trawl gear in the Herring Savings Areas of the BSAI, which are defined at § 675.2, from 12 noon, A.l.t., June 29, 1992, until 12 noon, A.l.t., March 1, 1993.

Directed fishing standards for applicable gear types may be found in the regulations at § 675.20(h).

Classification

This action is taken under 50 CFR 675.21 and is in compliance 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.*

Dated: June 29, 1992.

Richard H. Schaefer,

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

[FR Doc. 92–15661 Filed 6–29–92; 4:59 pm]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 57, No. 129
Monday, July 6, 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.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 12

Highly Erodible Land and Wetland Conservation

AGENCY: Office of the Secretary, USDA.

ACTION: Proposed rule.

SUMMARY: This rule proposes amendments to the highly erodible land and wetland conservation regulations issued pursuant to the Food Security Act of 1985, as amended (the 1985 Act), 16 U.S.C. 3801 *et seq.*, which are contained in 7 CFR 12.5 and 12.33. The proposed changes are consistent with the authorizing legislation and will provide more flexibility for producers on the use of wetlands that were manipulated prior to December 23, 1985, and either converted by a drainage district or were used for crop production, but not planted to an agricultural commodity. Specifically, this rule proposes: (1) Revising 7 CFR 12.5 to provide that in the event that a drainage district project converts a wetland that was formerly a wetland that had been altered to some degree and used to produce an agricultural commodity, a so called "farmed wetland", a producer assessed for the project may be considered not to have converted the converted farmed wetland and, thus, will not be subject to the new "conversion" trigger, so long as the producer does not produce an annually-tilled crop or sugar-cane on the farmed wetland; and (2) revising 7 CFR 12.33 to provide that any crop production on a prior converted wetland may be considered as proof of intent not to abandon the converted wetland regardless of whether the crop production involves an annually-tilled crop or sugar-cane.

DATES: Comments on the proposed amendment in this rule must be received before July 21, 1992, in order to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments to: Director, Cotton, Grain, and Rice Price Support Division, USDA, ASCS, P.O. Box 2415, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Ms. Sandra J. Penn, Deputy Director, Cotton, Grain, and Rice Price Support Division, Agricultural Stabilization and Conservation Service, United States Department of Agriculture, P.O. Box 2415, Washington, DC 20013, telephone 202–720–3463.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under United States Department of Agriculture (the "Department" or "USDA") procedures established in accordance with provisions of Departmental Regulation 1512–1 and Executive Order 12291 and has been classified as "not major." It has been determined that this proposed amendment to the current regulations will not have an annual effect on the economy of $100 million or more. The collection of information for these regulations was previously approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1980. The Office of Management and Budget assigned number for those requirements of the current regulations is OMB No. 0004, effective through June 30, 1994. The public reporting burden for these collections is estimated to vary from 5 to 15 minutes per response, including time for reviewing instructions, searching existing sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, Room 404–W, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB No. 0004), Washington, DC 20503.

The titles and numbers of the Federal assistance programs, as found in the Catalog of Federal Domestic Assistance, to which this rule applies are: Commodity Loans and Purchases—10.051; Cotton Production Stabilization—10.052; Emergency Conservation Program—10.054; Emergency Loans—10.404; Farm Operating Loans—10.406; Farm Ownership Loans—10.407; Feed Grain Production Stabilization—10.055; Storage Facilities Equipment Loans—10.056; Wheat Production Stabilization—10.058; National Wool Act payments—10.059; Rice Production Stabilization—10.065; Federal Crop Insurance—10.450; Soil and Water Loans—10.416; Loans to Indian Tribes and Tribal Corporations—10.421; Watershed Protection and Flood Prevention loans and cost share payments—10.904; Great Plains Conservation Program cost share payments—10.900; Agricultural Conservation Program cost share payments—10.063; Disaster Assistance payments—10.052, 10.058, 10.065, and 10.440; Conservation Reserve Program payments—10.069; payments under the Agricultural Credit Act—10.054; and payments under the Agricultural Water Quality Incentives Program and the Environmental Easement Program authorized by the Food Security Act of 1985, as amended (these programs are not in the catalog at this time).

This rule is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1981).

On the basis of an environmental evaluation, it has been determined that this rule does not constitute a major federal action significantly affecting the quality of the human environment. The environment assessment and Finding of No Significant Impact (FONSI) that was prepared during the promulgation of the current regulations in 7 CFR part 12 has been reviewed to assess the effect of the changes in the regulations that are the subject of this proposed rule. The Department has determined that the implementation of this rule by the agencies of the Department will: (1) Not cause any measurable adverse environmental effects; (2) not diminish the long term environmental productivity of the Nation's resources; and (3) not cause any irretrievable commitments of natural resources. Therefore, under the provisions of National Environmental Policy Act and related regulations, neither an additional environmental assessment nor a detailed environmental impact statement are required. Requests for copies of the environmental assessment

and FONSI may be sent to the previously mentioned contact.

Other than as indicated, implementation of this proposed rule would not have any known effect on any existing Federal law or regulation.

This proposed rule implements two changes to the existing regulations in 7 CFR part 12. Those regulations implement the wetland conservation provisions in the 1985 Act.

This proposed rule has been reviewed in accordance with Executive Order 12778. The provisions of this proposed rule are not retroactive and do not preempt State laws. Before any judicial action may be brought with respect to determinations made by the Agricultural Stabilization and Conservation Service, administrative remedies at 7 CFR part 780 must be exhausted. Similarly, before any judicial action may be brought with respect to determinations made by the Soil Conservation Service, administrative remedies at 7 CFR part 614 must be exhausted.

"Farmed Wetlands" Converted by a Drainage District Project

Amendments to the 1985 Act enacted in 1990 provide that, in the event a person converts a wetland so as to make production of an "agricultural commodity" possible, that person would be considered to be ineligible for USDA benefits thereafter until the wetland is restored. Prior to 1990, a wetland conservation violation did not occur until the producer actually planted an "agricultural commodity" An "agricultural commodity " is defined to be a commodity produced by annual tilling or sugarcane. Under 7 CFR 12.5, the activities of a drainage district were considered to be the action of all persons assessed for the project. With the new conversion "trigger", the prior attribution rule with respect to drainage districts would have meant that all such assessed persons would be considered converters of wetland, regardless of planting, for any project in which they were assessed to pay for the project. This would have been the case even if the producer were not in control of the project.

To address that problem, rules issued after the 1990 amendments provided that the actions of the district would not be attributed to a person to the extent that the activities of the district or entity were beyond the control of the person and the wetlands converted are not used by the person for the production of an agricultural commodity or forage crop for harvest by mechanical means. However, there remained a potential problem. Some wetlands affected by drainage districts may have been "farmed wetlands"—wetlands with a cropping history that had been previously manipulated, but still met wetland criteria. Producers generally are permitted, under the rules in part 12, to use "farmed wetlands" for all crop production so long as drainage is not enhanced. For "farmed wetlands", however, the new 1990 rule left the producer more restricted as to the use of the land if there were an action by the drainage district that converted the "farmed wetland." That was the case because, before the project, the land could have been used for crop production as weather allowed, but the rules allowed only forage use of the "farmed wetland" following the project.

This handling of drainage projects appears to be unnecessarily restrictive and potentially unfair. Accordingly, this rule proposes revising section 12.5(b)(1)(iv)(D). The revision would allow the producer of "farmed wetland" converted by a drainage district to use the land to produce forage or to produce a crop other than an "agricultural commodity." This would mean, for example, that the land could be used for hay production. This should mitigate whatever unfairness may have resulted from the current rule yet avoid providing an incentive to producers to encourage new drainage projects since the production of an "agricultural commodity" would still be prohibited. This amendment would not affect the situation where the conversion of a wetland is a private undertaking of the producer. In those situations, the new "conversion" trigger will render the person ineligible for benefits regardless of whether an agricultural commodity is planted.

Abandonment

Under the 1985 Act, wetlands converted before December 23, 1985, were exempt from wetland conservation sanctions. Section 12.33 contains a provision that permits a wetland to be considered "abandoned", thereby losing its "prior converted" status, if the land had not been cropped in the preceding five years. The existing rule specifies that the abandonment would be considered to occur where there is a cessation of activities related to the production of "agricultural commodities." Agricultural commodities are sugar cane or crops that are produced by annual tilling of the soil. Distinctions between "agricultural commodities" and other crops, such as perennial crops, are unnecessarily limiting in the context of abandonment. Accordingly, it is proposed that § 12.33 be revised to remove the reference to "agricultural commodities." The revised rule would permit the continuation of any crop production including production, for example, of perennial crops, to be considered as evidence of intent not to abandon the converted wetland. A special provision has been included, however, to treat land as abandoned when, in certain instances, it has been used only as pasture land.

Shortened Comment Period

It has been determined that it is in the public interest to reduce the comment period so that the proposed revisions, if adopted, may be made effective as quickly as possible in order to avoid undue limitations on producers.

List of Subjects in 7 CFR Part 12

Highly erodible land, Wetland, Conservation, Price support programs, Federal crop insurance, Farmers Home Administration loans, Incorporation by reference, Loan programs, Agriculture, Environmental protection.

Accordingly, title 7, Code of Federal Regulations, part 12, is proposed to be amended as follows:

PART 12—HIGHLY ERODIBLE LAND AND WETLAND CONSERVATION

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

Authority: 16 U.S.C. 3801 et seq.

2. Paragraph (b)(1)(iv)(D) of § 12.5 is amended by adding the following clause before the period in the last sentence:

§ 12.5 Exemptions.

* * * * *

(b) * * *

(1) * * *

(iv) * * *

(D) * * *, except that production of a forage crop for harvest by mechanical means will be permitted if, prior to the conversion by a drainage district or similar entity, the land was a wetland area as described in § 12.32(a)(3) and was cropped.

* * * * *

§ 12.33 [Amended]

3. Section 12.33(b) is amended by adding the phrase "or other crop production, including pasture production," after the word "commodities" in the fourth sentence, and inserting the phrase "or, in instances of pasture production, invading woody vegetation is 5 years old or older," after the word "production" in the fifth sentence.

Signed this 25th day of June 1992 in Washington, DC.

Edward Madigan,

Secretary of Agriculture.

[FR Doc. 92-15666 Filed 7-2-92; 8:45 am]

BILLING CODE 3410-05-M

Agricultural Marketing Service

7 CFR Parts 55, 56, 59, and 70

[Docket No. PY-92-002]

RIN 0581-AA72

Increase in Fees and Charges for Egg Products Inspection and Egg, Poultry, and Rabbit Grading

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) proposes to increase the fees and charges for Federal voluntary egg products inspection; voluntary egg, poultry, and rabbit grading; mandatory egg products inspection overtime and appeal services; and laboratory services. These fees and charges need to be increased to cover the increase in salaries of Federal employees, salary increases of State employees cooperatively utilized in administering the programs, and other increased Agency costs.

DATES: Comments must be received on or before August 5, 1992.

ADDRESSES: Send written comments, in duplicate, to Janice L. Lockard, Chief, Standardization Branch, Poultry Division, Agricultural Marketing Service, U.S. Department of Agriculture, room 3944-South, P.O. Box 96456, Washington, DC 20090-6456. Comments received may be inspected at this location between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. State that your comments refer to Docket No. PY-92-002.

FOR FURTHER INFORMATION CONTACT: Larry W. Robinson, Chief, Grading Branch, 202-720-3271.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under USDA procedures implementing Executive Order 12291 and Department Regulation 1512-1 and has been classified a "non-major" rule under the criteria contained therein. It (i) will have an annual effect on the economy of less than $100 million; (ii) will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local Government agencies, or geographic regions; or (iii) will not cause significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have retroactive effect. This rule would not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule. The AMS Administrator has determined that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), because (i) the fees and charges merely reflect, on a cost-per-unit-graded/inspected basis, a minimal increase in the costs currently borne by those entities utilizing the services and (ii) competitive effects are offset under the major voluntary programs (resident shell egg and poultry grading) through administrative charges based on the volume of product handled; i.e., the cost to users increases in proportion to increased volume.

The information collection requirements that appear in §§ 56.52(a)(4), 59.126, and 70.77(a)(4) to be amended by the proposed rule have been previously approved by the Office of Management and Budget and assigned OMB Control No. 0581-0128, No. 0581-0113 and No. 0581-0127, respectively, under the Paperwork Reduction Act of 1980.

Background and Proposed Changes

The Agricultural Marketing Act of 1946, as amended, provides for the collection of fees approximately equal to the cost of providing voluntary egg products inspection; voluntary egg, poultry, and rabbit grading; and laboratory services. Likewise, the Egg Products Inspection Act requires the collection of fees to cover costs of overtime, holiday, and appeal inspection services. Each fiscal year, these fees undergo a cost analysis to determine if they are adequate to recover the cost of providing the services. Grading and inspection fees were last increased effective May 1, 1991, while laboratory fees were last increased effective June 1, 1989.

Projected operating costs are expected to increase in 1992. Federal employees' salaries increased by 4.2 percent in January 1992. Also, the cost of life insurance, health benefits, and Medicare increased by about 8 percent, Federal employee retirement fringe costs increased 8 percent, and salaries and fringe benefits of federally licensed State employees increased by about 8 percent.

Resident fees would be increased about 5.5 percent. Resident fees cover Federal and State salaries, fringe benefits, relief, and other service-related costs.

Administrative service charges apply to the costs of supervision and other overhead and administrative costs and are assessed on each case of shell eggs and each pound of poultry handled in plants using resident grading service. In 1991, these unit rates were established at $0.031 per case of shell eggs and $0.00031 per pound of poultry, with a minimum of $155 and maximum of $1,550 per monthly billing period for each official plant. In order to better reflect the costs of supervision and other administrative overhead costs associated with plants ranging in size and complexity, the unit rates would be decreased and the monthly minimum and maximum rates increased. The charges per case of shell eggs and pound of poultry would be changed to $0.030 and $0.00025, respectively, with a monthly minimum charge of $175 and a maximum of $1,750. Depending on the number of graders in a plant and the volume of product handled, the combined impact of these rate changes would range from a net decrease of 2 percent to an increase of 7.6 percent.

The hourly rate for nonresident voluntary grading and inspection service would be increased from $28.64 to $30.12. The hourly rate for such services performed on Saturdays, Sundays, or holidays would be increased from $29.68 to $30.52. The hourly rate for voluntary appeal gradings or inspections would be increased from $24.48 to $25.44. The hourly rates for mandatory egg products inspection services would be increased from $21.68 to $22.72 for overtime inspection and from $24.48 to $25.44 for certain appeal inspections.

Administrative charges for resident voluntary rabbit grading, resident voluntary egg products inspection, and nonresident voluntary continuous poultry and egg grading will continue to be based on 25 percent of the grader's or inspector's total salary costs. The minimum charge per monthly billing period for these programs would be increased from $155 to $175 per official plant.

The hourly rate for laboratory analyses for other than individual tests would be increased from $30.52 to $32.11.

Timing of Any Fee Increase

It is contemplated that any fees that might be implemented as a result of this action would be implemented on an expedited basis in order to minimize that period of time between the effective date of the Federal pay increase and the effective date of any fee increase. Accordingly, it is anticipated that the fee increases, if adopted, would become effective upon publication or very soon after publication of the final rule in the **Federal Register** and that postponing the effective date of the final rule until 30 days after publication in the **Federal Register** would not occur. An approximate effective date would be June 1, 1992.

List of Subjects

7 CFR Parts 55 and 56

Eggs and egg products, Food grades and standards, Food labeling, Reporting and recordkeeping requirements.

7 CFR Part 59

Eggs and egg products, Exports, Food grades and standards, Food labeling, Imports, Polychlorinated biphenyls (PCB's), Reporting and recordkeeping requirements.

7 CFR Part 70

Food grades and standards, Food labeling, Poultry and poultry products, Rabbits and rabbit products, Reporting and recordkeeping requirements.

For reasons set forth in the preamble, it is proposed that title 7, Code of Federal Regulations, parts 55, 56, 59, and 70 be amended as follows.

PART 55—VOLUNTARY INSPECTION OF EGG PRODUCTS AND GRADING

1. The authority citation for part 55 continues to read as follows:

Authority: Secs. 202–208 of the Agricultural Marketing Act of 1946, as amended (60 Stat. 1087–1091; 7 U.S.C. 1621–1627).

2. Section 55.510 is amended by revising paragraphs (b), (c), and (d) to read as follows:

§ 55.510 Fees and charges for services other than on a continuous resident basis.

* * * * *

(b) Fees for product inspection and sampling for laboratory analysis will be based on the time required to perform the services. The hourly charge shall be $30.12 and shall include the time actually required to perform the sampling and inspection, waiting time, travel time, and any clerical costs involved in issuing a certificate.

(c) Services rendered on Saturdays, Sundays, or legal holidays shall be charged for at the rate of $30.52 per hour. Information on legal holidays is available from the Supervisor.

(d) The cost of an appeal grading, inspection, laboratory analysis, or review of a grader's or inspector's decision shall be borne by the appellant at an hourly rate of $25.44 for time spent performing the appeal and travel time to and from the site of the appeal, plus any additional expenses. If the appeal grading, inspection, laboratory analysis, or review of a grader's or inspector's decision discloses that a material error was made in the original determination, no fee or expenses will be charged.

3. Section 55.550 is revised to read as follows:

§ 55.550 Laboratory analysis fees.

(a) The fees listed for the following individual laboratory analyses cover costs involved in the preparation and analysis of the product, certificate issuance, and personnel and overhead costs other than the expenses listed in § 55.530.

	Fee
Solids	$16.05
Fat	32.11
Bacteriological plate count	16.05
Bacteriological direct count	32.11
Coliforms:[1]	
Step 1	24.08
Step 2	24.08
E. coli (presumptive):[2]	
In addition to coliform analysis—	
Step 1	[3]
Step 2	24.08
Without coliform analysis—	
Step 1	24.08
Step 2	24.08
Yeast and mold count	16.05
Sugar	40.13
Salt	40.13
Color:	
NEPA	24.08
B-Carotene	32.11
Whipping test	16.05
Whipping test plus bleeding	24.08
Fat film test	40.13
Oxygen	16.05
Glucose:	
Quantitative	32.11
Qualitative	24.08
Palatability and odor:	
First sample	16.05
Each additional sample	8.03
Staphylococcus	48.16
Salmonella:[4]	
Step I	32.11
Step 2	16.05
Step 3	32.11

[1] Coliform test may be in two steps as follows: Step 1—presumptive test through lauryl sulfate tryptose broth; Step 2—confirmatory test through brilliant green lactose bile broth.

[2] E. coli test may be in two steps as follows: Step I— presumptive coliform test through lauryl sulfate tryptose broth; Step 2—presumptive E. coli test through eosin-methlyne blue agar.

[3] No charge.

[4] Salmonella test may be in three steps as follows: Step I—growth through differential agars; Step 2—growth and testing through triple-sugar-iron and lysine-iron agars; Step 3—confirmatory test through biochemicals.

(b) The fee charge for any laboratory analysis not listed in paragraph (a) of this section, or for any other applicable services rendered in the laboratory, shall be based on the time required to perform such analysis or render such service. The hourly rate shall be $32.11.

4. Section 55.560 is amended by revising paragraph (a) (3) to read as follows:

§ 55.560 Charges for continuous inspection and grading service on a resident basis.

* * * * *

(a) * * *

(3) An administrative service charge equal to 25 percent of the grader's or inspector's total salary costs. A minimum charge of $175 will be made each billing period. The minimum charge also applies where an approved application is in effect and no product is handled.

* * * * *

PART 56—GRADING OF SHELL EGGS AND U.S. STANDARDS, GRADES, AND WEIGHT CLASSES FOR SHELL EGGS

5. The authority citation for Part 56 continues to read as follows:

Authority: Secs. 202–208 of the Agricultural Marketing Act of 1946, as amended (60 Stat. 1087–1091; 7 U.S.C. 1621–1627).

6. Section 56.46 is amended by revising paragraphs (b) and (c) to read as follows:

§ 56.46 On a fee basis.

* * * * *

(b) Fees for grading services will be based on the time required to perform the services. The hourly charge shall be $30.12 and shall include the time actually required to perform the grading, waiting time, travel time, and any clerical costs involved in issuing a certificate.

(c) Grading services rendered on Saturdays, Sundays, or legal holidays shall be charged for at the rate of $30.52 per hour. Information on legal holidays is available from the Supervisor.

7. Section 56.47 is revised to read as follows:

§ 56.47 Fees for appeal grading or review of a grader's decision.

The cost of an appeal grading or review of a grader's decision shall be borne by the appellant at an hourly rate of $25.44 for the time spent in performing the appeal and travel time to and from the site of the appeal, plus any additional expenses. If the appeal grading or review of a grader's decision discloses that a material error was made

in the original determination, no fee or expenses will be charged.

8. Section 56.52 is amended by revising paragraph (a)(4) to read as follows:

§ 56.52 Continuous grading performed on a resident basis.

* * * * *

(a) * * *

(4) An administrative service charge based upon the aggregate number of 30-dozen cases of all shell eggs handled in the plant per billing period multiplied by $0.030, except that the minimum charge per billing period shall be $175 and the maximum charge shall be $1,750. The minimum charge also applies where an approved application is in effect and no product is handled.

* * * * *

9. Section 56.54 is amended by revising paragraph (a)(2) to read as follows:

§ 56.54 Charges for continuous grading performed on a nonresident basis.

* * * * *

(a) * * *

(2) An administrative service charge equal to 25 percent of the grader's total salary costs. A minimum charge of $175 will be made each billing period. The minimum charge also applies where an approved application is in effect and no product is handled.

* * * * *

PART 59—INSPECTION OF EGGS AND EGG PRODUCTS (EGG PRODUCTS INSPECTION ACT)

10. The authority citation for part 59 continues to read as follows:

Authority: Secs. 2–28 of the Egg Products Inspection Act (84 Stat. 1620–1635; 21 U.S.C. 1031–1056).

11. Section 59.126 is revised to read as follows:

§ 59.126 Overtime inspection service.

When operations in an official plant require the services of inspection personnel beyond their regularly assigned tour of duty on any day or on a day outside the established schedule, such services are considered as overtime work. The official plant shall give reasonable advance notice to the inspector of any overtime service necessary and shall pay the Service for such overtime at an hourly rate of $22.72 to cover the cost thereof.

12. Section 59.370 is amended by revising paragraph (b) to read as follows:

§ 59.370 Cost of appeals.

* * * * *

(b) The costs of an appeal shall be borne by the appellant at an hourly rate of $25.44, including travel time and expenses if the appeal was frivolous, including but not being limited to the following: The appeal inspection discloses that no material error was made in the original inspection, the condition of the product has undergone a material change since the original inspection, the original lot has changed in some manner, or the Act or these regulations have not been complied with.

PART 70—VOLUNTARY GRADING OF POULTRY PRODUCTS AND RABBIT PRODUCTS AND U.S. CLASSES, STANDARDS, AND GRADES

13. The authority citation for part 70 continues to read as follows:

Authority: Secs. 202–208 of the Agricultural Marketing Act of 1946, as amended (60 Stat. 1087–1091; 7 U.S.C. 1621–1627).

14. Section 70.71 is amended by revising paragraphs (b) and (c) to read as follows:

§ 70.71 On a fee basis.

* * * * *

(b) Fees for grading services will be based on the time required to perform such services for class, quality, quantity (weight test), or condition, whether ready-to-cook poultry, ready-to-cook rabbits, or specified poultry food products are involved. The hourly charge shall be $30.12 and shall include the time actually required to perform the work, waiting time, travel time, and any clerical costs involved in issuing a certificate.

(c) Grading services rendered on Saturdays, Sundays, or legal holidays shall be charged for at the rate of $30.52 per hour. Information on legal holidays is available from the Supervisor.

15. Section 70.72 is revised to read as follows:

§ 70.72 Fees for appeal grading, laboratory analysis, or examination or review of a grader's decision.

The costs of an appeal grading, laboratory analysis, or examination or review of a grader's decision will be borne by the appellant at an hourly rate of $25.44 for the time spent in performing the appeal and travel time to and from the site of the appeal, plus any additional expenses. If the appeal grading, laboratory analysis, or examination or review of a grader's decision discloses that a material error was made in the original determination, no fee or expenses will be charged.

16. Section 70.76 is amended by revising paragraph (a)(2) to read as follows:

§ 70.76 Charges for continuous poultry grading performed on a nonresident basis.

* * * * *

(a) * * *

(2) An administrative service charge equal to 25 percent of the grader's total salary costs. A minimum charge of $175 will be made each billing period. The minimum charge also applies where an approved application is in effect and no product is handled.

* * * * *

17. Section 70.77 is amended by revising paragraphs (a)(4) and (a)(5) to read as follows:

§ 70.77 Charges for continuous poultry or rabbit grading performed on a resident basis.

* * * * *

(a) * * *

(4) For poultry grading: An administrative service charge based upon the aggregate weight of the total volume of all live and ready-to-cook poultry handled in the plant per billing period computed in accordance with the following: Total pounds per billing period multiplied by $0.00025, except that the minimum charge per billing period shall be $175 and the maximum charge shall be $1,750. The minimum charge also applies where an approved application is in effect and no product is handled.

(5) For rabbit grading: An administrative service charge equal to 25 percent of the grader's total salary costs. A minimum charge of $175 will be made each billing period. The minimum charge also applies where an approved application is in effect and no product is handled.

* * * * *

Dated: June 29, 1992.

Kenneth C. Clayton,

Acting Administrator.

[FR Doc. 92–15665 Filed 7–2–92; 8:45 am]

BILLING CODE 3410–02–M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 308 and 325

RIN 3064–AA37

Prompt Corrective Action

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Proposed Rule.

SUMMARY: The FDIC is proposing to amend parts 308 and 325 of its regulations to implement section 38 of the Federal Deposit Insurance Act (FDI Act), as added by section 131 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA). Section 38 requires or permits the FDIC and other Federal banking agencies to take certain supervisory actions when FDIC-insured institutions fall within one of five specifically enumerated capital categories. It also restricts or prohibits certain activities and requires the submission of a capital restoration plan when insured institutions become undercapitalized. These proposed amendments are necessary to establish the capital levels at which insured institutions will be deemed to come within the five capital categories. The proposed amendments also establish procedures for issuing and contesting prompt corrective action directives including directives requiring the dismissal of directors and senior executive officers.

DATES: Comments must be received no later than August 20, 1992.

ADDRESSES: All comments should be submitted to Hoyle L. Robinson, Executive Secretary, Attention: Room F–400, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429 or delivered to room F–400, 1776 F Street, NW., between the hours of 9 a.m. and 5 p.m. on business days. [FAX number: (202) 898–3838]. Comments will be available for inspection and photocopying during normal business hours at the 1776 F Street address.

FOR FURTHER INFORMATION CONTACT: Daniel M. Gautsch, Examination Specialist (202–898–6912), Stephen G. Pfeifer, Examination Specialist (202–898–8904), Division of Supervision; Claude A. Rollin, Counsel (202–898–3985), Legal Division, Federal Deposit Insurance Corporation.

SUPPLEMENTARY INFORMATION:

I. Background

Section 131 of FDICIA created a new statutory framework that applies to every insured depository institution a system of supervisory actions indexed to the capital level of the individual institution. The stated purpose of this statutory provision is to "resolve the problems of insured depository institutions at the least possible long-term loss to the deposit insurance fund." The new framework is contained in section 38 of the FDI Act. This framework and the authority it confers on the federal banking agencies are meant to supplement the existing supervisory authority vested in the agencies, and do not limit in any way their existing authority under other statutes or regulations to initiate supervisory actions to address capital deficiencies, unsafe or unsound conduct, practices, or conditions, or violations of law.

Section 38 requires the federal banking agencies, within 9 months of the enactment of FDICIA, to promulgate final regulations necessary to carry out the purposes of that section. Under the statute, these regulations must become effective within one year after the date of enactment of FDICIA, or no later than December 19, 1992.

It is the goal of the Board of Governors of the Federal Reserve System (Federal Reserve Board), the Federal Deposit Insurance Corporation (FDIC), the Office of the Comptroller of the Currency (OCC), and the Office of Thrift Supervision (OTS) to promulgate uniform regulations to the extent feasible in implementing the prompt corrective action framework of section 38. The agencies believe that a uniform approach to capital definitions and capital categories would simplify the tasks facing bank and thrift management of monitoring and maintaining the capital levels of insured depository institutions, and would remove any competitive distortions that might arise if different standards were applied to competing institutions.

In order to implement the provisions of section 38, the agencies have proposed regulations that have uniform provisions. The agencies propose to define in the same manner the capital measures and capital thresholds for each of the five capital categories established in the statute. The agencies also propose to establish a uniform schedule for filing and review of capital restoration plans. In addition, the agencies propose to adopt identical provisions clarifying certain aspects of the capital guarantee required to be made by companies that control an undercapitalized institution as part of an acceptable capital plan, including the limit on the liability of such companies.

The agencies' proposal establishes a procedure under which institutions are provided advance notice of a proposed agency action under section 38 and provided an opportunity to respond to the proposed action. A separate procedure is proposed that governs decisions by the appropriate Federal banking agency to change the capital category to which the institution is assigned after review of supervisory factors other than capital. Finally, the proposal implements the statutory requirement that officers and directors who are subject to dismissal as a result of an agency order issued under section 38 be afforded agency review of the dismissal.

Many of the provisions of section 38 apply without the need for agency action, or impose requirements or limitations on an agency in the exercise of its discretion. These provisions have not been repeated in the proposed regulation. The proposal implements only those portions of section 38 that the agencies believe require regulatory specification or clarification.

Where procedures have not been established in this proposal, such as procedures for review of a stock redemption or an expansion proposal by an undercapitalized institution, each agency will implement a procedure governing agency review. Such procedures will be established by regulation or through instructions to its appropriate field offices and examiners and to the institutions involved. In several instances, procedures governing agency review have already been established in other agency regulations.

The agencies request comment on all aspects of this proposal, including the specific numbered questions presented below. In addition, the agencies request comment on whether other provisions of section 38 require clarification or should be implemented by regulation. The agencies stress that comments may address any aspect of the proposal and need not be confined to the numbered questions set out below. Commenters are invited to submit comments to any or all of the federal banking agencies.

II. Summary of Statutory Framework

The following is a brief summary of the supervisory framework established by section 38. This summary has been prepared in order to give context to the agency proposal and request for comment. The summary is not intended to be a complete description of the requirements of section 38, and commenters may find it useful to consult the provisions of section 38, contained at 12 U.S.C. 1831o, in preparing their comments.

Section 38 provides a framework of supervisory actions based on the capital level of an insured depository institution. Section 38 establishes five capital categories: well-capitalized, adequately capitalized, undercapitalized, significantly undercapitalized, and critically undercapitalized. The statute deems an insured depository institution to be:

"Well capitalized" if the institution significantly exceeds the required minimum level for each relevant capital measure;

"Adequately capitalized" if the institution meets the required minimum level for each relevant capital measure;

"Undercapitalized" if the institution fails to meet the required minimum level for any relevant capital measure;

"Significantly undercapitalized" if the institution is significantly below the required minimum level for any relevant capital measure; or,

"Critically undercapitalized" if the institution has a ratio of tangible equity to total assets of 2 percent or less, or otherwise fails to meet the critical capital level established pursuant to section 38(c)(3)(A).

The applicability of supervisory actions provided in section 38 to an individual institution depends on the institution's classification within one of these five categories.

A. Provisions Applicable to All Institutions

Section 38 prohibits an insured depository institution from declaring any dividends, making any other capital distribution or paying a management fee to a controlling person if, following the distribution or payment, the institution would be within any of the three undercapitalized categories. The statute provides a limited exception to this prohibition for stock redemptions that do not result in any decrease in an institution's capital and would improve the institution's financial condition provided that the redemption has been approved by the institution's appropriate Federal banking agency after consultation with the FDIC.

B. Provisions Applicable to Undercapitalized Institutions

Institutions that are classified as undercapitalized are subject to a number of additional mandatory supervisory actions. These include:

- Increased monitoring by the appropriate Federal banking agency for the institution and periodic review of the institution's efforts to restore its capital;
- A requirement that the institution submit, generally within 45 days, a capital restoration plan acceptable to the appropriate Federal banking agency for the institution and implement that plan;
- A restriction on growth of the institution's total assets; and
- A limitation on the institution's ability to make any acquisition, open any new branch offices, or engage in any new line of business without the prior approval of the appropriate Federal banking agency for the institution.

Seciton 38 also provides that the appropriate Federal banking agency for an undercapitalized institution may take any of a number of discretionary supervisory actions if the agency determines that any of these actions is necessary to resolve the problems of the institution at the least possible long-term cost to the deposit insurance fund. These discretionary supervisory actions include: requiring the institution to raise additional capital; restricting transactions with affiliates; restricting interest rates paid by the institution on deposits; requiring replacement of senior executive officers and directors; restricting the activities of the institution and its affiliates; requiring divestiture of the institution or the sale of the institution to a willing purchaser; and any other supervisory action that the agency deems appropriate. Because these discretionary actions are also applicable to significantly undercapitalized institutions (as well as to critically undercapitalized institutions), these actions are described more fully in the next section.

C. Provisions Applicable to Significantly Undercapitalized Institutions

Section 38 provides that significantly undercapitalized institutions are subject to the four mandatory provisions listed above that are applicable to undercapitalized institutions. Section 38 also provides that a significantly undercapitalized institution must restrict the payment of bonuses and raises to senior executive officers of the institution.

In addition to these mandatory requirements, section 38 specifies that the appropriate Federal banking agency for the institution shall impose one or more restrictions on an institution that is significantly undercapitalized. These discretionary actions include:

- Requiring the institution to sell enough additional capital, including voting shares, so that the institution would be adequately capitalized after the sale;
- Restricting transactions between the institution and its affiliates, including transactions with its insured depository institution affiliates;
- Restricting the interest rates paid on deposits collected by the institution to the prevailing rates in the region where the institution is located;
- Restricting the institution's asset growth or requiring the institution to reduce its total assets;
- Requiring the institution or any subsidiary of the institution to terminate, reduce or alter any activity that the agency determines poses excessive risk to the institution;
- Requiring the institution to hold a new election of its board of directors;
- Requiring the institution to dismiss any director or senior executive officer who had held office at the institution for more than 180 days immediately before the institution became undercapitalized, if the agency deems such dismissal to be appropriate, and to employ new officers;
- Prohibiting the institution from accepting deposits from correspondent depository institutions;
- Prohibiting any bank holding company that controls the institution from making any dividend payment without prior approval of the Federal Reserve Board;
- Requiring the institution to accept an offer to be acquired by another institution or company, or requiring any company that controls the institution to divest the institution;
- Requiring the institution to divest or liquidate any subsidiary that is in danger of becoming insolvent and poses a significant risk to the institution, or that is likely to cause significant dissipation of the institution's assets or earnings;
- Requiring any company that controls the institution to divest or liquidate any affiliate of the institution (other than another insured depository institution) if the appropriate Federal banking agency for the holding company determines that the affiliate is in danger of becoming insolvent and poses a significant risk to the institution, or is likely to cause significant dissipation of the institution's assets or earnings; and
- Requiring the institution to take any other action that the agency determines would better carry out the purposes of section 38.

While the statute generally provides the agency with discretion to determine whether these actions are appropriate in connection with a particular institution, the statute establishes certain presumptions and requirements with respect to the agency's consideration of these actions. Section 38 requires that the agency take at least one of the above discretionary supervisory actions in connection with every institution that is significantly undercapitalized or critically undercapitalized. The statute also establishes a presumption that the agency require each significantly undercapitalized or critically undercapitalized institution to (1) be acquired by another institution or company or sell sufficient shares to restore the institution's capital to at least the minimum acceptable capital level, (2) restrict transactions with affiliates of the institution, including transactions with depository institution affiliates, and (3) restrict interest rates paid by the institution on deposits. The agency must impose each of these three actions unless the agency determines that the action would not further the purpose of section 38.

As discussed above, each of the discretionary actions listed above may also be taken in connection with undercapitalized institutions if a finding is made by the agency that the action is necessary to carry out the purposes of section 38. In addition, these discretionary actions may be taken in connection with any undercapitalized

institution that fails to submit or materially implement a capital restoration plan, as if the institution were a significantly undercapitalized institution.

In addition to the discretionary actions discussed above, section 38 also provides that the appropriate Federal banking agency may require a significantly undercapitalized institution or an undercapitalized institution that has failed to submit or implement an acceptable capital restoration plan to comply with one or more of the restrictions established by the FDIC on the activities of critically undercapitalized institutions.

D. Provisions Applicable to Critically Undercapitalized Institutions

Section 38 requires that an insured depository institution that is critically undercapitalized be placed in conservatorship or receivership within 90 days, unless the appropriate Federal banking agency for the institution and the FDIC concur that other action would better achieve the purposes of section 38. A determination by the agency to defer placing a critically undercapitalized institution in receivership or conservatorship must be reviewed every 90 days and must document the reasons the agency believes other action would better achieve the purposes of section 38.

The statute requires that the institution be placed in receivership if the institution continues to be critically undercapitalized on average during the fourth quarter after the institution initially became critically undercapitalized, unless certain specific statutory requirements are met. To be eligible for the exception, the institution must: (1) Have positive net worth, (2) be in substantial compliance with an approved capital restoration plan, (3) be profitable or have an upward trend in earnings, and (4) have reduced its ratio of nonperforming loans to total loans. In addition, the head of the appropriate Federal banking agency for the institution and the Chairperson of the FDIC must both certify that the institution is viable and not expected to fail.

Critically undercapitalized institutions are also prohibited, beginning 60 days after becoming critically undercapitalized, from making any payment of principal or interest on subordinated debt issued by the institution without the prior approval of the FDIC. Section 38 does not prevent unpaid interest from accruing on subordinated debt under the terms of the debt instrument.

Section 38(i) of the FDI Act also provides that the FDIC, by regulation or order, must restrict the activities of critically undercapitalized institutions. At a minimum, the FDIC must prohibit critically undercapitalized institutions from doing any of the following without the prior written approval of the FDIC:

- Entering into any material transaction other than in the usual course of business. Such activities include any investment, expansion, acquisition, sale of assets or other similar action where the institution would have to notify its appropriate Federal banking agency;
- Extending credit for any highly leveraged transaction;
- Amending its charter or bylaws unless required to do so in order to carry out any other requirement of any law, regulation or order;
- Making any material change in its accounting methods;
- Engaging in any "covered transactions" within the meaning of section 23A(b) of the Federal Reserve Act (12 U.S.C. 371c), which concerns affiliate transactions;
- Paying excessive compensation or bonuses; and
- Paying interest on new or renewed liabilities at a rate which would increase the institution's weighted average cost of funds to a level significantly exceeding the prevailing rates in the institutions's normal market areas.

Pursuant to section 38(j) of the FDI Act, none of these restrictions apply to institutions in conservatorship or to any bridge bank that is wholly owned by the FDIC or the RTC.

It should also be noted that, pursuant to section 38(o)(2) of the FDI Act, none of these restrictions shall apply, before July 1, 1994, to any insured savings association if:

(a) The savings association had submitted a plan meeting the requirements of section 5(t)(6)(A)(ii) of the Home Owners' Loan Act (12 U.S.C. 1464(t)(6)(A)(ii));

(b) The Director of OTS had accepted the plan; and

(c) The savings association remains in compliance with the plan or is operating under a written agreement with the appropriate Federal banking agency.

The FDIC proposes to rely on existing industry or regulatory guidance, to the extent possible, when evaluating and applying each of the above restrictive provisions and to continue to coordinate closely with the primary Federal and/or State banking regulators. The interagency procedures implemented will be similar to those already in place at both the Federal agency and state banking department levels. For example, prior to imposing any order restricting or prohibiting an institution from engaging in any of the activities that can be restricted, the FDIC would consult with the appropriate Federal banking agency and State banking agency, as appropriate.

III. Proposal and Request for Comment

A. Capital Measures

For purposes of defining each of the five capital categories (except for the critically undercapitalized category), section 38(c) requires the agencies to prescribe capital standards that include a leverage limit and a risk-based capital requirement. The agencies may establish additional capital measures for these categories if additional capital measures would serve the purpose of section 38. In addition, section 38 permits the agencies to rescind the leverage limit or the risk-based capital measure if the Federal banking agencies concur that either measure is no longer an appropriate means for carrying out the purposes of section 38.

The agencies are proposing to adopt the leverage limit and the total risk-based capital measure in defining the capital categories other than the critically undercapitalized category. In addition, the agencies propose to adopt the Tier 1 risk-based ratio as a capital measure in defining these capital categories. These measures are generally used by the Federal banking agencies in determining the adequacy of capital of insured depository institutions.

Comment 1. The agencies request comment on whether adoption of these three capital measures is appropriate to carry out the purpose of section 38.

The agencies note that the capital requirements applicable to insured depository institutions may be affected by section 305 of FDICIA, which amends section 18 of the Federal Deposit Insurance Act ("FDI Act") to require the agencies to revise their risk-based capital standards to take into account interest rate risk, concentration of credit risk, and the risks of nontraditional activities. The statutory deadline for implementation of these revisions is June 19, 1993.

As the revisions required under section 18 of the FDI Act are implemented, it might prove necessary or appropriate to review the capital measures and thresholds specified for the various capital categories. In particular, the agencies note that one of the rationales for retaining a leverage ratio after the risk-based capital measure was introduced was that the risk-based capital measure is focused on credit-related risk, and does not

explicitly factor in other risks, particularly interest rate risk.

The agencies intend to lower or eliminate the leverage capital component from the definitions of "well capitalized," "adequately capitalized" and "undercapitalized" after the risk-based capital standards have been revised by each federal banking agency to take into account interest rate risk as required by section 305 of FDICIA, and after experience has been gained with such standards. The agencies acknowledge the requirements of section 38(c) of the FDI Act and would comply with those requirements, to the extent they apply, before taking any such action.[1]

B. Definition of Capital Terms

The agencies propose to adopt the same definitions of capital terms for purposes of the prompt corrective action provisions of section 38 as are currently used under the capital adequacy guidelines and regulations adopted by the agencies. The definition of the risk-based and leverage capital ratios for purposes of the prompt corrective action subpart would refer to the definitions of Tier 1 capital, total capital, total risk-weighted assets, and total assets as those terms are defined in the agencies' current capital adequacy guidelines and regulations. This proposal attempts to reduce complexity that could result from the use of new or modified capital definitions, and to minimize confusion and the possibility that an institution may be uncertain regarding its capital levels for purposes of section 38.

Comment 2. The agencies request public comment regarding whether this approach is appropriate or whether the agencies should modify the existing capital definitions for purposes of applying section 38. If adjustments or modifications to the capital definitions currently used are deemed to be appropriate, the agencies request comment on what type of adjustments or modifications should be made.

Comment 3. The agencies also request comment regarding the appropriate period for calculation of capital levels. Under current agency practice and requirements, the level of capital of an institution is calculated on the basis of the amount of capital held by the institution on a given day as a ratio of the most recent quarterly average of total assets or quarter-end risk-weighted assets for the institution. A daily calculation of both capital and assets may facilitate prompt action under section 38. However, the agencies note that insured depository institutions are not currently required to make daily calculations of capital, and such a requirement would increase the reporting burden on many institutions. In addition, a daily calculation may distort capital calculations by focusing on individual daily events (such as a decline in the market value of certain investments on a given day) rather than on related actions taken during a given period or remedial actions that are readily available to the institution (such as a decline in market value in one investment followed by a gain realized on the sale of another investment).

Comment 4. The agencies request comment on whether, for purposes of applying the prompt corrective action requirements of section 38, the use of quarterly average total assets or quarter-end risk-weighted assets in calculating capital levels is appropriate, or whether the capital calculations for an institution should be based on an actual daily measure or quarter-end measure of the institution's capital and assets.

Comment 5. The agencies also request comment on whether a daily calculation of total assets and risk-weighted assets is feasible, and whether a requirement that an institution make daily calculations would impose significant added burden on insured depository institutions.

C. Specific Capital Levels for Five Capital Categories

Section 38 requires the agencies to establish specific capital thresholds for each capital category and sets general standards, as described above, for each of these categories. Under these standards, an institution is adequately capitalized if it meets the required minimum level for each relevant capital measure. Thus, capital levels set for the adequately capitalized category generally would be the same as the minimum ratios established under the existing minimum capital adequacy rules and guidelines adopted by the agencies. These minimums are 8 percent for the total risk-based capital ratio, 4 percent for the Tier 1 risk-based capital ratio, and 4 percent for the Tier 1 leverage ratio (3 percent for composite 1-rated banks and savings associations, subject to the appropriate Federal banking agency's guidelines). An institution would have to meet all these minimums in order to be deemed adequately capitalized.

The statute also provides specific guidance as to the capital level for defining a critically undercapitalized institution. Section 38 requires that a critically undercapitalized institution be defined by reference to the institution's ratio of tangible equity to total assets. The statute requires the agencies to establish the threshold ratio for defining a critically undercapitalized institution at no less than 2 percent. As discussed below, the agencies are proposing that a critically undercapitalized institution be defined as any institution that has a Tier 1 leverage ratio of 2 percent or less.

Taking the capital levels for the adequately capitalized and critically undercapitalized categories as benchmarks, the agencies are proposing that the capital levels for the undercapitalized category be defined as any level under 8 percent for the total risk-based capital ratio, under 4 percent for the Tier 1 risk-based capital ratio, or under 4 percent for the Tier 1 leverage ratio (under 3 percent for composite 1-rated banks and savings associations, subject to the appropriate Federal banking agency's guidelines). An institution would be considered undercapitalized if it were below the specified capital level for any of the three capital measures.

Further, the capital levels for significantly undercapitalized institutions would be defined as any level under 6 percent for the total risk-based capital ratio, under 3 percent for the Tier 1 risk-based capital ratio, or under 3 percent for the Tier 1 leverage ratio. An institution would be considered significantly undercapitalized if it were below the specified capital level for any of the three capital measures. Under the proposed definitions, an institution that is significantly undercapitalized also would be deemed to be undercapitalized. Similarly, an institution that is critically undercapitalized also would be deemed to be significantly undercapitalized and undercapitalized. The overlap between these categories is contemplated by the statute and has the effect of applying to significantly undercapitalized institutions and to critically undercapitalized institutions any provisions of section 38 that are applicable to undercapitalized institutions.

[1] Section 38(c) of the FDI Act requires that the capital standards prescribed under that section by each appropriate Federal banking agency shall include a leverage limit and a risk-based capital requirement, as well as any other additional relevant capital measures needed to carry out the purpose of section 38 and implemented by regulation. However, an appropriate Federal banking agency may, by regulation, rescind any relevant capital measure required by section 38, upon determining (with the concurrence of the other Federal banking agencies) that the measure is no longer an appropriate means for carrying out the purpose of section 38.

The agencies are proposing to establish the minimum total risk-based capital level for the well capitalized category at 10 percent and to set the minimum leverage capital level for this category at 5 percent. To emphasize the importance the agencies place on Tier 1 capital, it is proposed that for the well capitalized category the minimum level for the Tier 1 risk-based capital ratio be set at 6 percent. The specifications of the minimum ratios for the well capitalized category are proposed at levels that are 25 percent to 50 percent higher than the minimum for the adequately capitalized category to promote safe and sound banking conditions, giving due consideration to the international capital standards to which the United States and other G–10 countries have agreed, and to the competitive pressures faced by U.S. banks operating in international markets with foreign banks adhering to these standards.

Capital ratios alone, of course, are not fully indicative of the capital strength of an institution. In particular, in proposing these minimum capital levels, the agencies are aware that some poorly-related depository institutions have capital ratios above the specified minimums for the well capitalized and adequately capitalized categories. One reason that some poorly-rated institutions qualify as well capitalized for prompt corrective action purposes is that capital is a lagging indicator of problems of insured depository institutions.

Some of these institutions are subject to a written order or directive [2] that establishes a higher capital level for the institution. The agencies are proposing that for an institution to be well capitalized, it must not be subject to any written capital order or directive. This proposal reflects the view that an institution that is subject to a written capital directive from the appropriate Federal banking agency does not have capital that significantly exceeds the required minimum level for the relevant capital measures.

The agencies also intend to assess carefully all aspects of a troubled institution's condition, and to exercise their reclassification authority under section 38(g) of FDICIA. Section 38(g) gives the agencies discretion to downgrade, where appropriate, a "well capitalized" institution by one category and require an "adequately capitalized" or "undercapitalized" institution to comply with supervisory actions as if it were in the next lower category if that institution has received a less-than-satisfactory examination rating for asset quality, management, earnings, or liquidity without correcting the deficiency. Any institution would be subject to downgrading on the basis of the components of the institution's examination rating, including an institution that has been deemed not to be within the "well capitalized" category because the institution is subject to a written capital order or directive.

It is also important to emphasize that while the prompt corrective action framework constitutes an additional supervisory tool, the Federal banking agencies continue to have available all supervisory tools traditionally used to supervise institutions. The agencies also fully intend to use these tools as appropriate in supervising institutions. These include appropriate enforcement actions and supervisory follow-up measures based upon the institution's overall condition and the existence of any financial, operational, or other supervisory weaknesses, irrespective of the organization's capital category for purposes of the prompt corrective action provisions of section 38.

Accordingly, the assignment of an institution to a particular capital category—including the well capitalized category—does not prevent the appropriate Federal banking agency from taking other supervisory action that the agency deems to be appropriate. It is with this fact in mind that the agencies are proposing by regulation to limit the ability of an insured depository institution to advertise its capital category under section 38 unless authorized by the appropriate Federal banking agency for the institution or otherwise required by statute or regulations.

Comment 6. The agencies invite comment on this proposal.

Traditionally, examiners have reached judgments so an institution's capital needs by also taking into account a range of factors such as interest rate risk and concentration risk. The agencies have initiatives under way mandated by FDICIA to review their risk-based capital standard to ensure that they take adequate account of such risks, and also have been engaged in a project under the Federal Financial Institutions Examination Council ("FFIEC") to refine and improve procedures for assessing the reserving policies and practices of individual institutions. After those projects have been completed and improvements implemented and assessed, the agencies intend to revisit the question of how the specifications for the well capitalized category may need to be modified or adjusted.

Comment 7. The agencies request comment on all aspects of the capital levels proposed in the draft regulation.

Comment 8. In particular, the agencies seek comment on whether the specific levels set for each capital category are appropriate, as well as whether it is appropriate to require that well-capitalized institutions not be subject to a capital order or directive.

D. Critically Undercapitalized Institutions

The statute requires that the critically undercapitalized category be based on the ratio of tangible equity to total assets of the institution. Section 38 requires that the minimum ratio for this category be established at a level of tangible equity that is no less than 2 percent of the institution's total assets, and that is no higher than the ratio equal to 65 percent of the required minimum level of capital under the leverage limit. The agencies may, by regulation, specify additional capital measures (such as a risk-based capital ratio) in defining the critically undercapitalized category. Any such measures may not, without the concurrence of the FDIC, be set at a level lower than the level specified by the FDIC for insured state-chartered banks that are not members of the Federal Reserve System.

The agencies are proposing to define critically undercapitalized institutions as institutions that have a ratio of Tier 1 capital to total assets of 2.0 percent or less. The agencies do not at this time propose to establish any additional capital measures for the critically undercapitalized category.

Under this proposal, the agencies would define tangible equity to be Tier 1 capital as defined under the agencies' existing capital adequacy guidelines or regulations. The use of the Tier 1 capital definition has been proposed for several reasons. The definition of Tier 1 capital requires a deduction from equity capital for most intangible assets, including goodwill. The use of Tier 1 capital also focuses primarily on common equity rather than other forms of equity and, therefore, represents the most secure form of equity available to absorb losses that may be incurred by an insured depository institution.

In addition, because Tier 1 capital is an element of the existing capital adequacy guidelines and is included in

[2] The FDIC proposes to define the term "order or directive" to include any written agreement or order issued pursuant to section 8 of the FDI Act and any capital directive or prompt corrective action directive issued pursuant to part 325 of the FDIC's regulations.

the definition of the other capital measures proposed under section 38, use of the Tier 1 capital definition would promote consistency and simplicity and, therefore, minimize the potential for confusion in the capital computations required to be made by insured depository institutions. It would also reduce the potential for distortion in the capital raising efforts of insured depository institutions and for anomalies in the classification of institutions under section 38 that might result from use of a substantially different definition of capital for the critically undercapitalized category than is used for the other capital categories.

Comment 9. The agencies request public comment on this definition.

Comment 10. The agencies also request comment on whether the definition of tangible equity should reflect additional adjustments to deduct intangible assets. If such an adjustment is appropriate for defining the critically undercapitalized category, the agencies request comment on whether tangible equity should be defined to exclude purchased mortgage servicing rights. The agencies note that section 475 of FDICIA requires the Federal banking agencies to determine whether a portion of certain purchased mortgage servicing rights should be included in the calculation of tangible capital. The agencies also recently sought public comment on a proposal to permit insured depository institutions to include a portion of certain purchased credit-card relationships in the calculation of tangible capital for purposes of meeting applicable minimum capital adequacy standards.

Comment 11. The agencies request comment on whether purchased mortgage servicing rights and purchased credit-card relationships should be counted in the definition of tangible equity for purposes of section 38.

Similarly, investments in certain types of subsidiaries, which savings associations are required to deduct for purposes of their general capital calculations, represent realizable assets which buffer the exposure of the deposit insurance funds.

Comment 12. The agencies request comment on whether these investments should be deducted in computing the relevant capital ratio for purposes of determining whether an institution is critically undercapitalized.

Comment 13. In addition, the agencies request comment on whether tangible equity should be defined to take into account broader forms of equity beyond those included in the definition of Tier 1 capital.

Comment 14. In particular, the agencies request comment on whether cumulative perpetual preferred stock should be included in determining whether an institution is critically undercapitalized.

Comment 15. Because the agencies are not proposing to include this form of equity in determining whether an institution is critically undercapitalized, the agencies also request comment on whether a transition period should be permitted for institutions that are permitted to rely on cumulative perpetual preferred stock under currently outstanding agency orders.

Comment 16. The agencies also request comment on whether a higher threshold should be established than the proposed 2 percent leverage limit. By statute, this ratio may not exceed 65 percent of the minimum leverage ratio established by the agencies.

Comment 17. Finally, the agencies request comment on whether it is appropriate to establish additional capital measures for the critically undercapitalized category. As noted above, section 38 permits the agencies to establish additional capital measures in defining the critically undercapitalized category. The agencies are proposing to use the total risk-based capital measure and the Tier 1 risk-based capital measure for all other categories, but are not proposing to use these capital measures in defining critically undercapitalized institutions.

E. Calculation of Capital Levels and Notice of Capital Levels

Under the proposal, an institution would be expected to monitor its capital levels continually and to notify the appropriate Federal banking agency promptly if the institution's capital levels fall into a lower capital category. In addition, capital levels would be periodically determined on the basis of information filed by each insured depository institution in its quarterly Consolidated Report of Condition and Income (Call Report), or on the basis of information obtained in an examination or inspection of the institution. Capital levels may also be determined by the appropriate Federal banking agency for an institution on the basis of other information obtained by the agency from any source. This information may include data provided by the institution to the agency on a voluntary basis, information obtained in connection with an application, calculations based on a report that the institution must file other than a Call Report, or adjustments that are appropriate based on publicly announced events that may affect the institution's capital.

Under the proposal, an institution would be deemed to be aware of information that it files in a Call Report as of the date that the Call Report is required to be filed. Similarly, the institution would be deemed to be notified of capital levels calculated in the examination or inspection process as of the date that the examination report or inspection report is provided to the institution. In the event that the agency determines the capital levels of the institution on the basis of other information, the agencies are proposing to notify the institution in writing of the calculation and the information used as a basis for the capital calculation.

The agencies are concerned that, while the proposed arrangement for calculating the capital levels of an institution on the basis of Call Reports and reports of examination and inspection may be reliable and in most instances timely, this procedure may not always lead to a prompt calculation of capital levels for a given institution. For example, an institution may become aware of information that affects its capital calculation between the time that Call Reports are required to be filed and when an examination is not in process or another report may not be required. This could result in delay in application of the supervisory requirements of section 38, including the provisions that are mandated by the statute.

In order to address changes in capital promptly, the agencies propose to require insured depository institutions to notify the appropriate Federal banking agency within 5 days of any event that would cause the institution to be assigned to a different capital category than the category assigned on the basis of the most recent Call Report or report of examination or inspection. The institution would be deemed to be aware of a necessary adjustment when its senior management determines that the adjustment is appropriate, even if the adjustment is not required to be reported in an official report or otherwise disclosed for some period of time. Under the proposal, the agency would review the information provided by the institution, along with any explanation provided by the institution, to determine whether the institution should be assigned to a different capital category for purposes of the provisions of section 38. This procedure would apply to both upward and downward adjustments to capital that occur between the filing of Call Reports or examinations.

Comment 18. The agencies invite public comment on all aspects of this approach to the capital calculations.

Comment 19. In particular, the agencies request comment on the use of Call Reports and examination reports as the primary bases for capital calculations.

Comment 20. In addition, the agencies request comment on the procedures that have been proposed for self-monitoring and agency notification of changes in capital levels, including comment on the burden associated with this procedure and comment on whether any other procedure to permit the timely monitoring of an institution's capital levels is appropriate.

F. Reclassification Based on Supervisory Criteria Other Than Capital Standards

Section 38 provides that a federal banking agency may, under certain circumstances, reclassify a well capitalized insured depository institution as adequately capitalized and require an adequately capitalized or undercapitalized institution to comply with supervisory actions as if it were in the next lower category (but not treat a significantly undercapitalized institution as if it were critically undercapitalized) based on supervisory information other than the capital levels of the institution. (Reclassification to the adequately capitalized category and treatment of an institution as if it were in the next lower capital category are referred to collectively herein as a "reclassification.") The statute permits the agency to reclassify an institution where the agency has determined, after notice and opportunity for hearing, that the institution is in unsafe or unsound condition. Section 38 also provides that an institution may be reclassified if the agency deems the institution to be engaged in an unsafe or unsound practice under section 8(b)(8) of the FDI Act. 12 U.S.C. 1818(b)(8). Section 8(b)(8) of the FDI Act was amended by FDICIA to provide that an institution may be deemed to be engaged in an unsafe or unsound practice if the institution has received a less-than-satisfactory rating in its most recent examination report in any of the categories for assets, management, earnings, or liquidity, and the institution has not corrected the deficiency.

Under the proposed rule, an institution would be reclassified on any of these supervisory grounds only after receiving prior written notice of the proposed reclassification from the agency and having an opportunity to respond to the proposed reclassification. In the case of a proposed reclassification based on a determination that the institution is in unsafe or unsound condition, the agencies also propose, pursuant to section 38, to accord the institution an opportunity for an informal hearing prior to the reclassification.

Because section 38 expressly provides for notice and opportunity for hearing in connection with a reclassification on the grounds of unsafe and unsound condition but does not with respect to a reclassification based on examination ratings, the agencies are not proposing to provide an opportunity for an oral hearing prior to reclassification based on an institution's examination rating. In the case of a reclassification proposed on the basis of an examination rating of the institution, the agencies are proposing to provide the institution an opportunity to present written arguments and information prior to the agency's reclassification of the institution.

Under the proposal, the appropriate Federal banking agency would provide an institution with written notice of the agency's intention to reclassify the institution. The institution would be provided at least 14 days to respond to the proposed reclassification unless the agency determines that the condition of the institution warrants a shorter time period for response. In its response, the institution should set forth any reasons why the proposed reclassification would not be appropriate, and provide the agency with any information that the institution believes supports its position on the reclassification. The agency would consider the response in deciding whether to proceed with the reclassification.

Comment 21. The agencies invite comment on all aspects of these procedures for reclassifying institutions based on supervisory criteria other than capital.

G. Timing of Mandatory Provisions

Under section 38, an institution becomes subject to certain mandatory provisions on the basis of the capital levels of the institution. These mandatory provisions apply immediately without agency action. As noted above, an undercapitalized institution is immediately subject to a restriction on the payment of dividends and management fees, a limitation on asset growth, and an obligation to file an acceptable capital restoration plan. In addition to these requirements, an institution that is significantly undercapitalized is subject to a limitation on the payment of bonuses or raises to senior executive officers.

Under the proposal, once an institution is deemed to have notice of its capital levels and category or is given actual notice by the agency of the institution's capital category, the institution is deemed immediately to be subject to the mandatory provisions that apply to institutions within the corresponding capital category without any further action by the appropriate Federal banking agency for the institution. As explained above, the agencies propose to deem an institution to have notice of its capital category whenever a Call Report is due to be filed by the institution, or an examination report or report of inspection has been provided to the institution. The agencies will provide actual notice to the institution of its capital categorization if the category is based on an adjustment to capital between the filing of Call Reports or examinations, the agency determines the capital levels of the institution based on information other than information contained in the Call Reports or an examination report, or the agency determines to reclassify the institution based on supervisory criteria other than capital.

H. Procedures for Prompt Corrective Action Directives

Section 38 also provides the agencies with discretion to impose other requirements or restrictions on an insured institution that is undercapitalized, significantly undercapitalized or critically undercapitalized, as well as on any company that controls such an institution. These discretionary supervisory actions are described above.

Because these provisions rely on an agency determination that certain action is appropriate, the agencies are proposing a procedure under which a Federal banking agency would issue a written directive whenever the agency has determined that a discretionary supervisory action is appropriate. The agencies propose to provide written notice to an institution prior to issuing any directive to take an action committed by section 38 to the agency's discretion. The notice would describe the action contemplated by the agency and would provide the institution or company with 14 calendar days to respond to the proposed agency action, unless the agency determines that a shorter response period is appropriate in light of the condition of the institution.

Under the proposal, the institution or company would be permitted to submit written arguments regarding whether

the directive is an appropriate exercise of the agency's discretion, along with any information or evidence supporting the respondent's position. Failure to file a timely response would constitute consent to the issuance of the directive and a waiver of the opportunity to appeal. The agency would consider the institution's response prior to issuing a final directive to take action under section 38.

The agencies are also proposing to permit the appropriate Federal banking agency to issue a final directive without notice or opportunity to respond where immediate supervisory action is appropriate. In cases where immediate action is necessary, the agencies propose to provide the institution with an opportunity to appeal the action to the agency and request modification or rescission of the agency action following issuance of the directive. An institution that seeks to appeal an immediately effective directive would be required to file a written appeal with the agency within 14 calendar days of the effective date of the directive. The agency would be required to consider and take action regarding a timely appeal within 60 days of receiving the appeal. The agencies believe that these procedures will afford banks an adequate and fair opportunity to obtain agency review of the agencies' action. See, e.g., *FDIC* V. *Mallen*, 486 U.S. 230 (1988) (upholding post-deprivation hearing in case of suspension or removal of a bank officer charged with a felony); *Federal Deposit Ins. Corp.* v. *Bank of Coushatta*, 930 F.2d 1122 (5th Cir. 1991), *cert. denied*, 112 S. Ct. 170 (1992) (affirming procedures for issuance of capital directives).

In proposing these procedures, the agencies have attempted to adhere to the mandate of section 38 that the agencies take prompt corrective action to resolve the problems of insured depository institutions at the least possible long-term loss to the deposit insurance fund while providing institutions with an opportunity for agency review of disputed factual claims. These procedures generally permit an institution advance notice of a proposed directive and an opportunity to present written information and argument to the agency prior to final agency action regarding the directive.

It should be added, however, that the agencies would not be required to follow these procedures, and the respective time periods would not apply, if an institution consented to the action to be taken by the agency either as initially proposed by the agencies or as modified by mutual agreement. Actions taken with such consent would have the same legal affect and be enforceable to the same extent and by the same means as action taken upon exhaustion of these procedures.

The agencies are not proposing an oral hearing in connection with the issuance of a prompt corrective action directive for several reasons. First, the terms and legislative history of section 38 indicate that Congress intended agency action under section 38 to be taken as promptly as possible. 12 U.S.C. 1831o(a)(2); see also S. Rep. No. 102–167, 102d Cong., 1st Sess. 32–38 (1991) ("The prompt corrective action system will require regulators to act at the first sign of trouble."). Second, Congress clearly indicated several occasions when it believed that a hearing was appropriate in connection with actions taken under section 38, such as orders requiring dismissal of a director or senior executive officer. Congress gave no indication in either the statutory language or legislative history that it intended to provide for an agency hearing in connection with supervisory actions committed to agency discretion under section 38. Third, a requirement that an agency hold a hearing in each case involving action committed to agency discretion under section 38 would cause the prompt corrective action provisions of section 38 largely to duplicate the existing cease-and-desist authority granted to the agencies under section 8(b) of the FDI Act (12 U.S.C. 1818(b)).

Comment 22. The agencies request comment on all aspects of the proposal to issue prompt corrective action directives where the agency determines to apply the provisions of section 38 committed to the discretion of the agency.

Comment 23. In particular, the agencies request comment on the sufficiency of the proposal to provide notice and opportunity for written response in connection with these directives.

Comment 24. The agencies also request comment on ways that these procedures can be improved to give an institution or company that is subject to a prompt corrective action directive a fair opportunity to contest such a directive, while at the same time adhering to the statutory mandate to take prompt action to resolve the problems of inadequately capitalized institutions.

I. Enforcement of Directives

Section 8 of the FDI Act, as amended by FDICIA, includes prompt corrective action directives issued pursuant to section 38 among the orders that may be enforced in the courts pursuant to section 8(i)(1), and also makes any depository institution, company, or institution-affiliated party that violates such a directive subject to civil money penalties pursuant to section 8(i)(2)(A). 12 U.S.C. 1818(i)(2)(A). The proposed regulation makes clear that failure of a depository institution to implement a capital restoration plan or the failure of a company having control of a depository institution to fulfill a guarantee that the company has given in connection with a capital plan accepted by the appropriate Federal banking agency will subject responsible parties to civil money penalties.

J. Dismissal of Directors or Senior Executive Officers

Section 38 provides that a director or senior executive officer dismissed by an insured depository institution in compliance with an agency directive under section 38 may obtain review of the dismissal by filing with the appropriate Federal banking agency a petition for reinstatement. The statute also provides that the petitioner shall have the opportunity to submit written materials in support of the petition and to appear at a hearing before members(s) or designated employee(s) of the agency. The hearing shall occur within 30 days of the filing of the petition unless the petitioner requests a later date. The agency decision shall be issued within 60 days of the date of the closing of the hearing record.

The statute appears to envision a post-dismissal hearing procedure, as it refers to the appeal as a "petition for reinstatement" and sets a short time for agency decision. Accordingly, the proposed regulation contemplates that an institution ordered to dismiss a senior executive officer or director will take that action immediately upon receiving a final directive requiring that action. The agencies are proposing that any officer or director that is dismissed in compliance with an agency directive under section 38 be provided an opportunity to petition the appropriate Federal banking agency for reinstatement within the statutorily prescribed period.

The proposed regulation permits the affected officer or director an opportunity for an informal agency hearing. The agency will designate a presiding officer(s) to conduct the hearing. The petitioner will have the right to appear at the hearing, with counsel, and to submit written materials and present oral argument. The petitioner may present oral testimony or witnesses only with the consent of the presiding officer(s).

The proposed regulation incorporates the statutory burdens of proof imposed upon an officer or director seeking reinstatement. When the dismissal order is based upon an institution's capital category or its failure to submit or implement a capital restoration plan, the petitioner must prove that his or her continued employment would materially strengthen the institution's ability to become adequately capitalized. When the dismissal order is based upon a reclassification of an institution on grounds of unsafe or unsound condition or practice, the petitioner must prove that his or her continued employment would materially strengthen the institution's ability to correct the condition or practice. The agencies propose to restrict the ability of an officer or director seeking reinstatement to challenge the capital category to which the institution has been assigned.

Comment 25. The agencies seek comment on these procedures.

K. Capital Restoration Plans

1. Information Required

Section 38 requires an institution that is undercapitalized, significantly undercapitalized, or critically undercapitalized to submit a plan to the appropriate Federal banking agency to restore the institution's capital at least to the minimum capital levels required for adequately capitalized institutions. The statute requires that this capital restoration plan be submitted in writing and specify:

(1) The steps the institution will take to become adequately capitalized,

(2) The levels of capital the institution expects to attain in each year that the plan is in effect,

(3) How the institution will comply with the restrictions and requirements imposed on the institution under section 38,

(4) The types and levels of activities in which the institution will engage, and

(5) Any other information required by the appropriate Federal banking agency.

The agencies do not propose at this time to require by regulation any additional information in a capital restoration plan submitted under section 38. The agencies may, in individual cases, require an institution to provide additional information based on particular circumstances.

Comment 26. The agencies request comment on whether and what additional information should be required by regulation for all capital restoration plans submitted under section 38.

2. Schedule for Submission and Review of Capital Plans

The statute requires the agencies to establish by regulation deadlines for the submission and review of capital restoration plans. The agencies propose to adopt the schedule generally established in the statute. Under this schedule, an institution would generally be required to submit a capital restoration plan within 45 days of receiving notice or having been deemed to have notice that the institution is undercapitalized, significantly undercapitalized or critically undercapitalized. As discussed above, an institution is deemed to have been notified of its capital category on the date that it is required to file its Call Report, the date that the institution receives its final report of examination or inspection, or the date that the appropriate Federal banking agency notifies the institution of the institution's capital category (based on an adjustment to capital reported by the institution or on other information obtained by the agency). Under the proposal, the appropriate Federal banking agency may change this period in individual cases, in which case the agency would notify the institution that a different schedule has been adopted.

The proposed schedule would require the appropriate Federal banking agency to review each capital restoration plan within 60 days of submission of the plan unless the agency extends the time for review. The agencies propose to provide written notice to the institution regarding whether the agency has approved or rejected the capital restoration plan. The agency would also provide a copy of each acceptable capital restoration plan, or amendments thereto, to the FDIC within 45 days of accepting the plan.

Comment 27. The agencies request comment on the proposed time schedules for submission and review of a capital restoration plan.

3. Failure to Submit or Implement an Acceptable Capital Plan

In the event that the appropriate Federal banking agency has disapproved an institution's capital restoration plan, the proposal would require the institution to submit a new capital restoration plan within a time specified by the appropriate Federal banking agency. During the period following notice of such disapproval and prior to approval by the agency of a new or revised capital plan, the institution would be subject to all of the provisions in section 38 that apply to undercapitalized institutions that have failed to submit and implement in any material respect an acceptable capital restoration plan.

The proposed regulation incorporates the provision of section 38 that makes any insured depository institution that is undercapitalized and fails to submit or implement a capital restoration plan within the required time subject to the provisions applicable to significantly undercapitalized institutions. Under the proposal, these provisions apply immediately upon expiration of the time for submission of a capital restoration plan. Accordingly, under the proposal, an undercapitalized institution that fails to submit a capital restoration plan within the required time would, upon the expiration of that period, become subject to the mandatory and discretionary provisions of section 38 outlined above that are applicable to significantly undercapitalized institutions, including limitations on the compensation paid to senior executive officers. An undercapitalized institution that fails to implement, in any material respect, its capital restoration plan would immediately be subject to these same provisions upon the institution's failure to implement the plan.

Comment 28. The agencies invite comment on each of these aspects of the proposed rule.

4. Content of Capital Restoration Plans

Section 38 provides that the appropriate Federal banking agency may not accept a capital restoration plan unless the plan:

(1) Contains the information required by statute,

(2) Is based on realistic assumptions and is likely to succeed in restoring the institution's capital, and

(3) Would not appreciably increase the risk (including credit risk, interest-rate risk, and other types of risk) to which the institution is exposed.

The statute also provides that the appropriate Federal banking agency may not approve a capital restoration plan unless each company that controls the institution guarantees the institution's compliance with the plan until the institution has been adequately capitalized for each of four consecutive calendar quarters, and provides appropriate assurances of performance. This guarantee by any controlling company is independent of any liability of affiliates of the depository institution pursuant to the cross-guarantee provision of the FDI Act.

5. Capital Plan Performance Guarantee

The agencies propose to implement the performance guarantee provision,

contained in section 38(e)(2)(E), by requiring each company to submit a written guarantee of any capital plan submitted by an undercapitalized, significantly undercapitalized, or critically undercapitalized institution controlled by the company. This guarantee would include assurance that the institution would fulfill any commitments to raise capital made in the plan. Each company that provides the guarantee would be jointly and severally liable for fulfillment of the guarantee. Liability could extend to the amount necessary (up to the statutory limit of liability) to restore the institution to applicable capital standards. Failure of any company that controls an undercapitalized institution to provide the required guarantee causes the institution to become subject to the provisions of section 38 applicable to significantly undercapitalized institutions.

Comment 29. The agencies request comment on whether the rule should provide greater detail regarding the content and form of the guarantee.

Comment 30. In addition, the agencies request comment on what assurances the agencies should find to be "appropriate assurances of performance" of the capital plan and guarantee. Section 38 appears to permit the agencies to determine the appropriateness of assurances in connection with the agency's review of the capital restoration plan.

Comment 31. The agencies seek comment on whether there are particular assurances that the agencies should require by regulation in all cases. For example, should the agencies require guarantors to demonstrate that they have sufficient financial resources to honor the guarantee?

The statute limits the aggregate liability under the capital performance guarantee of all companies that control a given insured depository institution to the lesser of:

(1) an amount equal to 5 percent of the institution's total assets at the time the institution became undercapitalized, or

(2) the amount necessary (or that would be necessary) to bring the institution into compliance with all capital standards applicable with respect to such institution as of the time the institution fails to comply with its capital restoration plan.

In incorporating this provision into the regulation, the agencies propose to adopt the same definition of total assets for purposes of computing the first component of the limit on liability as would be used in determining the capital category of the institution.

Comment 32. Accordingly, as discussed above in connection with the definition of capital categories, the agencies request comment on whether the definition of total assets should be based on a period average of total assets (as proposed above) or should be based on a daily report of the institution's total assets.

The agencies also propose that the second component of the limit on liability refers to the amount necessary to restore the capital of the institution to the applicable minimum capital levels as those levels were defined at the time that the institution initially failed to comply with its capital plan.

The amount of a capital guarantee would not change if the minimum capital adequacy requirements change after the time the institution initially failed to comply with its capital restoration plan.

Comment 33. The agencies request comment on this clarification of the statutory provision.

The proposed rule also implements the statutory provision that limits the duration of a guarantee of a capital plan. Under the proposal, the appropriate Federal banking agency would provide notice to the company that the guarantee has expired once the depository institution has remained adequately capitalized for four consecutive calendar quarters. The proposal makes clear that expiration of a guarantee or fulfillment of a guarantee given by a company in connection with one capital restoration plan does not relieve the company from the obligation to guarantee another capital restoration plan that may be required at a future date for the same institution if it again becomes undercapitalized. Similarly, the fact that a company has, at one time, fulfilled a guarantee by providing resources to an institution up to the statutory limit would not reduce the amount of any guarantee of a future capital plan for the same institution. Moreover, the provision or fulfillment by a company of a guarantee for one institution does not affect the obligation of that company to guarantee a capital plan in connection with any other insured depository institution.

Comment 34. The agencies request comment on these provisions of the proposal.

Comment 35. The agencies also request comment on whether the agencies should establish by regulation a time for computing the limit on liability, and, if so, when that calculation should be made.

Comment 36. In addition, the agencies request comment on whether any additional regulatory clarifications of the holding company guarantee are necessary.

6. Priority in Bankruptcy

It should be noted that the FDIC will have a priority claim in any bankruptcy proceedings of a holding company that has guaranteed an institution's compliance with a capital restoration plan. The FDIC's claim against a holding company's estate would have priority over the claims of unsecured creditors and is provided for in section 507(a)(8) of Title 11 of the United States Code (11 U.S.C. 507(a)(8)), as amended by the Crime Control Act of 1990, Public Law 101–647, 104 Stat. 4789. Sections 365(o) and 523(a)(12) of Title 11 of the United States Code (11 U.S.C. 365(o) and 523(a)(12)), as amended by the Crime Control Act of 1990, also provide special protections for the FDIC.

7. Submission of Plans by Reclassified Institutions

Section 38(g) provides that an institution that has been reclassified to a different capital category as a result of an agency determination that the institution is in an unsafe or unsound condition or is engaged in an unsafe or unsound practice must describe the steps the institution will take to address these deficiencies. Section 38(g) also provides that an institution that nominally has adequate capital but has been reclassified to the undercapitalized category because of its condition or practices is not required to submit a capital restoration plan. The portions of the proposed regulation regarding capital restoration plans reflect these provisions.

Comment 37. While section 38 does not require an institution that nominally has adequate capital but has been reclassified to the undercapitalized category to file a capital restoration plan, the agencies request comment regarding whether it is appropriate for the agencies to exercise their general supervisory authority to require such an institution to submit a description of the steps the institution will take to address the deficiencies in the institution's condition.

8. Revised Capital Restoration Plans

Under the proposal, an insured depository institution that is operating under a capital restoration plan that has been approved by the appropriate Federal banking agency would not generally be required to submit an additional or a revised capital restoration plan if the institution's capital category changes, unless the agency notifies the institution that a new or revised capital restoration plan is required. Under this proposal, for example, an undercapitalized institution

that is implementing an approved capital restoration plan would not be required to submit a second or revised capital restoration plan if the institution experienced further declines in its capital levels unless the appropriate Federal banking agency determined that a new plan was appropriate in light of the particular circumstances.

Comment 38. The agencies request comment on this approach and on whether the agencies should, by regulation, require each insured depository institution to file a new or revised capital restoration plan in the event that the institution's capital category has changed.

L. Other Matters

1. Definition of "Management Fee"

Section 38 of the FDI Act prohibits any institution from paying management fees to a controlling person if, following the payment of those fees, the institution would be undercapitalized. The statute does not provide a definition of management fees. The agencies have proposed to define management fees to include any payment of money or provision of any other thing of value to a company or individual for the provision of management services or advice other than compensation paid to an individual in the individual's capacity as an officer or employee of the institution. This definition covers all companies, including consulting firms, companies owned by the principal shareholder of an institution, and servicing corporations owned by bank holding companies. Under the proposal, compensation for duties performed by an officer or employee of the institution would not be deemed to be a management fee for purposes of section 38.

Comment 39. The agencies request comment on the proposal's provisions regarding management fees and compensation in light of the purpose of section 38 of limiting losses to the deposit insurance funds that might result from the payment of dividends or the payment of management fees by an undercapitalized institution or an institution that would be undercapitalized after the payment.

2. Definition of "Control"

Certain provisions of section 38 apply to companies that "control" an insured depository institution. Section 38 of the FDI Act does not define the term "control". However, section 3 of the FDI Act adopts the definition of "control" contained in section 2 of the Bank Holding Company Act ("BHC Act") (12 U.S.C. 1841(a)(2)). Under the BHC Act, a company controls an institution if: (1) The company owns or controls 25 percent or more of any class of voting securities of that institution; (2) the company controls in any manner the election of a majority of the board of directors of the institution; or (3) the agency determines, after notice and opportunity for hearing, that the company exercises a controlling influence over the management or policies of the institution.

Other provisions of the BHC Act exclude certain types of share ownership from the provisions of the BHC Act, including shares acquired by a company in satisfaction of a debt previously contracted (DPC) or shares held by a company in a fiduciary capacity.

Comment 40. The agencies request comment on whether it would be appropriate under section 38 to provide, by regulation, an exception from the definition of "control" for shares acquired in satisfaction of DPC or shares held in a fiduciary capacity.

Comment 41. In particular, the agencies request comment on whether the agencies should by regulation adopt the DPC and fiduciary ownership exceptions contained in section 2(a)(5) of the Bank Holding Company Act. Section 2(a)(5) of the BHC Act (12 U.S.C. 1841(a)(5)) permits a company to hold shares of a depository institution acquired DPC without becoming subject to the restrictions of that Act provided that the company disposes of the shares within two years (with the possibility of three one-year extensions). Section 2(a)(5) also permits a company to hold shares of a depository institution in a fiduciary capacity without becoming subject to the restrictions of the BHC Act provided that the company does not retain sole right to vote the shares.

Comment 42. Finally, in the event that an exception for shares acquired DPC is included in the regulations implementing section 38, the agencies request comment on whether the exception should include conditions similar to those contained in the DPC exception to section 5 of the FDI Act (12 U.S.C. 1815(e)), which imposes cross-guarantee requirements on affiliated institutions. Section 5 of the FDI Act contains an exception for the acquisition by an insured depository institution of shares of another depository institution in satisfaction of a debt previously contracted. That exception is conditioned on the requirement that all transactions between the controlling institution or any affiliate of the controlling institution and the subsidiary institution comply with the restrictions contained in sections 23A and 23B of the Federal Reserve Act (12 U.S.C. 371c and 371c–1).

3. Applicability of Capital Categories to Bank Holding Companies and Savings and Loan Holding Companies

Section 38 applies capital-based prompt corrective action to insured depository institutions but not to holding companies that control such institutions. However, various provisions of section 38 apply to companies that control insured depository institutions. These provisions appear to apply to holding companies regardless of the capital level of those holding companies.

The Federal Reserve Board and the Office of Thrift Supervision do not propose to adopt a parallel framework of capital categories for holding companies. Instead, the Federal Reserve intends to consult with the Federal banking agency for each insured depository institution subsidiary of the holding company to monitor supervisory actions required under section 38, and, in the supervision of the holding company, to take appropriate action at the holding company level based on an assessment of these developments. In supervising savings and loan holding companies, the OTS will also take appropriate action at the holding company level based on an assessment of the actions taken under section 38 regarding its savings association subsidiaries.

Comment 43. The agencies request comment on whether it is appropriate for the agencies to exercise their supervisory authority under other provisions of law to establish a framework of supervisory actions for bank holding companies and savings and loan holding companies similar to those established in section 38 for insured depository institutions.

4. Restrictions on Activities of Critically Undercapitalized Institutions

Section 38(i) of the FDI Act provides that the FDIC must, by regulations or order, restrict the activities of critically undercapitalized institutions. The activities that must be restricted are described above. FDICIA does not provide specific guidance on how to interpret and implement each of the restrictive provisions of section 38(i). Consequently, the FDIC is considering a number of options.

The prohibition on entering into "any material transaction other than in the usual course of business" can be interpreted in a general fashion relying on outstanding case law in the area of securities disclosures. The concept of materiality also could be defined from

an accounting perspective by establishing specific limits for determining materiality. For example, the FDIC could, by regulation, require that any prospective transaction other than one that is in the usual course of business that results or could result in a 5 percent change in an institution's tangible equity capital account or net income account would automatically be considered a material transaction requiring the FDIC's prior approval. Other transactions could be defined as material on a case by case basis.

Comment 44. The FDIC solicits comment on how to define the terms "material" and "usual course of business" as well as what specific guidance, if any, should be provided by the FDIC to the banking industry.

The FDIC proposes to define the term "highly leveraged transaction" by utilizing the currently outstanding interagency definition published in the **Federal Register** (57 FR 5040, February 11, 1992). The FDIC proposes to rely on existing generally accepted accounting principles when interpreting the restriction on making any "material change in accounting methods."

Section 39(c) of the FDI Act requires the federal banking agencies to prescribe standards for determining when compensation paid to employees, directors and principal shareholders of insured depository institutions is excessive. An advance notice of proposed rulemaking is expected to be published in the **Federal Register** in the near future. The FDIC intends to interpret the restrictive provision involving the payment of excessive compensation or bonuses in a manner that is consistent with the FDIC's actions in fulfilling the requirements of section 39(c) of the FDI Act.

The provision that restricts "paying interest on new or renewed liabilities at a rate that would increase the institution's weighted average cost of funds to a level significantly exceeding the prevailing rates of interest on insured deposits in the institution's normal market areas" contains terms that relate to the changes mandated by section 301 of FDICIA and the revisions of § 337.6 of the FDIC's regulations (12 CFR 337.6) as recently implemented by the FDIC. Specifically, the FDIC proposes to interpret the phrase "significantly exceeding the prevailing rates" the same as defined in § 337.6. The prevailing effective yields of interest are the effective yields on insured deposits of comparable maturities offered by other insured depository institutions in the market area in which deposits are being solicited. A rate of interest on a deposit with an odd maturity will be considered excessive if it is more than 75 basis points higher than the yield calculated by interpolating between the yields offered by other depository institutions on deposits of the next longer and shorter maturities offered in the market. A market area is any readily defined geographic area in which the rates offered by any one insured depository institution operating in the area may affect the rates offered by other institutions operating in the same area.

Comment 45. The FDIC invites comments on all aspects of these proposed interpretations.

5. Application of Prompt Corrective Action to Insured Branches

Section 38(a)(2) of the FDI Act, as added by section 121 of FDICIA, provides that each appropriate Federal banking agency and the FDIC (acting in the FDIC's capacity as the insurer of depository institutions) shall take prompt corrective action to resolve the problems of insured depository institutions.

Section 3(c)(2) of the FDI Act defines the term "insured depository institution" as "any bank or savings association the deposits of which are insured by the [FDIC] pursuant to [the FDI Act]." 12 U.S.C. 1813(c)(2). The term "bank" is defined, in section 3(a)(1) of the FDI Act, to include, *inter alia,* any "insured branch." 12 U.S.C. 1813(a)(1). Section 3(s)(3) defines the term "insured branch" to mean "any branch (as defined in section 1(b)(3) of the International Banking Act of 1978) of a foreign bank any deposits in which are insured pursuant to [the FDI Act]." 12 U.S.C. 1813(s)(3).

The plain language of these statutory provisions requires the application of the prompt corrective action provisions to insured branches of foreign banks, including insured federal branches. Insured branches, however, are not required to maintain minimum capital levels under the FDIC's capital maintenance regulations, 12 CFR part 325. In fact, they are expressly excluded from the definition of "insured depository institution" which is used in the FDIC's capital maintenance regulations. 12 CFR 325.2(f). Insured branches, however, are required to maintain a pledge of assets, pursuant to 12 CFR 346.19, and a certain volume of eligible assets, pursuant to 12 CFR 346.20.

Insured federal branches, likewise, are not required to maintain minimum capital levels under the OCC's capital maintenance regulations, 12 CFR part 3. See 50 FR 10215 (March 14, 1985). In addition to the asset pledge and asset maintenance requirements to which all insured branches are subject, all federal branches are required by section 4 of the International Banking Act of 1978 to establish capital equivalency deposits which generally must equal at least 5 percent of the branch's third party liabilities. Federal branches also may be required by the OCC to maintain a certain quantity of specified assets in the states in which they operate.

In an effort to promote competitive equality between insured federal and state branches of foreign banks, the OCC and the FDIC are proposing a uniform definition of capital categories for all insured branches of foreign banks based upon the FDIC's asset pledge and asset maintenance requirements which apply to all insured branches.

The OCC and the FDIC recognize that the eligible assets and, more particularly, the pledge of assets are not perfect substitutes for capital. Nonetheless, the FDIC has long taken the position that the asset maintenance requirement is analogous to a domestic bank's required capital. Therefore, the OCC and the FDIC are proposing to utilize FDIC's regulations governing the pledge of assets and the level of eligible assets to determine an insured branch's capital category.

For prompt corrective action purposes, the OCC and the FDIC are proposing a framework under which an insured branch, including an insured federal branch would be deemed:

"Well capitalized" if it:

1. Maintains the pledge of assets required under 12 CFR 346.19; and

2. Maintains the eligible assets prescribed under 12 CFR 346.20 at 108 percent or more of the preceding quarter's average book value of the insured branch's third-party liabilities; and

3. Has not received written notification from (1) the OCC to increase its capital equivalency deposit pursuant to 12 CFR 28.6(a), or to comply with the asset maintenance requirements pursuant to 12 CFR 28.9 or (2) the FDIC to pledge additional assets pursuant to 12 CFR 346.19 or to maintain a higher ratio of eligible assets pursuant to 12 CFR 346.20.

"Adequately capitalized" if it:

1. Maintains the pledge of assets required under 12 CFR 346.19;

2. Maintains the eligible assets prescribed under 12 CFR 346.20 at 106 percent or more of the preceding quarter's average book value of the insured branch's third-party liabilities and

3. Does not meet the definition of "well capitalized" insured branch.

"Undercapitalized" if it:

1. Fails to maintain the pledge of assets required under 12 CFR 346.19; or

2. Fails to maintain the eligible assets prescribed under 12 CFR 346.20 at 106 percent or more of the preceding quarter's average book value of the insured branch's third-party liabilities.

"Significantly undercapitalized" if it fails to maintain the eligible assets prescribed under 12 CFR 346.20 to 104 percent or more of the preceding quarter's average book value of the insured branch's third-party liabilities.

"Critically undercapitalized" if it fails to maintain the eligible assets prescribed under 12 CFR 346.20 at 102 percent or more of the preceding quarter's average book value of the insured branch's third-party liabilities.

Section 38 of the FDI Act enumerates the corrective measures that the appropriate Federal banking agency may or must take against, and what restrictions apply to, institutions in each of the five capital categories. Some of the prescribed measures and applicable restrictions may not be practical or appropriate in dealing with insured branches of foreign banks.

Therefore, it is the intent of the OCC and the FDIC to apply to insured branches as many of the prompt corrective measures and restrictions as practical and appropriate, given the unique characteristics of insured branches.

Comment 46. The FDIC and the OCC specifically request comments on this proposed approach as well as the proposed manner in which insured branches would be deemed to fall within one of the five capital categories.

Finally, it is the intent of the OCC and the FDIC to define capital levels for insured branches in a manner which is comparable to those for domestic banks.

Comment 47. Therefore, the OCC and the FDIC solicit comments on the extent to which the proposed levels for insured branches are comparable to those for domestic banks.

Regulatory Flexibility Act Statement

The Board of Directors has concluded after reviewing the proposed amendments that, if adopted, they will not impose a significant economic hardship on small institutions. The proposal does not necessitate the development of sophisticated recordkeeping or reporting systems by small institutions nor will small institutions need to seek out the expertise of specialized accountants, lawyers, or managers in order to comply with the regulation. The Board of Directors therefore hereby certifies pursuant to section 605 of the Regulatory Flexibility Act (5 U.S.C. 605) that the proposal, if adopted, will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et. seq.*).

List of Subjects

12 CFR Part 308

Administrative practice and procedure, Claims, Equal access to justice, Lawyers, Penalties.

12 CFR Part 325

Bank deposit insurance, Banks, Banking, Capital adequacy, Reporting and recordkeeping requirements, State nonmember banks, Savings associations.

For the reasons set forth in the preamble, the Board of Directors of the Federal Deposit Insurance Corporation hereby proposes to amend parts 308 and 325 of title 12 of the Code of Federal Regulations as follows:

PART 308—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for part 308 is revised to read as follows:

Authority: 5 U.S.C. 504; 5 U.S.C. 554–557; 12 U.S.C. 1815(e), 1817(a) and 1818(j), 1818, 1820, 1828(j), 1829, 1831i, 1831o; 15 U.S.C. 781(h), 78m, 78n(a), 78n(c), 78n(d), 78n(f), 78o, 78o–4(c)(5), 78p, 78q, 78q–1, 78s.

2. Part 308 is amended by adding a new subpart Q to read as follows:

Subpart Q—Issuance and Review of Orders Pursuant to Prompt Corrective Action

Sec.

308.200 Scope.
308.201 Directives to take prompt corrective action.
308.202 Procedures for reclassifying a bank based on criteria other than capital.
308.203 Order to dismiss a director or senior executive officer.
308.204 Enforcement of directives.

Subpart Q—Issuance and Review of Orders Pursuant to Prompt Corrective Action

§ 308.200 Scope.

The rules and procedures set forth in this subpart apply to banks and senior executive officers and directors of banks that are subject to the provisions of section 38 of the Federal Deposit Insurance Act (section 38) (12 U.S.C. 1831o) and subpart B of part 325 of this chapter.

§ 308.201 Directives to take prompt corrective action.

(a) *Notice of intent to issue a directive*—(1) *In general.* The FDIC will provide an undercapitalized, significantly undercapitalized, or critically undercapitalized bank prior written notice of the FDIC's intention to issue a directive requiring such bank to take actions or to follow proscriptions described in section 38 that are within the FDIC's discretion to require or impose under section 38(e)(5), (f)(2), (f)(3), or (f)(5) of the FDI Act.

(2) *Immediate issuance of final directive.* If the FDIC finds it necessary in order to carry out the purposes of section 38 of the FDI Act, the FDIC may, without providing the notice prescribed in paragraph (a)(1) of this section, issue a directive requiring a bank to immediately take actions or follow proscriptions described in section 38 that are within the FDIC's discretion to require or impose under section 38(e)(5), (f)(2), (f)(3), or (f)(5) of the FDI Act. A bank that is subject to such an immediately effective directive may submit a written appeal of the directive to the FDIC. Such an appeal must be received by the FDIC within 14 calendar days of the issuance of the directive. The FDIC shall consider any such appeal, if filed in a timely matter, within 60 days of receiving the appeal. During such period of review, the directive shall remain in effect unless the FDIC, in its sole discretion, stays the effectiveness of the directive.

(b) *Contents of notice.* A notice of intention to issue a directive shall include:

(1) A statement of the bank's capital measures and capital levels;

(2) A description of the restrictions, prohibitions or affirmative actions that the FDIC proposes to impose or require;

(3) The proposed date when such restrictions or prohibitions would be effective or the proposed date for completion of such affirmative actions; and

(4) The date by which the bank subject to the directive may file with the FDIC a written response to the notice.

(c) *Response to notice.*—(1) *Time for response.* A bank may file a written response to a notice of intent to issue a directive within the time period set by the FDIC. The date shall be at least 14 calendar days from the date of the notice unless the FDIC determines that a shorter period is appropriate in light of the financial condition of the bank or other relevant circumstances.

(2) *Content of response.* The response should include:

(i) An explanation why the action proposed by the FDIC is not an appropriate exercise of discretion under section 38;

(ii) Any recommended modification of the proposed directive; and

(iii) Any other relevant information, mitigating circumstances, documentation, or other evidence in support of the position of the bank regarding the proposed directive.

(d) *Failure to file agency response.* Failure by a bank to file with the FDIC, within the specified time period, a written response to a proposed directive shall constitute a waiver of the opportunity to respond and shall constitute consent to the issuance of the directive.

(e) *FDIC consideration of response.* After considering the response, the FDIC may:

(1) Issue the directive as proposed or in modified form;

(2) Determine not to issue the directive and so notify the bank; or

(3) Seek additional information or clarification of the response from the bank or any other relevant source.

(f) *Request for modification or rescission of directive.* Any bank that is subject to a directive under this subpart may, upon a change in circumstances, request in writing that the FDIC reconsider the terms of the directive, and may propose that the directive be rescinded or modified. Unless otherwise ordered by the FDIC, the directive shall continue in place while such request is pending before the FDIC.

§ 308.202 Procedures for reclassifying a bank base on criteria other than capital.

(a) *Classification of a bank based on unsafe or unsound condition—(1) Issuance of notice of proposed reclassification.* If the FDIC determines to reclassify a well capitalized bank as adequately capitalized, or to require an adequately capitalized or undercapitalized bank to comply with supervisory actions as if it was in the next lower capital category pursuant to section 38(g) of the FDI Act and § 325.103(d)(1) of this chapter because the FDIC deems the bank to be in an unsafe or unsound condition (each of the foregoing referred to hereinafter as a "reclassification"), the FDIC will issue and serve on the bank a written notice of the FDIC's intention to reclassify the bank.

(2) *Contents of notice.* A notice of intention to reclassify a bank based on unsafe or unsound condition will include:

(i) A statement of the bank's capital measures and capital levels and the category to which the bank would be reclassified;

(ii) The reasons for reclassification of the bank;

(iii) The date by which the bank subject to the notice of reclassification may file with the FDIC a written appeal of the proposed reclassification and a request for a hearing, which shall be at least 14 calendar days from the date of service of the notice unless the FDIC determines that a shorter period is appropriate in light of the financial condition of the bank or other relevant circumstances.

(3) *Response to notice of proposed reclassification.* A bank may file a written response to a notice of proposed reclassification within the time period set by the FDIC. The response should include:

(i) An explanation of why the bank is not in an unsafe or unsound condition or otherwise should not be reclassified; and

(ii) Any other relevant information, mitigating circumstances, documentation, or other evidence in support of the position of the bank regarding the reclassification.

(4) *Failure to file response.* Failure by a bank to file, within the specified time period, a written response with the FDIC to a notice of proposed reclassification shall constitute a waiver of the opportunity to respond and shall consent to the reclassification.

(5) *Request for hearing and presentation or oral testimony or witnesses.* The response may include a request for an informal hearing before the FDIC under this section. If the bank desires to present oral testimony or witnesses at the hearing, the bank must include a request to do so with the request for an informal hearing. A request to present oral testimony or witnesses shall specify the name of the witnesses and the general nature of their expected testimony. Failure to request a hearing shall constitute a waiver of any right to a hearing, and failure to request the opportunity to present oral testimony or witnesses shall constitute a waiver of any right to present oral testimony or witnesses.

(6) *Order for informal hearing.* Upon receipt of a timely written request including a request for a hearing, the FDIC shall issue an order directing an informal hearing to commence no later than 30 days after receipt of the request, unless the bank requests a later date. The hearing shall be held in Washington, DC or at such other place as may be designated by the FDIC, before a presiding officer(s) designated by the FDIC to conduct the hearing.

(7) *Hearing procedures.* (i) The bank shall have the right to introduce relevant written materials and to present oral argument at the hearing. The bank may introduce oral testimony and present witnesses only if expressly authorized by the FDIC or the presiding officer(s). Neither the provisions of the Administrative Procedure Act governing adjudications required by statute to be determined on the record nor the Uniform Rules of Practice and Procedure in this part apply to an informal hearing under this section unless the FDIC orders that such procedures shall apply.

(ii) The informal hearing shall be recorded, and a transcript shall be furnished to the bank upon request and payment of the cost thereof. Witnesses need not be sworn, unless specifically requested by a party or the presiding officer(s). The presiding officer(s) may ask questions of any witness.

(iii) The presiding officer(s) may order that the hearing be continued for a reasonable period (normally five business days) following completion of oral testimony or argument to allow additional written submissions to the hearing record.

(8) *Recommendation of presiding officers.* Within 20 calendar days following the date the hearing and the record on the proceeding are closed, the presiding officer(s) shall make a recommendation to the FDIC on the reclassification.

(9) *Time for decision.* Not later than 60 calendar days after the date the record is closed or the date of the response in a case where no hearing was requested, the FDIC will decide whether to reclassify the bank and notify the bank of the FDIC's decision.

(b) *Procedures for reclassifying a bank based on unsafe or unsound practice—(1) Issuance of notice of proposed reclassification.* If the FDIC determines to reclassify a well capitalized bank as adequately capitalized or to require an adequately capitalized or undercapitalized bank to comply with supervisory actions as if it was in the next lower capital category pursuant to section 38(g) of the FDI Act and § 325.103(d)(2) of this chapter because the FDIC deems the bank to be engaging in an unsafe and unsound practice (each of the foregoing referred to hereinafter as a "reclassification"), the FDIC will issue and serve on the bank a written notice of the FDIC's intention to reclassify the bank.

(2) *Contents of notice.* A notice of intention to reclassify a bank will include:

(i) A statement of the bank's capital measures and capital levels and the category to which the bank would be reclassified;

(ii) The reasons for reclassification of the bank; and

(iii) The date by which the bank subject to the notice of reclassification may file with the FDIC a written appeal of the proposed reclassification, which

shall be at least 14 calendar days from the date of service of the notice unless the FDIC determines that a shorter period is appropriate in light of the financial condition of the bank or other relevant circumstances.

(3) *Response to notice of proposed reclassification based on unsafe and unsound practice.* A bank may file a written response to a notice of proposed reclassification issued under this paragraph (b) within the time period set by the FDIC. The response should include:

(i) An explanation of the steps taken by the bank to address the deficiency described in the notice of proposed reclassification or of the reasons that the reclassification is not otherwise appropriate; and

(ii) Any other relevant information, mitigating circumstances, documentation, or other evidence in support of the position of the bank regarding the reclassification.

(4) *Failure to file response.* Failure by a bank to file, within the specified time period, a written response with the FDIC to a notice of proposed reclassification under this paragraph (b) shall constitute a waiver of the opportunity to respond and shall constitute consent to the reclassification.

(5) *FDIC consideration of response.* After considering the response, the FDIC may:

(i) Issue a written order to the bank reclassifying the bank to a different capital category as provided in section 38(g) of the FDI Act;

(ii) Determine not to reclassify the bank and so notify the bank; or

(iii) Seek additional information or clarification of the response from the bank, or any other relevant source.

(c) *Request for rescission of reclassification.* Any bank that has been reclassified under this section, may, upon a change in circumstances, request in writing that the FDIC reconsider the reclassification, and may propose that the reclassification be rescinded and that any directives issued in connection with that reclassification be modified, rescinded, or removed. Unless otherwise ordered by the FDIC, the bank shall remain subject to the reclassification and to any directives issued in connection with that reclassification while such request is pending before the FDIC.

§ 308.203 Order to dismiss a director or senior executive officer.

(a) *Service of notice.* When the FDIC issues and serves a directive on a bank pursuant to § 308.201 of this part requiring the bank to dismiss from office any director or senior executive officer under section 38(f)(2)(F)(ii) of the FDI Act, the FDIC will also serve a copy of the directive, or the relevant portions of the directive where appropriate, upon the person to be dismissed.

(b) *Response to directive.* A director or senior executive officer who has been served with a directive under paragraph (a) of this section (Respondent) may file a written request for reinstatement. The request for reinstatement must be filed within 10 calendar days of the receipt of the directive by the Respondent, unless further time is allowed by the FDIC at the request of the Respondent. The request for reinstatement should include reasons why the Respondent should be reinstated, and may request an informal hearing before the FDIC or its designee under this section. If the Respondent desires to present oral testimony or witnesses at the hearing, the Respondent must include a request to do so with the request for an informal hearing. The request to present oral testimony or witnesses shall specify the names of the witnesses and the general nature of their expected testimony. Failure to request a hearing shall constitute a waiver of any right to a hearing and failure to request the opportunity to present oral testimony or witnesses shall constitute a waiver of any right or opportunity to present oral testimony or witnesses. Unless otherwise ordered by the FDIC, the dismissal shall remain in effect while a request for reinstatement made under this section is pending.

(c) *Order for informal hearing.* Upon receipt of a timely written request from a Respondent for an informal hearing on the portion of a directive requiring a bank to dismiss from office any director or senior executive officer, the FDIC shall issue an order directing an informal hearing to commence no later than 30 days after receipt of the request, unless the Respondent requests a later date. The hearing shall be held in Washington, DC, or at such other place as may be designated by the FDIC, before a presiding officer(s) designated by the FDIC to conduct the hearing.

(d) *Hearing procedures.* (1) A Respondent may appear at the hearing personally or through counsel. A Respondent shall have the right to introduce relevant written materials and to present oral argument. A Respondent may introduce oral testimony and present witnesses only if expressly authorized by the FDIC or the presiding officer(s). Neither the provisions of the Administrative Procedure Act governing adjudications required by statute to be determined on the record nor the Uniform Rules of Practice and Procedure in this part apply to an informal hearing under this section unless the FDIC orders that such procedures shall apply.

(2) The informal hearing shall be recorded, and a transcript shall be furnished to the Respondent upon request and payment of the cost thereof. Witnesses need not be sworn, unless specifically requested by a party or the presiding officer(s). The presiding officer(s) may ask questions of any witness.

(3) The presiding officer(s) may order that the hearing be continued for a reasonable period (normally five business days) following completion of oral testimony or argument to allow additional written submissions to the hearing record.

(e) *Standard for review.* A Respondent shall bear the burden of demonstrating that his or her continued employment by or service with the bank would materially strengthen the bank's ability:

(1) To become adequately capitalized, to the extent that the directive was issued as a result of the bank's capital level or failure to submit or implement a capital restoration plan; and

(2) To correct the unsafe or unsound condition or unsafe or unsound practice, to the extent that the directive was issued as a result of classification of the bank based on supervisory criteria other than capital, pursuant to section 38(g) of the FDI Act.

(f) *Limitation on scope of review.* The level of capital or the capital category assigned to the bank with which a Respondent is associated shall not be subject to review in any proceeding under this section.

(g) *Recommendation of presiding officers.* Within 20 calendar days following the date the hearing and the record on the proceeding are closed, the presiding officer(s) shall make a recommendation to the FDIC concerning the Respondent's request for reinstatement with the bank.

(h) *Time for decision.* Not later than 60 calendar days after the date the record is closed or the date of the response in a case where no hearing has been requested, the FDIC shall grant or deny the request for reinstatement and notify the Respondent of the FDIC's decision. If the FDIC denies the request for reinstatement, the FDIC shall set forth in the notification the reasons for the FDIC's action.

§ 308.204 Enforcement of directives.

(a) *Judicial remedies.* Whenever a bank fails to comply with a directive issued under section 38, the FDIC may seek enforcement of the directive in the appropriate United States district court

pursuant to section 8(i)(1) of the FDI Act (12 U.S.C. 1818(i)(1)).

(b) *Administrative remedies.* Pursuant to section 8(i)(2)(A) of the FDI Act, the FDIC may assess a civil money penalty against any bank that violates or otherwise fails to comply with any final directive issued under section 38 and against any institution-affiliated party who participates in such violation or noncompliance. The failure of a bank to implement a capital restoration plan required under section 38, or subpart B of part 325 of this chapter, or the failure of a company having control of a bank to fulfill a guarantee of a capital restoration plan made pursuant to section 38(e)(2) of the FDI Act shall be deemed a violation of a written agreement between the bank and the FDIC and subject to the assessment of civil money penalties pursuant to section 8(i)(2)(A) of the FDI Act.

(c) *Other enforcement action.* In addition to the actions described in paragraphs (a) and (b) of this section, the FDIC may seek enforcement of the provisions of section 38 or subpart B of part 325 of this chapter through any other judicial or administrative proceeding authorized by law.

PART 325—CAPITAL MAINTENANCE

1. The authority citation for part 325 is revised to read as follows:

Authority: 12 U.S.C. 1815(a), 1815(b), 1816, 1818(a), 1818(b), 1818(c), 1818(t), 1819(Tenth), 1828(c), 1828(d), 1828(i), 1828(n), 1828(o), 3907, 3909; Pub. L. 102–233, 105 Stat. 1761, 1790 (12 U.S.C. 1831n note); Pub. L. No. 102–242, 105 Stat. 2236, 2386 (12 U.S.C. 1828 note).

2. Part 325 is amended by designating §§ 325.1 through 325.6 as subpart A and adding the subpart heading to read as follows:

Subpart A—Minimum Capital Requirements

3. Appendixes A and B to Part 325 are redesignated as appendixes A and B to subpart A of Part 325 and the appendix headings are revised to read as follows:

Appendix A to Subpart A of Part 325—Statement of Policy on Risk-Based Capital

Appendix B to Subpart A of Part 325—Statement of Policy on Capital Adequacy

4. Section 325.2 is amended by redesignating paragraphs (h), (i), (j), (k), (l), (m), (n), and (o) as paragraphs (j), (k), (l), (m), (o), (q), (s), and (u), respectively, and by adding new paragraphs (h), (i), (n), (p), (r), and (t) to read as follows:

§ 325.2 Definitions.

* * * * *

(h) *Leverage ratio* means the ratio of Tier 1 capital to total assets, as calculated under this part.

(i) *Management fee* means any payment of money or provision of any other thing of value to a company or individual for the provision of management services or advice to the bank, other than compensation to an individual in the individual's capacity as an officer or employee of the bank.

* * * * *

(n) *Risk-weighted assets* means total risk-weighted assets, as calculated in accordance with the FDIC's Statement of Policy on Risk-Based Capital (Appendix A to subpart A of part 325).

* * * * *

(p) *Tangible equity* means the amount of Tier 1 capital as calculated under this part.

* * * * *

(r) *Tier 1 risk-based capital ratio* means the ratio of Tier 1 capital to risk-weighted assets, as calculated in accordance with the FDIC's Statement of Policy on Risk-Based Capital (Appendix A to subpart A of part 325).

* * * * *

(t) *Total risk-based capital ratio* means the ratio of qualifying total capital to risk-weighted assets, as calculated in accordance with the FDIC's Statement of Policy on Risk-Based Capital (Appendix A to subpart A of part 325).

* * * * *

5. Part 325 is amended by adding a new subpart B to read as follows:

Subpart B—Prompt Corrective Action

Sec.

325.101 Authority, purpose, applicability and other supervisory authority.
325.102 Financial data calculations and notice of capital category.
325.103 Capital measures and capital category definitions.
325.104 Capital restoration plans.
325.105 Mandatory and discretionary supervisory actions under section 38.

Subpart B—Prompt Corrective Action

§ 325.101 Authority, purpose, applicability and other supervisory authority.

(a) *Authority.* This subpart is issued by the FDIC pursuant to section 38 (section 38) of the Federal Deposit Insurance Act (FDI Act), as added by section 131 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (Pub. L. No. 102–242, 105 Stat. 2236 (1991)) (12 U.S.C. 1831o).

(b) *Purpose.* Section 38 of the FDI Act establishes a framework of supervisory actions for insured depository institutions that are not adequately capitalized. The principal purpose of this subpart is to define, for FDIC-insured state-chartered nonmember banks, the capital measures and levels, and for insured branches of foreign banks, comparable asset-based measures and levels, that are used for determining the supervisory actions authorized under section 8 of the FDI Act. This subpart also establishes procedures for submission and review of capital restoration plans and for issuance and review of orders pursuant to that section.

(c) *Applicability.* This subpart implements the provisions of section 38 of the FDI Act as they apply to FDIC-insured state-chartered nonmember banks and insured branches of foreign banks for which the FDIC is the appropriate Federal banking agency. Certain of these provisions also apply to officers, directors and employees of those insured institutions.

(d) *Other supervisory authority.* Neither section 38 nor this subpart in any way limits the authority of the FDIC under any other provision of law to take supervisory actions to address unsafe or unsound practices, deficient capital levels, violations of law, unsafe or unsound conditions, or other practices. Action under section 38 of the FDI Act and this subpart may be taken independently of, in conjunction with, or in addition to any other enforcement action available to the FDIC, including issuance of cease and desist orders, capital directives, approval or denial of applications or notices, assessment of civil money penalties, or any other actions authorized by law.

(e) *Limited scope of capital categories.* The assignment of a bank or insured branch under this subpart within a particular capital category is for purposes of implementing and applying the provisions of section 38 and, unless permitted by the FDIC or otherwise required by law, may not be used by, for, or on behalf of a bank for any other purpose.

§ 325.102 Financial data calculations and notice of capital category.

(a) *Effective data of determination of capital category.* A bank shall be deemed to be within a given capital category for purposes of section 38 of the FDI Act and this subpart as of the date the bank is notified of, or is deemed to have notice of, its capital category, pursuant to paragraph (b) of this section.

(b) *Notice of capital category.* A bank shall be deemed to have notice of its capital levels and its capital category as of the most recent of:

(1) The date a Report of Condition and Income (Call Report) is required to be filed with the FDIC;

(2) The date a final report of examination of report of inspection is delivered to the bank;

(3) The date that the FDIC provides written notice to the bank that the bank's capital category has changed as provided in paragraph (c) of this section;

(4) The date that the FDIC provides written notice to the bank of its capital levels and its capital category for purposes of section 38 of the FDI Act and this subpart; or,

(5) The date any written notice is served on the bank that the bank's capital category has been changed pursuant to § 325.103(d).

(c) *Adjustments to reported capital levels and category.*—(1) *Notice of adjustment to be provided by bank.* A bank shall provide the appropriate FDIC regional director with written notice that an adjustment to the bank's capital category may have occurred no later than 5 calendar days following the earlier of the date that the bank:

(i) Reports, or has determined to report, any event that would cause the bank to be placed in a different capital category from the category assigned to the bank for purposes of section 38 and this subpart on the basis of the bank's most recent Call Report or report of examination; or

(ii) Determines that any event has occurred that would cause the bank to be placed in a different capital category from the category assigned to the bank for purposes of section 38 and this subpart on the basis of the bank's most recent Call Report or report of examination.

(2) *Determination to change capital category.* After receiving notice pursuant to paragraph (c)(1) of this section, the FDIC shall determine whether the capital category of the bank should be changed and shall notify the bank of the FDIC's determination.

§ 325.103 Capital measures and capital category definitions.

(a) *Capital measures.* For purposes of section 38 and this subpart, the relevant capital measures shall be:

(1) The total risk-based capital ratio;

(2) The Tier 1 risk-based capital ratio; and

(3) The leverage ratio.

(b) *Capital categories.* For purposes of the provisions of section 38 and this subpart, a bank shall be deemed to be:

(1) *Well capitalized* if the bank:

(i) Has a total risk-based capital ratio of 10.0 percent or greater;

(ii) Has a Tier 1 risk-based capital ratio of 6.0 percent or greater;

(iii) Has a leverage ratio of 5.0 percent or greater; and

(iv) Is not subject to any order or final capital directive by the FDIC to meet and maintain a specific capital level for any capital measure.

(2) *Adequately capitalized* if the bank:

(i) Has a total risk-based capital ratio of 8.0 percent or greater;

(ii) Has a Tier 1 risk-based capital ratio of 4.0 percent or greater;

(iii) Has:

(A) A leverage ratio of 4.0 percent or greater; or

(B) A leverage ratio of 3.0 percent or greater if the bank is rated composite 1 under the CAMEL rating system in the most recent examination of the bank and is not experiencing or anticipating significant growth; and

(iv) Does not meet the definition of a *well capitalized* bank.

(3) *Undercapitalized* if the bank—

(i) Has a total risk-based capital ratio that is less than 8.0 percent; or

(ii) Has a Tier 1 risk-based capital ratio that is less than 4.0 percent; or

(iii)(A) Except as provided in paragraph (b)(3)(iii)(B) of this section, has a leverage ratio that is less than 4.0 percent; or

(B) If the bank is rated composite 1 under the CAMEL rating system in the most recent examination of the bank, has a leverage ratio that is less than 3.0 percent.

(4) *Significantly undercapitalized* if the bank has:

(i) A total risk-based capital ratio that is less than 6.0 percent; or

(ii) A Tier 1 risk-based capital ratio that is less than 3.0 percent; or

(iii) A leverage ratio that is less than 3.0 percent.

(5) *Critically undercapitalized* if the insured depository institution has a ratio of tangible equity to total assets that is equal to or less than 2.0 percent.

(c) *Capital categories for insured branches of foreign banks.* For purposes of the provisions of section 38 and this subpart, a insured branch of a foreign bank shall be deemed to be:

(1) *Well capitalized* if the insured branch:

(i) Maintains the pledge of assets required under 12 CFR 346.19; and

(ii) Maintains the eligible assets prescribed under 12 CFR 346.20 at 108 percent or more of the preceding quarter's average book value of the insured branch's third-party liabilities; and

(iii) Has not received written notification from:

(A) The OCC to increase its capital equivalency deposit pursuant to 12 CFR 28.6(a), or to comply with asset maintenance requirements pursuant to 12 CFR 28.9; or

(B) The FDIC to pledge additional assets pursuant to 12 CFR 346.19 or to maintain a higher ratio of eligible assets pursuant to 12 CFR 346.20.

(2) *Adequately capitalized* if the insured branch:

(i) Maintains the pledge of assets required under 12 CFR 346.19;

(ii) Maintains the eligible assets prescribed under 12 CFR 346.20 at 106 percent or more of the preceding quarter's average book value of the insured branch's third-party liabilities; and

(iii) Does not meet the definition of a *well capitalized* insured branch.

(3) *Undercapitalized* if the insured branch:

(i) Fails to maintain the pledge of assets required under 12 CFR 346.19; or

(ii) Fails to maintain the eligible assets prescribed under 12 CFR 346.20 at 106 percent or more of the preceding quarter's average book value of the insured branch's third-party liabilities.

(4) *Significantly undercapitalized* if it fails to maintain the eligible assets prescribed under 12 CFR 346.20 at 104 percent or more of the preceding quarter's average book value of the insured branch's third-party liabilities.

(5) *Critically undercapitalized* if the insured depository institution fails to maintain the eligible assets prescribed under 12 CFR 346.20 at 102 percent or more of the preceding quarter's average book value of the insured branch's third-party liabilities.

(d) *Classification based on supervisory criteria other than capital.* The FDIC may reclassify a well capitalized bank as adequately capitalized and may require an adequately capitalized bank or an undercapitalized bank to comply with supervisory actions as if it was in the next lower capital category (except that the FDIC may not reclassify a significantly undercapitalized bank as critically undercapitalized) in the following circumstances:

(1) *Unsafe or unsound condition.* The FDIC has determined, after notice and opportunity for hearing pursuant to § 308.202(a) of this chapter, that the bank is in unsafe or unsound condition; or

(2) *Unsafe or unsound practice.* The FDIC has determined, after notice and opportunity for response pursuant to § 308.202(b) of this chapter, that the bank has received, and not corrected, a less-than-satisfactory rating for any of the categories of asset quality, management, earnings, or liquidity in

the most recent examination or inspection of the bank.

§ 325.104 Capital restoration plans.

(a) *Schedule for filing plan*—(1) *In general.* A bank must file a written capital restoration plan with the appropriate FDIC regional director within 45 days of the date that the bank receives notice or is deemed to have notice that the bank is undercapitalized, significantly undercapitalized, or critically undercapitalized, unless the FDIC notifies the bank in writing that the plan must be filed within a different period. A bank that has been reclassified as undercapitalized pursuant to § 325.103(d) of this subpart is not required to submit a capital restoration plan solely by virtue of the reclassification.

(2) *Additional capital restoration plans.* Notwithstanding paragraph (a)(1) of this section, a bank that has already submitted and is operating under a capital restoration plan approved under section 38 and this subpart is not required to submit an additional capital restoration plan based on a revised calculation of its capital measures unless the FDIC notifies the bank that it must submit a new or revised capital plan. A bank that is notified that it must submit a new or revised capital restoration plan shall file the plan in writing with the appropriate FDIC regional director within 45 days of receiving such notice unless the FDIC notifies the bank in writing that the plan must be filed within a different period.

(b) *Contents of plan.* All financial data submitted in connection with a capital restoration plan must be prepared in accordance with the instructions provided on the Call Report, unless the FDIC instructs otherwise. The capital restoration plan shall include all of the information required to be filed under section 38(e)(2) of the FDI Act, including any performance guarantee required to be executed under section 38(e)(2)(C) of that Act by each company that controls the bank. A bank that is required to submit a capital restoration plan as a result of a reclassification of the bank pursuant to § 325.103(d) of this subpart shall include a description of the steps the bank will take to correct the unsafe and unsound condition or practice.

(c) *Review of capital restoration plans.* Within 60 days after receiving a capital restoration plan under this subpart, the FDIC will provide written notice to the bank of whether the plan has been approved. The FDIC may extend the time within which notice regarding approval of a plan shall be provided.

(d) *Disapproval of capital plan.* If a capital restoration plan is not approved by the FDIC, the bank must submit a revised capital restoration plan within the time specified by the FDIC. Upon receiving notice that its capital restoration plan has not been approved, any undercapitalized bank (as defined in § 325.103(b) of this subpart) shall be subject to all of the provisions of section 38 and this subpart applicable to significantly undercapitalized institutions. These provisions shall be applicable until such time as a new or revised capital restoration plan submitted by the bank has been approved by the FDIC.

(e) *Failure to submit a capital restoration plan.* A bank that is undercapitalized (as defined in § 325.103(b) of this subpart) and that fails to submit a written capital restoration plan within the period provided in this section shall, upon the expiration of that period, be subject to all of the provisions of section 38 and this subpart applicable to significantly undercapitalized institutions.

(f) *Failure to implement a capital restoration plan.* Any undercapitalized bank that fails in any material respect to implement a capital restoration plan shall be subject to all of the provisions of section 38 and this subpart applicable to significantly undercapitalized institutions.

(g) *Amendment of capital plan.* A bank that has filed an approved capital restoration plan may, after prior written notice to and approval by the FDIC, amend the plan to reflect a change in circumstance. Until such time as a proposed amendment has been approved, the bank shall implement the capital restoration plan as approved prior to the proposed amendment.

(h) *Performance guarantee by companies that control a bank*—(1) *Limitation on liability*—(i) *Amount limitation.* The aggregate liability under the guarantee provided under section 38 and this subpart for all companies that control a specific bank that is required to submit a capital restoration plan under this subpart shall be limited to the lesser of:

(A) An amount equal to 5.0 percent of the bank's total assets at the time the bank was notified or deemed to have notice that the bank was undercapitalized; or

(B) The amount necessary to restore the relevant capital measures of the bank to the levels required for the bank to be classified as adequately capitalized, as those capital measures and levels are defined at the time that the bank initially fails to comply with a capital restoration plan under this subpart.

(ii) *Limit on duration.* The guarantee and limit of liability under section 38 and this subpart shall expire after the FDIC notifies the bank that it has remained adequately capitalized for each of four consecutive calendar quarters. The expiration or fulfillment by a company of a guarantee of a capital restoration plan shall not limit the liability of the company under any guarantee required or provided in connection with any capital restoration plan filed by the same bank after expiration of the first guarantee.

(iii) *Collection on guarantee.* Each company that controls a given bank shall be jointly and severally liable for the guarantee for such bank as required under section 38 and this subpart, and the FDIC may require and collect payment of the full amount of that guarantee from any or all of the companies issuing the guarantee.

(2) *Failure to provide guarantee.* In the event that a bank that is controlled by any company submits a capital restoration plan that does not contain the guarantee required under section 38(e)(2) of the FDI Act, the bank shall, upon submission of the plan, be subject to the provisions of section 38 and this subpart that are applicable to banks that have not submitted an approved capital restoration plan.

(3) *Failure to perform guarantee.* Failure by any company that controls a bank to perform fully its guarantee of any capital plan shall constitute a material failure to implement the plan for purposes of section 38(f) of the FDI Act. Upon such failure, the bank shall be subject to the provisions of section 38 and this subpart that are applicable to banks that have failed in a material respect to implement a capital restoration plan.

§ 325.105 Mandatory and discretionary supervisory actions under section 38.

(a) *Mandatory supervisory actions.*—(1) *Provisions applicable to all banks.* All banks are subject to the restrictions contained in section 38(d) of the FDI Act on payment of capital distributions and management fees.

(2) *Provisions applicable to undercapitalized, significantly undercapitalized, and critically undercapitalized banks.* Immediately upon receiving notice or being deemed to have notice, as provided in § 325.102 of this subpart, that the bank is undercapitalized, significantly undercapitalized, or critically undercapitalized, the bank shall become

subject to the provisions of section 38 of the FDI Act:

(i) Restricting payment of capital distributions and management fees (section 38(d));

(ii) Requiring that the FDIC monitor the condition of the bank (section 38(e)(1));

(iii) Requiring submission of a capital restoration plan within the schedule established in this subpart (section 38(e)(2));

(iv) Restricting the growth of the bank's assets (section 38(e)(3)); and

(v) Requiring prior approval of certain expansion proposals (section 38(e)(4)).

(3) *Additional provisions applicable to significantly undercapitalized, and critically undercapitalized banks.* In addition to the provisions of section 38 of the FDI Act described in paragraph (a)(2) of this section, immediately upon receiving notice or being deemed to have notice, as provided in § 325.102 of this subpart, that the bank is significantly undercapitalized, or critically undercapitalized, the bank shall become subject to the provisions of section 38 of the FDI Act that restrict compensation paid to senior executive officers of the institution (section 38(f)(4)).

(4) *Additional provisions applicable to critically undercapitalized institutions.* In addition to the provisions of section 38 of the FDI Act described in paragraphs (a)(2) and (a)(3) of this section, immediately upon receiving notice or being deemed to have notice, as provided in § 325.102 of this subpart, that the insured depository institution is critically undercapitalized, the institution is prohibited from doing any of the following without the FDIC's prior written approval:

(i) Entering into any material transaction other than in the usual course of business, including any investment, expansion, acquisition, sale of assets, or other similar action with respect to which the depository institution is required to provide notice to the appropriate Federal banking agency;

(ii) Extending credit for any highly leverage transaction;

(iii) Amending the institution's charter or bylaws, except to the extent necessary to carry out any other requirement of any law, regulation, or order;

(iv) Making any material change in accounting methods;

(v) Engaging in any covered transaction (as defined in section 23A(b) of the Federal Reserve Act (12 U.S.C. 371c(b));

(vi) Paying excessive compensation or bonuses;

(vii) Paying interest on new or renewed liabilities at a rate that would increase the institution's weighted average cost of funds to a level significantly exceeding the prevailing rates of interest on insured deposits in the institution's normal market areas; and

(viii) Making any principal or interest payment on subordinated debt beginning 60 days after becoming critically undercapitalized except that this restriction shall not apply, until July 15, 1996, with respect to any subordinated debt outstanding on July 15, 1991, and not extended or otherwise renegotiated after July 15, 1991.

In addition, the FDIC may further restrict the activities of any critically undercapitalized institution to carry out the purposes of section 38 of the FDI Act.

(5) *Exception for certain savings associations.* The restrictions in paragraph (a)(4) of this section shall not apply, before July 1, 1994, to any insured savings association if:

(i) The savings association had submitted a plan meeting the requirements of section 5(t)(6)(A)(ii) of the Home Owners' Loan Act prior to December 19, 1991;

(ii) The Director of OTS had accepted the plan prior to December 19, 1991; and

(iii) The savings association remains in compliance with the plan or is operating under a written agreement with the appropriate Federal banking agency.

(b) *Discretionary supervisory actions.* In taking any action under section 38 that is within the FDIC's discretion to take in connection with an insured depository institution that is deemed to be undercapitalized, significantly undercapitalized or critically undercapitalized, or with an officer or director of such institution, the FDIC will follow the procedures for issuing directives under §§ 308.201 and 308.203 of this chapter, unless otherwise provided in section 38 or this subpart.

By order of the Board of Directors.

Dated at Washington, DC, this 23rd day of June, 1992.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 92-15613 Filed 6-30-92; 10:45 am]

BILLING CODE 6714-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92-NM-100-AD]

Airworthiness Directives; Airbus Industrie Model A320 Series Airplanes, Equipped with Garrett Auxiliary Power Unit (APU) GTCP36-300[A]

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Airbus Industrie Model A320 series airplanes, that currently requires a revision to the Limitations Section of the Airplane Flight Manual (AFM) and the installation of a placard in the cockpit prohibiting the use of the APU during flight or on the ground until the installation of an external secondary turbine containment shield has been accomplished. This action would require replacement of the currently-installed external secondary turbine containment shield assembly with an assembly of an improved design. This proposal is prompted by a recent report of an APU turbine rotor that separated and several fragments were not contained. The actions specified by the proposed AD are intended to prevent potential damage to the fuselage and flight controls, and subsequently, reduced controllability of the airplane.

DATES: Comments must be received by August 12, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-100-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Garrett Auxiliary Power Division, 2739 East Washington Square, P.O. Box 5227, Phoenix, Arizona 85010. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Greg Holt, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056;

telephone (206) 227–2140; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92–NM–100–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–100–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

Discussion

On June 5, 1990, the FAA issued AD 90–11–51 R1, Amendment 39–6635 (55 FR 24073, June 14, 1990), to require a revision to the Limitations Section of the Airplane Flight Manual (AFM) and the installation of a placard in the cockpit prohibiting the use of the APU during flight, except during an emergency, and prohibiting the use of the APU on the ground, until the installation of an external secondary turbine containment shield has been accomplished. That action was prompted by a report of an APU turbine rotor that separated during development testing. A number of secondary fragments emerged from the turbine plenum with enough force to dent a control panel in the test cell. Preliminary results from the investigation indicated that the thickness of the turbine plenum needed to be increased to provide an acceptable level of protection. That condition, if not corrected, could result in potential damage to the fuselage and horizontal control surfaces, and subsequently, reduced controllability of the airplane.

Since the issuance of that AD, there has been another incident of separation of an APU turbine rotor, in which several fragments were not contained. Garrett Auxiliary Power Division has developed improved extended external secondary turbine containment shield halves that will provide additional protection against the escape of secondary fragments, in the event of the turbine rotor separation.

The FAA has reviewed and approved Garrett Service Bulletin GTCP36–49–6549, dated February 28, 1992, which describes procedures for removal of the currently installed external secondary turbine containment shield assembly and replacement with the containment shield assembly of improved design. (The new assembly also improves maintainability of the fuel atomizer.) The service bulletin also specifies that certain APU's of the GTCP36–300[A] series, beginning at Serial Number R–477, were manufactured with a thicker wall plenum; for this reason, installation of the improved assembly on these APU's is not necessary.

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

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would supersede AD 90–11–51 R1 to limit the applicability to include only airplanes equipped with APU's having certain serial numbers; and would require replacement of the currently-installed external secondary turbine containment shield assembly with an assembly of improved design. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 32 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 3 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Required parts would be supplied by the manufacturer at no charge to operators. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $5,280, or $165 per airplane. This total cost figure assumes that no operator has yet accomplished the proposed requirements of this AD action.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–6635 (55 FR 24073, June 14, 1990), and by adding a new airworthiness directive (AD), to read as follows:

Airbus Industrie: Docket 92–NM–100–AD. Supersedes AD 90–11–51 R1, Amendment 39–6635.

Applicability: Model A320 series airplanes; equipped with Garrett Auxiliary Power Unit (APU) GTCP36–300[A], Part No. 3800278–2; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent potential damage to the fuselage and flight controls, and subsequently, reduced controllability of the airplane, accomplish the following:

(a) For airplanes equipped with Garrett APU GTCP36–300[A], Part No. 3800278–2, all serial numbers: Within 72 hours (clock hours, not flight hours) after July 2, 1990 (the effective date of AD 90–11–51 R1, Amendment 39–6635), accomplish the procedures specified in paragraphs (a)(1) and (a)(2) of this AD:

(1) Revise the Limitations Section in the FAA-approved Airplane Flight Manual (AFM) to include the following statement. This may be accomplished by inserting a copy of this AD in the AFM Limitations Section.

"Operation of the APU on the ground is prohibited, and operation of the APU during flight is prohibited, except during an emergency."

(2) Install a placard next to the APU start switch in the cockpit to state:

"Operation of the APU on the ground is prohibited, and operation of the APU during flight is prohibited, except during an emergency."

(b) For airplanes equipped with Garrett APU GTCP36–300[A], Part No. 3800278–2, all serial numbers: Within 30 days after July 2, 1990 (the effective date of AD 90–11–51 R1, Amendment 39–6635), install an external secondary turbine containment shield, Part Number 3615644–1, in accordance with Garrett Auxiliary Power Division Alert Service Bulletin GTCP36–49–A5973, dated May 17, 1990, or Revision 1, dated May 22, 1990. Installation of this containment shield constitutes terminating action for the requirements of paragraph (a) of this AD.

(c) For airplanes equipped with Garrett APU GTCP36–300[A], Part No. 3800278–2, all serial numbers prior to R–477, excluding P–453 and P–454: Within 24 months after the effective date of this AD, remove the external secondary turbine containment shield assembly, Part No. 3615644–1, and install a new external secondary turbine containment shield halves assembly, Part Numbers 3615898–1 and 3615899–1, in accordance with Garrett Auxiliary Power Division Service Bulletin GTCP36–49–6549, dated February 28, 1992.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Manager, Standardization Branch, ANM–113.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on June 12, 1992.

Bill R. Boxwell,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–15680 Filed 7–2–92; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 91–ASW–18]

Airworthiness Directives: Bell Helicopter Textron, Inc., Model 214B and 214B–1 Series Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to Bell Helicopter Textron, Inc., (BHTI), Model 214B and 214B–1 helicopters. this proposal would reduce the retirement life of the main rotor yoke assembly from 5,000 to 3,750 hours' time in service. This proposal is prompted by a recent analysis that revealed a deterioration of residual compressive stresses in the yoke with increased time in service. The actions specified by the proposed AD are intended to prevent failure of the yoke assembly, which could result in loss of the main rotor and loss of the helicopter.

DATES: Comments must be received by August 20, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91–ASW–18, 4400 Blue Mound Road, Fort Worth, Texas 76193–0007. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Bell Helicopter Textron, Inc., P.O. Box 482, Fort Worth, Texas 76101, Attention: Customer Support. This information may be examined at the FAA, Office of the Assistant Chief Counsel, 4400 Blue Mound Road, Bldg. 3B, room 158, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. Tom K. Henry, Rotorcraft Directorate, Rotorcraft Certification Office, ASW–170, FAA, Southwest Region, Fort Worth, Texas 76193–0170, telephone (817) 624–5169; fax (817) 740–3394.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 91–ASW–18." The postcard will be date stamped and returned to the commenter.

Availability of Notice of Proposed Rulemaking (NPRM)

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91–ASW–18, 4400 Blue Mound Road, Fort Worth, Texas 76193–0007.

Discussion

A study was conducted by the manufacturer to consider the structural effects imposed on the Bell helicopter Textron, Inc., Model 214B and 214B–1 main rotor (M/R) yoke due to the M/R flapping under high wind conditions when the helicopter was parked and the M/R blade was unsecured. Tests showed a deterioration of residual compressive stresses allowing potential tensile stresses that could result in fatigue failure. As a result of this study, the manufacturer has issued Bell Alert Service Bulletin No. 214–87–37, Revision A, dated September 10, 1987.

The FAA has carefully reviewed the manufacturer's analysis and test results and has determined that a reduction in retirement life of the model 214B and 214B–1 M/R yoke assembly from 5,000

to 3,750 hours' time in service and that revised airspeed versus altitude limitation are necessary to assure the continued airworthiness of this aircraft. Failure of the yoke assembly could result in loss of the helicopter's main rotor.

Since this condition described in likely to exist or develop on other helicopters of this same type design, the proposed AD would require reduction of the retirement life of the M/R yoke assembly, part number (P/N) 214–010–105–001, from 5,000 to 3,750 hours' time in service. This AD would also require initial and repetitive inspections of the M/R yoke and revise the airspeed versus altitude decals on the affected helicopters.

The FAA estimates that 54 helicopters of U.S. registry would be affected by this proposed AD, that it would take 17 work hours per helicopter per year to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Required parts would cost approximately $13,250 per helicopter. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $765,990.

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

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

List of Subjects in 14 CFR Part 39

Air Transportation, Aircraft, Aviation Safety, Safety.

The Proposed Amendment

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

PART 39–AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new Airworthiness Directive (AD):

Bell Helicopter Textron, Inc.: Docket No. 91–ASW–18.

Applicability: Bell Helicopter Textron, Inc., Model 214B and 214B–1 helicopters, serial numbers (S/N's) 28001 through 28070, certificated in any category, equipped with main rotor yoke assembly, part number (P/N) 214–010–105–001.

Compliance: Required as indicated, unless already accomplished.

To prevent failure of the main rotor yoke assembly, which could result in loss of the main rotor and loss of control of the helicopter, accomplish the following:

(a) For yoke assemblies that have 3,700 or less hours' time in service on the effective date of this AD, replace the yoke assembly not later than 3,750 hours' time in service. For yoke assemblies that have more than 3,700 hours' time in service on the effective date of this AD, replace the yoke assembly within the next 50 hours' time in service.

(b) Within 50 hours' time in service after the effective date of this AD, install new airspeed versus altitude decals, P/N 214–075–256–105 for BHTI Model 214B–1 and P/N 214–075–256–107 for Model 214B helicopters.

(c) Within 50 hours' time in service after the effective date of this AD and thereafter at each 1,200 hours' time in service, inspect the yoke for straightness in accordance with the applicable maintenance manual.

Note: BHTI Alert Service Bulletin No. 214–87–37, Rev. A, dated September 10, 1987, pertains to this AD.

(d) An alternative method of compliance or adjustment of the compliance times, which provide an acceptance level of safety, may be used when approved by the Manager, Rotorcraft Certification Office, ASW–170, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas 76193–0170. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive if any, may be obtained from the Manager, Rotorcraft Certification Office.

(e) Special fight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the helicopter to a location where the requirements of this AD can be accomplished.

Issued in Fort Worth, Texas, on April 22, 1992.

A.J. Merrill,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 92–15676 Filed 7–2–92; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 92–NM–81–AD]

Airworthiness Directives; de Havilland, Inc., Model DHC–7, DHC–8–100, and DHC–8–300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Model DHC–7, DHC–8–100 and DHC–8–300 series airplanes. This proposal would require modification or replacement of both quantity limiting valves (QLV) in the inboard nacelles. This proposal is prompted by a report of corrosion found on the QLV valve assembly, which prevented the piston from stopping a discharge of hydraulic fluid. The actions specified by the proposed AD are intended to prevent the loss of both hydraulic systems due to depletion of hydraulic fluid.

DATES: Comments must be received by August 12, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–81–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from de Havilland, Inc., Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the New York Aircraft Certification Office, FAA, Engine and Propeller Directorate, 181 South Franklin Avenue, room 202, Valley Stream, New York 11581.

FOR FURTHER INFORMATION CONTACT: Mr. Danko Kramar, Systems and Equipment Branch, ANE–173, New York Aircraft Certification Office, FAA, Engine and Propeller Directorate, 181 South Franklin Avenue, room 202,

Valley Stream, New York 11581; telephone (516) 791–6427; fax (516) 791–9024.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92–NM–81–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–81–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

Discussion

Transport Canada Aviation, which is the airworthiness authority for Canada, recently notified the FAA that an unsafe condition may exist on certain de Havilland Model DHC–7, DHC–8–100 and DHC–8–300 series airplanes. Transport Canada Aviation advises that a case has been reported of a fractured in-service brake pressure pipeline downstream from the quantity limiting valves (QLV), which resulted in No. 1 hydraulic system fluid discharging overboard on a Model DHC–8 series airplane. In this incident, the QLV did not stop the discharge of hydraulic fluid, which resulted in the loss of the No. 1 hydraulic system. Attempts to use the emergency brakes also started depletion of fluid in the No. 2 hydraulic system. Investigation of the QLV revealed corrosion of the magnesium piston of the QLV sub-assembly, which prevented the piston from moving freely to stop the flow of hydraulic fluid. This condition, if not corrected, could result in the loss of both hydraulic systems due to depletion of hydraulic fluid.

The QLV installed on Model DHC–7 series airplanes is identical to the QLV installed on Model DHC–8 series airplanes; therefore, the problems related to corrosion potentially could exist on either model of airplane.

De Havilland, Inc., has issued Service Bulletins 7–29–20 (for Model DHC–7 series airplanes) and 8–29–21 (for Model DHC–8 series airplanes), both dated March 20, 1992, which describe procedures for modification or replacement of both QLV in the inboard nacelles. This modification involves the installation of a new valve sub-assembly with an aluminum piston in place of the currently installed magnesium piston. This change of material will eliminate electrolytic potential and the probability of corrosion. Transport Canada Aviation classified these service bulletins as mandatory and issued Canadian Airworthiness Directives CF–92–08 and CF–92–09, in order to assure the continued airworthiness of these airplanes in Canada.

These airplane models are manufactured in Canada and are type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, Transport Canada Aviation has kept the FAA informed of the situation described above. The FAA has examined the findings of Transport Canada Aviation, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require modification or replacement of the QLV in the inboard nacelles. The actions would be required to be accomplished in accordance with the service bulletins described previously.

The FAA estimates that 131 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 5 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Required parts would cost approximately $57 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $43,492. This total cost figure assumes that no operator has yet accomplished the requirements of this proposed AD action.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

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

De Havilland, Inc.: Docket 92–NM–81–AD.

Applicability: Model DHC–7 series airplanes, serial numbers 003 through 113, inclusive; Model DHC–8–102 and –103 series airplanes, serial numbers 003 through 321, inclusive; and Model DHC–8–301 and –311

series airplanes, serial numbers 100 through 320, inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent the loss of both hydraulic systems due to depletion of hydraulic fluid, accomplish the following:

(a) For Model DHC–7 series airplanes: Prior to the accumulation of 1,000 hours time-in-service after the effective date of this AD, or within 6 months after the effective date of this AD, whichever occurs first, remove the existing Quantity Limiting Valves (QLV), from the left- and right-hand inboard nacelles; and modify or replace them with new QLV, Modification 7/2610; in accordance with de Havilland Service Bulletin 7–29–20, dated March 20, 1992.

(b) For Model DHC–8–102 and –103 series airplanes and Model DHC–8–301 and –311 series airplanes that have accumulated 6,700 total hours time-in-service or more as of the effective date of this AD, or if 50 months or more have passed since the airplane was manufactured as of the effective date of this AD: Prior to the accumulation of 1,000 hours time-in-service after the effective date of this AD or, within 6 months after the effective date of this AD, whichever occurs first, remove the existing QLV from the left- and right-hand inboard nacelles; and modify or replace them with new QLV, Modification 8/1803; in accordance with de Havilland Service Bulletin 8–29–21, dated March 20, 1992.

(c) For Model DHC–8–102 and –103 series airplanes and Model DHC–8–301 and –311 series airplanes that have accumulated less than 6,700 total hours time-in-service as of the effective date of this AD *and* if less than 50 months have passed since the airplane was manufactured as of the effective date of this AD: Prior to the accumulation of 7,700 hours time-in-service since the airplane was manufactured or, within 12 months after the effective date of this AD, whichever occurs first, remove the existing QLV from the left- and right-hand inboard nacelles; and modify or replace them with new QLV, Modification 8/1803; in accordance with de Havilland Service Bulletin 8–29–21, dated March 20, 1992.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York Aircraft Certification Office (ACO), FAA, Engine and Propeller Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on June 12, 1992.

Bill R. Boxwell,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–15681 Filed 7–2–92; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 92–ANM–3]

Proposed Alteration of Jet Routes; OR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to reflect the change of the name and identification of three VHF Omnidirectional Range/Tactical Air Navigation (VORTAC) within the legal description of five jet routes located in the State of Oregon. A navigational aid (NAVAID) with the same name as the airport should be located on the airport, except in existing situations where the NAVAID is located off the airport. This action proposes to reflect the name changes, where necessary, of the NAVAID's that are not located on the airport with which they are associated.

DATES: Comments must be received on or before August 24, 1992.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, ANM–500, Docket No. 92–ANM–3, Federal Aviation Administration, 1601 Lind Avenue, Southwest, Renton, WA 98055–4056.

The official docket may be examined in the Rules Docket, Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC, weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Obstruction Evaluation Branch (ATP–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–9250.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 92–ANM–3." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–220, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3485. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to reflect the change of the names of three VORTAC's (Medford to Rogue Valley, Redmond to Deschutes, and The Dalles to Klickitat) within the legal description of five jet routes located in the State of Oregon. FAA Handbook 7400.2C states that a NAVAID with the same name as the associated airport should be located on the airport; therefore, the names of the NAVAID's associated with the airport that are not located on the

airport surface or are not the primary NAVAID's located off the airport surface for that airport are proposed to be changed accordingly. The airspace designations for existing jet routes listed in this document are published in § 75.100 of Handbook 7400.7 effective November 1, 1991, which is incorporated by reference in 14 CFR 71.1. The amended designations for these jet routes proposed in this document would be published subsequently in § 71.607 of the Handbook, if this regulation is promulgated.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Incorporation by reference, Jet routes.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7, Compilation of Regulations, published April 30, 1991, and effective November 1, 1991, is amended as follows:

Section 71.607 Jet Routes

* * * * *

J-1 [Revised]

From the INT of the United States/Mexican Border with the direct course between the Mission Bay, CA, VORTAC and the Tijuana, Mexico, VOR, via Mission Bay; Oceanside, CA; Los Angeles, CA; Fillmore, CA; Avenal, CA; Oakland, CA; Red Bluff, CA; Rogue Valley, OR; Battle Ground, WA; to Seattle, WA.

* * * * *

J-126 [Revised]

From Los Angeles, CA, via San Marcus, CA; Salinas, CA; Sacramento, CA; Red Bluff, CA; Rogue Valley, OR; Eugene, OR; Newberg, OR; Olympia, WA; to Vancouver, BC, Canada. That portion outside the United States is excluded.

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J-143 [Revised]

From Point Reyes, CA, via Mendocino, CA; Roseburg, OR; Eugene, OR; Klickitat, OR; to Spokane, WA.

* * * * *

J-159 [Revised]

From Battle Ground, WA; to Deschutes, OR.

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J-501 [Revised]

From San Marcus, CA, via Big Sur, CA; Point Reyes, CA, via Rogue Valley, OR; Hoquiam, WA; INT Hoquiam 354° and Tatoosh, WA, 162° radials; Tatoosh; Cape Scott, BC, Canada, RBN; Sandspit, BC, Canada; Biorka Island, AK; Yakutat, AK; Johnstone Point, AK; Anchorage, AK; Sparrevohn, AK; Bethel, AK; to the INT of the Bethel 258° radial and the Anchorage Oceanic CTA/FIR boundary, excluding the airspace within Canada.

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Issued in Washington, DC, on June 25, 1992.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 92–15679 Filed 7–2–92; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 92–ANM–2]

Proposed Alteration of VOR Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to reflect the change of the name and identification of four VHF Omnidirectional Range/Tactical Air Navigation (VORTAC) within the legal description of VOR Federal airways and reporting points located in the States of Oregon and Idaho. A navigational aid (NAVAID) with the same name as the airport should be located on the airport, except in existing situations where the NAVAID is located off the airport. This action proposes to reflect the name changes, where necessary, of the NAVAID's that are not located on the airport with which they are associated.

DATES: Comments must be received on or before August 24, 1992.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, ANM–500 Docket No. 92–ANM–2, Federal Aviation Administration, 1601 Lind Avenue, Southwest, Renton, WA 98055–4056.

The official docket may be examined in the Rules Docket, Office of the Chief Counsel, room 916, 800 Independence Avenue SW., Washington, DC, weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Obstruction Evaluation Branch (ATP–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–9250.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 92–ANM–2." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both

before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–220, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3485. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to reflect the change of the names of four VORTAC's within the legal description of VOR Federal airways and reporting points located in the States of Oregon and Idaho. FAA Handbook 7400.2C states that a NAVAID with the same name as the associated airport should be located on the airport; therefore, the names of the NAVAID's associated with that airport that are not located on the airport surface or are not the primary NAVAID's located off the airport surface for that airport are proposed to be changed accordingly. The airspace designations for existing VOR Federal airways and reporting points listed in this document are published in §§ 71.123, 71.203, and 71.207 or Handbook 7400.7 effective November 1, 1991, which is incorporated by reference in 14 CFR 71.1. The amended designations for these airways and the reporting points proposed in this document would be published subsequently in §§ 71.123, 71.203, and 71.207 of the Handbook, if this regulation is promulgated.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Incorporation by reference, Reporting points, VOR Federal airways.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7, Compilation of Regulations, published April 30, 1991, and effective November 1, 1991, is amended as follows:

Section 71.123 Domestic VOR Federal Airways

* * * * *

V–23 [Revised]

From Mission Bay, CA; Oceanside, CA; 24 miles, 6 miles wide, Seal Beach, CA; 6 miles wide, INT Seal Beach 287° and Los Angeles, CA, 138° radials; Los Angeles; Gorman, CA; Shafter, CA; Clovis, CA; 53 miles, 6 miles wide, Linden, CA; Sacramento, CA; INT Sacramento 346° and Red Bluff, CA, 158° radials; Red Bluff; 58 miles, 95 MSL, Fort Jones, CA; Rogue Valley, OR; Eugene, OR; Battle Ground, WA; INT Battle Ground 350° and Seattle, WA, 197° radials; 21 miles, 45 MSL, Seattle; Paine, WA; Bellingham, WA; via INT Bellingham 290° radial to the United States/Canadian border.

* * * * *

V–25 [Revised]

From Mission Bay, CA, via Los Angeles, CA; INT Los Angeles 261° and Ventura, CA, 144° radials; 6 miles wide, Ventura; San Marcus, CA; Paso Robles, CA; Salinas, CA; INT Salinas 310° and Woodside, CA, 158° radials; Woodside; San Francisco, CA; INT San Francisco 304° and Point Reyes, CA, 161° radials; Point Reyes; INT Point Reyes 352° and Mendocino, CA, 147° radials; 28 miles, 24 miles, 85 MSL, 18 miles, 75 MSL, Red Bluff, CA; 53 miles, 95 MSL, INT Red Bluff 015° and Klamath Falls, OR, 181° radials; 19 miles, 95 MSL, Klamath Falls; 21 miles, 77 miles, 90 MSL, Deschutes, OR; Klickitat, OR; Yakima, WA; Ellensburg, WA; Wenatchee, WA. The airspace below 2,000 feet MSL outside the United States and the airspace more than 3 miles NE of the airway centerline between Seal Beach and INT of Seal Beach 287° and Los Angeles 138° radials is excluded. The airspace within R–2511 and W–289 is excluded. The airspace within R–2519 more than 3 statute miles west of the airway centerline, and the airspace within R–2519 below 5,000 feet MSL is excluded. The portion outside the United States has no upper limit.

* * * * *

V–112 [Revised]

From Hoquiam, WA; INT Hoquiam 182° and Astoria, OR, 309° radials; Astoria; 44 miles, 15 miles, 6 miles wide, Battle Ground, WA; Klickitat, OR; INT of Klickitat 101° and Pendleton, OR; 254° radials; Pendelton; 53 miles, 28 miles, 45 MSL, Spokane, WA; 47 miles, 105 MSL, Cranbrook, BC, Canada, excluding the portion within Canada.

* * * * *

V–121 [Revised]

From Fort Jones, CA, via INT Fort Jones 340° and Rogue Valley, OR, 200° radials; Rogue Valley; INT Rogue Valley 352° and Roseburg, OR, 127° radials; Roseburg; North Bend, OR; Eugene, OR; Deschutes, OR; Kimberly, OR; Baker, OR; Donnelly, ID; Salmon, ID; to Dillon, MT.

V–122 [Revised]

From Crescent City, CA; Rogue Valley, OR; 22 miles, 75 MSL, INT Rogue Valley 117° and Klamath Falls, OR, 282° radials; 6 miles, 75 MSL, Klamath Falls; 21 miles, 90 MSL, Lakeview, OR; to Rome, OR.

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V–165 [Revised]

From Mission Bay, CA; INT Mission Bay 270° and Oceanside, CA, 177° radials; Oceanside; 24 miles, 6 miles wide, Seal Beach, CA; 6 miles wide, INT Seal beach 287° and Los Angeles, CA, 138° radials; Los Angeles; INT Los Angeles 357° and Lake Hughes, CA, 154° radials; Lake Hughes; INT Lake Hughes 344° and Shafter, CA, 137° radials; Shafter; Porterville, CA; INT Porterville 339° and Clovis, CA, 139° radials; Clovis; 68 miles, 50 miles, 131 MSL, Mustang, NV; 40 miles, 12 AGL, 7 miles, 115 MSL, 54 miles, 135 MSL, 81 miles, 12 AGL, Lakeview, OR; 5 miles, 72 miles, 90 MSL, Deschutes, OR; 16 miles, 19 miles, 95 MSL, 24 miles, 75 MSL, 12 miles, 65 MSL, Newberg, OR; 32 miles, 45 MSL, INT Newberg 355° and Olympia, WA, 195° radials; Olympia; INT Olympia 010° and Seattle, WA, 249° radials; Seattle.

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V–182 [Revised]

From North Bend, OR, via Newport, OR; Newberg, OR; INT Newberg 069° and Battle Ground, WA, 196° radials; Battle Ground; Klickitat, OR; Baker, OR; INT of Baker 345° and Nez Perce, ID, 220° radials; Nez Perce.

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V–187 [Revised]

From Socorro, NM, via INT Socorro 015° and Albuquerque, NM, 160° radials; Albuquerque; Farmington, NM; 50 miles, 62

miles, 115 MSL, Grand Junction, CO; 75 miles, 50 miles, 112 MSL, Rock Springs, WY; 20 miles, 37 miles, 95 MSL, INT Rock Springs 026° and Riverton, WY, 180° radials; Riverton; Boysen Reservoir, WY; 9 miles, 78 miles, 105 MSL, Billings, MT; INT Billings 317° and Great Falls, MT, 122° radials; Great Falls; Missoula, MT; Nez Perce, ID; Pasco, WA; INT Pasco 321° and Ellensburg, WA, 107° radials; Ellensburg; INT Ellensburg 274° and McChord, WA, 096° radials; McChord; INT McChord 275° and Olympia, WA, 031° radials; Olympia; to Astoria, OR.

* * * * *

V–253 [Revised]

From Lucin, UT; 14 miles, 90 MSL, 19 miles, 105 MSL, Twin Falls, ID; Boise, ID; 42 miles, 99 MSL, Donnelly, ID; 11 miles, 99 MSL, 33 miles, 115 MSL, Nez Perce, ID; Pullman, WA; Spokane, WA.

* * * * *

V–269 [Revised]

From Ely, NV; 125 MSL, INT Ely 007° and Bonneville, UT, 272° radials; Wells, NV; Twin Falls, ID; Burley, ID; Pocatello, ID; Salmon, ID; Donnelly, ID; Wildhorse, OR; Deschutes, OR; INT Deschutes 281° and Eugene, OR, 069° radials; to Eugene.

* * * * *

V–287 [Revised]

From Fort Jones, CA, via INT Fort Jones 041° and Rogue Valley, OR, 157° radials; Rogue Valley; North Bend, OR; Newberg, OR; Battle Ground, WA; 20 miles, 51 miles, 45 MSL, Olympia, WA; INT Olympia 010° and Paine, WA, 254° radials; Paine; INT Paine 329° and Bellingham, WA, 191° radials; Bellingham; to Paine.

* * * * *

V–448 [Revised]

From Rogue Valley, OR, via Roseburg, OR; INT Roseburg 003° and Eugene, OR, 187° radials; Eugene; INT Eugene 030° and Battle Ground, WA, 180° radials; Battle Ground; Yakima, WA; Moses Lake, WA; Spokane, WA; 45 miles, 12 AGL, 21 miles, 75 MSL, 20 miles, 80 MSL, 59 miles, 12 AGL; to Kalispell, MT.

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V–497 [Revised]

From Rome, OR, via Wildhorse, OR; Kimberly, OR; 49 miles, 65 MSL, Klickitat, OR; INT Klickitat 053° and Moses Lake, WA 206° radials; Moses Lake; to Ephrata, WA.

* * * * *

V–520 [Revised]

From Battle Ground, WA, via INT Battle Ground 110° and Klickitat, OR, 255° radials; Klickitat; Pasco, WA; Walla Walla, WA; Nez Perce, ID; Salmon, ID; Dubois, ID; to Jackson, WY.

* * * * *

V–536 [Revised]

From North Bend, OR; INT North Bend 023° and Corvallis, OR, 235° radials; Corvallis; Deschutes, OR; 32 miles, 58 miles, 71 MSL, Pendleton, OR; Walla Walla, WA; Pullman, WA; 27 miles, 85 MSL, Mullan Pass, ID; 5 miles, 34 miles, 95 MSL, Kalispell, MT; 20 miles, 41 miles, 115 MSL, Great Falls, MT. From Sheridan, WY; Gillette, WY; New Castle, WY; to Rapid City, SD.

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Section 71.203 Domestic Low Altitude Reporting Points

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Medford, OR [Removed]

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Rogue Valley, OR [New]

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The Dallas, OR [Removed]

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Klickitat, OR [New]

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Redmond, OR [Removed]

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Deschutes, OR [New]

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Section 71.207 Domestic High Altitude Reporting Points

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Medford, OR [Removed]

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Rogue Valley, OR [New]

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Issued in Washington, DC, on June 25, 1992.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 92–15677 Filed 7–2–92; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

23 CFR Part 650

[FHWA Docket No. 91–13]

RIN 2125–AC73

Highway Bridge Replacement and Rehabilitation Program

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: The FHWA is withdrawing a June 4, 1991, notice of proposed rulemaking that would revise the procedures for evaluating existing highway bridges for eligibility under the Highway Bridge Replacement and Rehabilitation Program (HBRRP). The proposal would have discontinued the present Sufficiency Rating, described in 23 CFR 650.409, for determining eligibility under the program and implemented a level-of-service criteria for this purpose. This decision is based on a further evaluation of the proposed criteria in the light of docket comments and consideration of changes in the bridge program as a result of the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel S. O'Connor, Bridge Management Branch, Bridge Division, Office of Engineering, (202) 366–1567; or Ms. Vivian Philbin, Office of Chief Counsel, (202) 366–0780, Federal Highway Administration, 400 7th Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION:

Background

In 1978, Congress established the HBRRP under 23 U.S.C. 144. This program provides funds for the replacement and rehabilitation of bridges on all public roads. Section 144 directs the Secretary, in consultation with the States, to (1) inventory all highway bridges on public roads; (2) classify them according to serviceability, safety and essentiality for public use; (3) based on the classification, assign each a priority for replacement or rehabilitation; and (4) determine the cost of replacing each such bridge with a comparable facility or of rehabilitating such bridge. Section 144 further directs the Secretary to determine the eligibility of highway bridges for replacement or rehabilitation based upon the unsafe highway bridges in each State, and to give consideration to those projects which will remove from service those bridges most in danger of failure.

Since the early 1970's, the FHWA has employed a needs index known as the Sufficiency Rating to classify bridges according to their safety, serviceability, and essentiality for public use. This Sufficiency Rating together with a "deficient bridge definition" are currently used to establish funding eligibility under the HBRRP based on data that States submit annually to the National Bridge Inventory (NBI).

The deficient bridge definition uses NBI condition and appraisal ratings to determine whether a bridge is deficient. The Sufficiency Rating rates a bridge on a scale of 0 to 100, where a rating of 100 represents an entirely sufficient bridge. The current eligibility criteria specifies that deficient bridges having Sufficiency Ratings of less than or equal to 80 are eligible for rehabilitation, and those bridges with Sufficiency Ratings of less

than 50 are eligible for replacement (or rehabilitation). Bridges with Sufficiency Ratings above 80 are not eligible.

The NPRM in the Federal Register on June 4, 1991 (56 FR 25392), proposed a level-of-service approach to determining eligibility in lieu of the deficient bridge definition and the Sufficiency Rating. The proposed approach would evaluate the need to replace or rehabilitate a bridge based on four main bridge characteristics: Load capacity, clear deck width, vertical overclearance, and vertical underclearance. The primary reason for the proposed change to a level-of-service approach was to establish a more objective basis for assessing bridge needs from State to State. The level-of-service approach would rely more on bridge characteristics that are directly measurable and less on subjective condition and appraisal ratings, as compared to the current system.

Requests for Time Extensions

The Advocates for Auto and Highway Safety requested a 30 day extension of the original 60 day comment period to allow additional time for review. The FHWA extended the comment period to September 5, 1991 (56 FR 36121), as a result of this request. The American Road and Transportation Builders Association and 10 affiliates subsequently requested a 90 day time extension beyond the September 5, 1991, date. The basis of the request was to provide additional review time. Also, in their view, the FHWA lacked statutory authority for the rulemaking. These latter time extension requests were denied, although the requesting associations were advised that comments received beyond the comment period would be considered to the extent practical.

Assessment of Comments

A total of 178 comments were received in response to the NPRM issued on June 4, 1991. Comments were received from 31 State transportation departments, 112 local governmental agencies, 18 associations involving counties, county engineers, townships and towns, 3 construction industry associations, 5 engineering consulting firms, 1 civil engineering department of a university, 3 members of Congress, 1 metropolitan planning organization, 1 safety organization, 1 consulting engineers association, and 2 private citizens.

State Transportation Departments

Of the 31 States which commented, 8 supported the proposal and 13 opposed it. The remaining 10 States raised questions but did not indicate a position either for or against the proposal. Eighteen States thought the criteria should consider additional factors. Most frequently mentioned were condition ratings (12 States), waterway adequacy (9 States), scour susceptibility (7 States), and seismic vulnerability (4 States). Nine States indicated the level-of-service thresholds for load capacity needed to be increased in the lower ranges, 3 thought that the load capacity criteria should be based on an inventory rating rather than an operating rating, 6 indicated the proposed width values needed adjustment and some made specific suggestions for changes, 4 objected to the narrow approach roadway exclusion, and 3 indicated a need to increase the vertical clearance values for the Interstate.

Regarding the use of surrogates for reported operating ratings, 9 States indicated that they were not comfortable with the assumptions used in determining these ratings, 4 indicated the States should be given the opportunity to review substitutions, 2 indicated the use of surrogates should not be considered a long term remedy, and 2 indicated the FHWA should require reliable operating ratings in the NBI.

Several States expressed concern about the impact of the proposal on their programs. Three States mentioned adverse impacts on 5-year program schedules, and 3 indicated that the proposal reduces their ability to meet critical bridge needs.

Miscellaneous State comments included concern that reductions in the number of eligible bridges would reduce the State's flexibility to select projects, that the proposal does not correct inequities in apportionments because of unit cost variations, that subjectivity is not eliminated because load ratings are often very subjective, that load ratings do not reflect deck condition or substructure capacity, that the rulemaking did not consider State-level economic impacts, that the FHWA lacks authority for the rulemaking, and that more detailed information is needed to adequately evaluate the proposal.

Local Governmental Agencies and Associations

Of the 112 local governmental agencies that commented, 107 opposed the rulemaking. The comments focused mainly on two items: (1) that the proposal did not give adequate consideration for the size and weight of vehicles using local roads, and (2) that potential loss of Federal funding for bridges would leave many local governments without sufficient resources to make needed bridge improvements. The 18 associations that submitted comments opposed the rulemaking for the same reasons.

Other Organizations and Individuals

Of the 17 remaining commenters, 8 indicated opposition to the rulemaking. The reasons for opposition are largely encompassed by the preceding summaries.

Assessment of Comments

Although a number of States indicated a clear preference for level-of-service approach over the present system, the majority of States that commented do not favor switching to level-of-service. In addition, most local governmental agencies indicated a strong preference for keeping the current system.

The major reason for opposition to the proposal appears to be the limited scope of the level-of-service criteria (i.e., consideration of just four bridge characteristics). The comments indicate that a majority of agencies would prefer criteria that are broader and more flexible in terms of the types of problems or conditions that qualify bridges for eligibility and funding.

An additional item affecting this rulemaking is the enactment of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Public Law 102–240, 105 Stat. 1914, which took effect on December 18, 1991. The ISTEA, in part, addresses the issue of flexibility in the use of bridge funds. While not altering the laws by which program eligibility and apportionments must be made, the Act has established a new funding transfer provision that allows States, at their option, to transfer a part of their apportioned bridge funds to programs that are not subject to bridge program eligibility rules. The ISTEA also contains provisions for equity adjustment that would tend to mitigate the economic impacts of changed apportionments. The FHWA has not fully assessed the impact of the ISTEA on this rulemaking proposal.

Conclusion

The FHWA has decided to withdraw its rulemaking because:

1. On the basis of the comments, further study is required to establish appropriate minimum level-of-service criteria for the various functional classes of highways, and

2. With the enactment of the ISTEA of 1991, there is a need to evaluate the economic impact as well as justification for the rulemaking in the light of equity adjustment and bridge funding transfer provisions of the Act.

In consideration of the foregoing, the FHWA hereby withdraws the notice of proposed rulemaking, FHWA Docket No. 91–13, published on June 4, 1991 (56 FR 25392).

List of Subjects in 23 CFR Part 650

Bridges, Highways and roads, Grant programs—transportation, Reporting and recordkeeping requirements.

(23 U.S.C. 315; 49 CFR 1.48)

Issued on: June 26, 1992.

T.D. Larson,

Administrator.

[FR Doc. 92–15689 Filed 7–2–92; 8:45 am]

BILLING CODE 4910–22–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 92–138; RM–8003]

Radio Broadcasting Services; Winlock, WA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Premier Broadcasters, Inc. seeking the allotment of Channel 236A at Winlock, Washington, as the community's first local aural transmission service. Channel 236A can be allotted to Winlock in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for Channel 236A at Winlock are North Latitude 46–29–30 and West longitude 122–56–12. Since Winlock is located within 320 kilometers (200 miles) of the U.S.-Canadian border, Canadian concurrence has been requested.

DATES: Comments must be filed on or before August 20, 1992, and reply comments on or before September 4, 1992.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Meredith S. Senter, Jr., Esq., Leventhal, Senter & Lerman, Suite 600, 2000 K Street, NW., Washington, DC 20006 (Counsel for Petitioner).

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 92–138, adopted June 17, 1992, and released June 29, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452–1422, 1714 21st Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Beverly E. McKittrick,

Assistant Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92–15640 Filed 7–2–92; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 92–127, RM–7917]

Radio Broadcasting Service; Germantown, TN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Omni Broadcasting Corporation, permittee of Channel 298A, Germantown, Tennessee, proposing the substitution of Channel 298C3 for Channel 298A and modification of its authorization accordingly. Channel 298C3 can be allotted to Germantown in compliance with the Commission's minimum distance separation requirements with a site restriction of 18.6 kilometers (11.6 miles) southeast to accommodate Omni's desired site. The coordinates for Channel 298C3 at Germantown are 34-56-28 and 89-42-29. In accordance with § 1.420(g) of the Commission's Rules, we will not accept competing expressions of interest in use of Channel 293C3 at Germantown or require the petitioner to demonstrate the availability of an additional equivalent class channel.

DATES: Comments must be filed on or before August 13, 1992, and reply comments on or before August 28, 1992.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Harold K. McCombs, Jr., Esq., Holland & Knight, 888 17th Street NW., suite 900, Washington, DC 20006–3939 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Pamela Blumenthal, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 92–127, adopted June 10, 1992, and released June 22, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452–1422, 1714 21st Street NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Beverly McKittrick,

Assistant Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92–15641 Filed 7–2–92; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF COMMERCE

50 CFR Parts 611 and 685

Pelagic Fisheries of the Western Pacific Region

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

ACTION: Notice of availability of a fishery management plan amendment and request for comments.

SUMMARY: NMFS issues this notice that the Western Pacific Fishery Management Council (Council) has submitted Amendment 6 to the Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region (FMP) for Secretarial review, and is requesting comments from the public. Copies of Amendment 6 may be obtained from the Council (see **ADDRESSES**).

DATES: Comments on the amendment should be submitted on or before August 28, 1992.

ADDRESSES: All comments should be sent to E.C. Fullerton, Regional Director, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802. Copies of the amendment and incorporated environmental assessment (EA) are available from the Western Pacific Fishery Management Council, 1164 Bishop Street, Suite 1405, Honolulu, HI 96813, (808–541–1974).

FOR FURTHER INFORMATION CONTACT: Svein Fougner, Fisheries Management Division, Southwest Region, NMFS, Terminal Island, California (310–514–6660) or Alvin Katekaru, Southwest Region, NMFS, Pacific Area Office, Honolulu, Hawaii (808–955–8831).

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (Magnuson Act, 16 U.S.C. 1801 *et seq.*) requires that each Regional Fishery Management Council submit any fishery management plan or amendment it prepares to the Secretary of Commerce (Secretary) for review and approval, disapproval, or partial disapproval. The Magnuson Act also requires that the Secretary, upon receiving a plan or amendment, immediately publish a notice that the plan or amendment is available for public review and comment. The Secretary will consider all public comments submitted during the comment period in determining whether to approve the plan or amendment.

Amendment 6 proposes to include species of tuna in the fishery management unit and to establish a number of new controls on foreign purse seine and baitboat fishing for tuna and other pelagic species in the exclusive economic zone (EEZ) around Hawaii, Guam, American Samoa, the Northern Mariana Islands, and U.S. island possessions in the Pacific. These measures include permit, reporting, and observer requirements that are applicable to all foreign fishing vessels in the EEZ, and area closures to prevent conflicts between foreign and domestic fishing vessels. The amendment provides a basis for legal foreign tuna fishing in the EEZ. No new regulations are proposed to apply to domestic fisheries for tuna and other pelagic species. The Council will consider the need for additional domestic fishery regulations as it proceeds with future amendments to the FMP.

The existing FMP objectives and definition of optimum yield (OY) are suitable for the added tuna and related species. Amendment 6 defines overfishing for tunas; a tuna stock would be overfished when its Spawning Potential Ratio (SPR) is equal to or less than 0.2. This definition of overfishing is consistent with other definitions of overfishing for other pelagic species (billfishes, oceanic sharks, mahimahi, and wahoo). The SPR is a measure of the current reproductive capacity of the stock or stock complex relative to the reproductive capacity of the unexploited stock over the entire range of the stock. Given the high reproductive capacity and the resiliency of tuna populations to fishing pressure through density-dependent responses, the Council concluded that an overfishing definition based on an SPR higher than 0.2 would be unnecessarily conservative. Although tuna species may have higher rates of growth, reproduction, and mortality than most billfish and associated pelagic species, the Council believes that selecting a lower SPR (e.g., 0.1) at this time would not be prudent. A detailed description of the SPR definition, discussion of various ways to measure SPR, and development of the OY definition are found in Amendment 1 to the FMP, which is available from the Council (see **ADDRESSES**).

An EA is incorporated into the plan amendment document. A regulatory impact review also is incorporated into the amendment document. All are available for public review (see **ADDRESSES**).

Proposed regulations to implement Amendment 6 are scheduled to be filed with the Office of the **Federal Register** within 15 days.

Dated: June 29, 1992.

Richard H. Schaefer,

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

[FR Doc. 92–15727 Filed 6–30–92; 3:21 pm]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 57, No. 129
Monday, July 6, 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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Adjudication Notice of Change of Time for Public Meetings

AGENCY: Administrative Conference of the United States.

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a change in time of meetings of the Committee on Adjudication of the Administrative Conference of the United States.

The Committee will continue its discussion of a draft report on the federal administrative judiciary. Copies of the draft report are available from the Conference.

The meetings were originally scheduled to begin at 1:30 at the dates listed below. The starting time has been changed to 12 noon on the same dates.

DATES: Wednesday, July 15, 1992 at 12 noon; Tuesday, August 4, 1992 at 12 noon; Tuesday, August 18, 1992 at 12 noon.

LOCATION: Library of the Administrative Conference, 2120 L Street, NW., suite 500, Washington, DC.

PUBLIC PARTICIPATION: The committee meeting is open to the interested public, but limited to the space available. Persons wishing to attend should notify the contact person at least two days prior to the meeting. The committee chairman may permit members of the public to present oral statements at the meetings. Any member of the public may file a written statement with the committee before, during, or after the meetings. Minutes of the meeting will be available on request.

FOR FURTHER INFORMATION CONTACT: Nancy G. Miller, Office of the Chairman, Administrative Conference of the United States, 2120 L Street, NW., suite 500, Washington, DC 20037. Telephone: (202) 254–7020.

Dated: June 10, 1992.

Jeffrey S. Lubbers,

Research Director.

[FR Doc. 92–15754 Filed 7–2–92 8:45 am]

BILLING CODE 6110–01–M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Meeting of the Board

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board has scheduled its regular business meetings to take place in Washington, DC on Tuesday and Wednesday, July 14–15, 1992 at the times and location noted below.

DATES: The schedule of events is as follows:

Tuesday, July 14, 1992

9 a.m.–12 p.m. Title II Working Group (closed).

1:30 p.m.–4:30 p.m. Committee of the Whole (closed).

Wednesday, July 15, 1992

9 a.m.–10:30 a.m. Technical Programs Committee.

10:30 a.m.–12 p.m. Planning and Budget Committee.

1:30 p.m.–2:30 p.m. Executive Committee.

3 p.m.–5 p.m. Board Meeting.

ADDRESSES: The meetings will be held at: Embassy Suites Hotel, Consulate Room, 1250 22d Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: For further information regarding the meetings, please contact Lawrence W. Roffee, Executive Director, (202) 272–5434 ext. 13 (voice/TDD).

SUPPLEMENTARY INFORMATION: At its business meeting, the Board will consider the following agenda items:

- Approval of the Minutes of the May 13, 1992 Board Meeting.
- Executive Director's Report.
- Committee Reports.
- Report on Use of Extraordinary Work.
- Directive on Reasonable Job and Travel Accommodations.
- Directive on Access to Meetings and Information For The Public.
- Directive on Communications With The Public During Rulemaking.
- Complaint Status Report.
- Status of Technical Program Projects.
- Update on AT&T Text Telephones.
- Technical Publications Distribution Plan Concepts.
- **Federal Register** Notice on the Board's Research Agenda.
- Fiscal Year 1992 Budget Status.
- Fiscal Year 1994 Budget Objectives and Priorities.
- Automatic Teller Machines Petition (closed).
- Vehicle Door Height Petition (closed).
- Title II Notice of Proposed Rulemaking (closed).

Some meetings or items may be closed to the public as indicated above. All meetings are accessible to persons with disabilities. Sign language interpreters and an assistive listening system are available at all meetings.

Lawrence W. Roffee,

Executive Director.

[FR Doc. 92–15728 Filed 7–2–92; 8:45 am]

BILLING CODE 8150–01–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 92–092–1]

Availability of Environmental Assessments and Findings of No Significant Impact Relative to Issuance of Permits to Field Test Genetically Engineered Organisms

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that 12 environmental assessments and findings of no significant impact have been prepared by the Animal and Plant Health Inspection Service relative to the issuance of permits to allow the field testing of genetically engineered organisms. The environmental assessments provide a basis for our conclusion that the field testing of these genetically engineered organisms will not present a risk of introducing or

desseminating a plant pest and will not have a significant impact on the quality of the human environment. Based on its findings of no significant impact, the Animal and Plant Health Inspection Service has determined that environmental impact statements need not be prepared.

ADDRESSES: Copies of the environmental assessments and findings of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Arnold Foundin, Deputy Director, Biotechnology Permits, Biotechnology, Biologics, and Environmental Protection, APHIS, USDA, room 850, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–7612. For copies of the environmental assessments and findings of no significant impact, write to Clayton Givens at the same address. Please refer to the permit numbers listed below when ordering documents.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340 (referred to below at the regulations) regulate the introduction (importation, interstate movement, and release into the environment) of gentically engineered organisms and products that are plant pests or that there is reason to believe are plant pests (regulated articles). A permit must be obtained before a regulated article may be introduced into the United States. The regulations set forth the procedures for obtaining a limited permit for the importation or interstate movement of a regulated article and for obtaining a permit for the release into the environment of a regulated article. The Animal and Plant Health Inspection Service (APHIS) has stated that it would prepare an environmental assessment and, when necessary, an environmental impact statement before issuing a permit for the release into the environment of a regulated article (see 52 FR 22906).

In the course of reviewing each permit application, APHIS assessed the impact on the environment that releasing the organisms under the conditions described in the permit application would have. APHIS has issued permits for the field testing of the organisms listed below after concluding that the organisms will not present a risk of plant pest introduction or dissemination and will not have a significant impact on the quality of the human environment. The environmental assessments and findings of a significant impact, which are based on data submitted by the applicants and a review of other relevant literature, provide the public with documentation of APHIS review and analysis of the environmental impacts associated with conducting the field test.

Environmental assessments and findings of no significant impact have been prepared by APHIS relative to the issuance of permits to allow the field testing of the following gentically engineered organisms:

Permit No.	Permittee	Date issued	Organisms	Field test, location
92-077-01	Pioneer Hi-Bred, International, Incorporated.	06-01-92	Corn plants genetically engineered to express wheat germ agglutinin for resistance to European corn borer.	Kauai County, Hawaii.
92-037-02	Monsanto, Agricultural Company	06-03-92	Soybean plants genetically engineered to express the enzyme 5-enolpyruvyl shikimate-3-phosphate synthase (EPSPS) and a metabolizing enzyme for tolerance to the herbicide glyphosate.	Bertie and Wayne Counties, North Carolina.
92-080-04, renewal of permit 91-074-01, issued on 06-15-91.	Upjohn Company	06-03-92	Corn plants genetically engineered to express tolerance to the herbicide glufosinate.	Kalamazoo County, Michigan.
92-066-01	Holden's Foundation Seeds, Incorporated.	06-04-92	Corn plants genetically engineered to express a phosphinothricin acetyl transferase (PAT) gene for tolerance to the herbicide glufosinate.	Maui County, Hawaii; Iowa County, Iowa.
92-043-01	Hoechst-Roussel, Agri-Vet Company.	06-05-92	Corn plants genetically engineered to express the phosphinothricin N-acetyltransferase (PAT) gene, for tolerance to the herbicide glufosinate.	Freeborn and Goodhue Counties, Minnesota.
92-049-02	InterMountain, Canola Company	06-05-92	Rapeseed plants genetically engineered to express tolerance to the herbicide glyphosate.	Fremont County, Idaho.
92-062-01, renewal of permit 91-035-06, issued on 05-10-92.	Campbell, Research and Development.	06-05-92	Tomato plants genetically engineered to express a delta-endotoxin protein from *Bacillus thuringiensis* subsp. *kurstaki* strain HD-73 for resistance to lepidopteran insects.	Yolo County, California.
92-084-01, renewal of permit 91-039-01, issued on 05-22-91.	U.S. Department of Agriculture, Agricultural Research Service.	06-05-92	Potato plants genetically engineered to express a marker gene.	Bingham County, Idaho.
92-097-01	Stine Seeds, Incorporated	06-05-92	Soybean plants genetically engineered to express genes from a non-phathogenic source organism.	Dallas County, Iowa.
92-105-01, renewal of permit 91-107-06, issued on 06-18-91.	Calgene, Incorporated	06-09-92	Cotton plants genetically engineered to express a nitrilase enzyme for tolerance to the herbicide bromoxynil.	Washington County, Mississippi.

Permit No.	Permittee	Date issued	Organisms	Field test, location
92-108-01	Monsanto Agricultural Company	06-09-92	Soybean plants genetically engineered to express the enzyme 5-enolpyruvyl shiki-mate-3-phosphate synthase (EPSPS) and a metabolizing enzyme for tolerance to the herbicide glyphosate.	Kalamazoo County, Michigan.
92-113-01, renewal of permit 90-135-01, issued on 09-04-90.	University of Wisconsin-Madison	06-09-92	*Pseudomonas syringae* genetically engineered to be avirulant through the use of Tn5.	Columbia County, Wisconsin.

The environmental assessments and findings of no significant impact have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500–1508), (3) USDA Regulations Implementing NEPA (7 CFR part 1b), and (4) APHIS Guidelines Implementing NEPA (44 FR 50381–50384, August 28, 1979, and 44 FR 51272–51274, August 31, 1979).

Done in Washington, DC, this 30th day of June 1992.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92–15712 Filed 7–2–92; 8:45 am]

BILLING CODE 3410-34-M

[Docket No. 92-099-1]

Availability of Environmental Assessments and Findings of No Significant Impact Relative to Issuance of Permits to Field Test Genetically Engineered Organisms

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that three environmental assessments and findings of no significant impact have been prepared by the Animal and Plant Health Inspection Service relative to the issuance of permits to allow the field testing of genetically engineered organisms. The environmental assessments provide a basis for our conclusion that the field testing of these genetically engineered organisms will not present a risk of introducing or disseminating a plant pest and will not have a significant impact on the quality of the human environment. Based on its findings of no significant impact, the Animal and Plant Health Inspection Service has determined that environmental impact statements need not be prepared.

ADDRESSES: Copies of the environmental assessments and findings of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, 20250, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Arnold Foudin, Deputy Director, Biotechnology Permits, Biotechnology, Biologics, and Environmental Protection, APHIS, USDA, room 850, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–7612. For copies of the environmental assessments and findings of no significant impact, write to Clayton Givens at the same address. Please refer to the permit numbers listed below when ordering documents.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340 (referred to below as the regulations) regulate the introduction (importation, interstate movement, and release into the environment) of genetically engineered organisms and products that are plant pests or that there is reason to believe are plant pests (regulated articles). A permit must be obtained before a regulated article may be introduced into the Untied States. The regulations set forth the procedures for obtaining a permit for the importation or interstate

movement of a regulated article and for obtaining a permit for the release into the environment of a regulated article. The Animal and Plant Health Inspection Service (APHIS) has stated that it would prepare an environmental assessment and, when necessary, an environmental impact statement before issuing a permit for the release into the environment of a regulated article (see 52 FR 22906).

In the course of reviewing each permit application, APHIS assessed the impact on the environment that releasing the organisms under the conditions described in the permit application would have. APHIS has issued permits for the field testing of the organisms listed below after concluding that the organisms will not present a risk of plant pest introduction or dissemination and will not have a significant impact on the quality of the human environment. The environmental assessments and findings of no significant impact, which are based on data submitted by the applicants and on a review of other relevant literature, provide the public with documentation of APHIS review and analysis of the environmental impacts associated with conducting the field tests.

Environmental assessments and findings of no significant impact have been prepared by APHIS relative to the issuance of permits to allow the field testing of the following genetically engineered organisms:

Permit number	Permittee	Date issued	Organisms	Field test location
92-090-03	Upjohn Company	06-10-92	Tomato plants genetically engineered to express the coat protein genes of tobacco mosaic virus (TMV) and/or cucumber mosaic virus (CMV) for resistance to TMV and/or CMV.	Kalamazoo County, Michigan.
92-133-01, renewal of permit 91-123-01, issued on 06-20-92.	Amoco Technology Corporation	06-11-92	Tobacco plants genetically engineered to express a eukaryotic gene for primary metabolism and a kanamycin resistance gene.	Fayette County, Kentucky.
92-085-01	Agritope, Incorporated	06-12-92	Tomato plants genetically engineered to express a S-adenosylmethionine hydrolase (SAMase) gene to delay ripening.	Umatilla County, Oregon.

The environmental assessments and findings of no significant impact have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500–1508), (3) USDA Regulations Implementing NEPA (7 CFR part 1b), and (4) APHIS Guidelines Implementing NEPA (44 FR 50381–50384, August 28, 1979, and 44 FR 51272–51274, August 31, 1979).

Done in Washington, DC, this 30th day of June 1992.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92-15706 Filed 7-2-92; 8:45 am]

BILLING CODE 3410-34-M

[Docket No. 92-100-1]

Receipt of Permit Applications for Release Into the Environment of Genetically Engineered Organisms

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that three applications for permits to release genetically engineered organisms into the environment are being reviewed by the Animal and Plant Health Inspection Service. The applications have been submitted in accordance with 7 CFR part 340, which regulates the introduction of certain genetically engineered organisms and products.

ADDRESSES: Copies of the applications referenced in this notice, with any confidential business information deleted, are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. You may obtain copies of these documents by writing to the person listed under **"FOR FURTHER INFORMATION CONTACT."**

FOR FURTHER INFORMATION CONTACT: Dr. Arnold Foudin, Deputy Director, Biotechnology Permits, Biotechnology, Biologics and Environmental Protection, APHIS, USDA, room 850, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–7612.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340, "Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests," require a person to obtain a permit before introducing (importing, moving interstate, or releasing into the environment) into the United States certain genetically engineered organisms and products that are considered "regulated articles." The regulations set forth procedures for obtaining a permit for the release into the environment of a regulated article, and for obtaining a limited permit for the importation or interstate movement of a regulated article.

Pursuant to these regulations, the Animal and Plant Health Inspection Service has received and is reviewing the following applications for permits to release genetically engineered organisms into the environment:

Application No.	Applicant	Date received	Organisms	Field test location
92-163-01, renewal of permit 91-205-01, issued on 10-22-91.	Calgene, Incorporated	06-11-92	Rapeseed plants genetically engineered to express an oil modification gene.	Yolo and Imperial Counties, California.

Application No.	Applicant	Date received	Organisms	Field test location
92-164-01	DeKalb Plant Genetics	06-12-92	Corn plants genetically engineered to express the enzyme 5-enolpyruvyl shikinate-3-phosphate synthase (EPSPS) and the *bar* gene for tolerance to the herbicide bialaphos.	Maui County, Hawaii.
92-164-02	Michigan State University	06-12-92	Melon plants genetically engineered to express the coat protein genes of zucchini yellow mosaic virus (ZYMV) and tobacco etch virus (TEV) for resistance to ZYMV and TEV.	Ingham County, Michigan.

Done in Washington, DC, this 30th day of June 1992.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92-15707 Filed 7-2-92; 8:45 am]

BILLING CODE 3410-34-M

[Docket No. 92-091-1]

Receipt of Permit Application for Release into the Environment of Genetically Engineered Organisms

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that an application for a permit to release genetically engineered organisms into the environment is being reviewed by the Animal and Plant Health Inspection Service. The application has been submitted in accordance with 7 CFR part 340, which regulates the introduction of certain genetically engineered organisms and products.

ADDRESSES: Copies of the application referenced in this notice, with any confidential business information deleted, are available for public inspection in room 1141, South Building, U.S. Department of Agriculture, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. You may obtain a copy of the document by writing to the person listed under "**FOR FURTHER INFORMATION CONTACT.**"

FOR FURTHER INFORMATION CONTACT: Dr. Arnold Foudin, Deputy Director, Biotechnology Permits, Biotechnology, Biologics, and Environmental Protection, APHIS, USDA, room 850, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-7612.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340, "Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests," require a person to obtain a permit before introducing (importing, moving interstate, or releasing into the environment) into the United States certain genetically engineered organisms and products that are considered "regulated articles." The regulations set forth procedures for obtaining a permit for the release into the environment of a regulated article, and for obtaining a limited permit for the importation or interstate movement of a regulated article.

Pursuant to these regulations, the Animal and Plant Health Inspection Service has received and is receiving the following application for a permit to release genetically engineered organisms into the environment:

Application no.	Applicant	Date received	Organisms	Field test location
92-156-01	Calgene, Inc	06-04-92.	Rapeseed plants genetically engineered to express sense or antisense desaturase genes, a thioesterase gene, and a reductase gene, for oil modification.	Baker, Clay, Cook, Sumter, Washington, and Wayne Counties, GA.

Done in Washington, DC, this 30th day of June 1992.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92-15711 Filed 7-2-92; 8:45 am]

BILLING CODE 3410-34-M

Food and Nutrition Service

Food Distribution Program; Value of Donated Foods From July 1, 1992 to June 30, 1993

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the value of donated foods, or where applicable, cash in lieu thereof to be provided in the 1993 school year for each lunch served by schools participating in the National School Lunch Program (NSLP) or by commodity schools and for each lunch and supper served by institutions participating in the Child and Adult Care Food Program.

This notice also announces that the value of agricultural commodities and other foods provided to States during the past school year met the level of assistance authorized under the National School Lunch Act. Thus, there will be no shortfall cash payments to States for the NSLP for the 1992 school year. The annually programmed level of assistance was met in food donations by June 30, 1992.

EFFECTIVE DATE: July 1, 1992.

FOR FURTHER INFORMATION CONTACT: Philip K. Cohen, Chief, Program Administration Branch, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, Virginia 22302-1594 or telephone (703) 305-2660.

SUPPLEMENTARY INFORMATION:

Classification

These programs are listed in the Catalog of Federal Domestic Assistance under No. 10.550, 10.555, 10.558 and are subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V, and final rule related notice published at 48 FR 29114, June 24, 1983.)

This notice imposes no new reporting or recordkeeping provisions that are subject to Office of Management and Budget review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601–612) and thus is exempt from the provisions of that Act.

National Average Minimum Value of Donated Foods for the Period July 1, 1992 through June 30, 1993

This notice implements mandatory provisions of sections 6(e), 14(f) and 17(h) of the National School Lunch Act (the Act) (42 U.S.C. 1755(e), 1762a(f), and 1766(h)). Section 6(e) of the Act establishes the national average value of donated food assistance to be given to States for each lunch served in NSLP at 11.00 cents per meal. This amount is subject to annual adjustments as of July 1 of each year to reflect changes in the Price Index for Food Used in Schools and Institutions. Section 17(h) of the Act provides that the same value of assistance in donated foods for school lunches shall also be established for lunches and suppers served in the Child and Adult Care Food Programs. Notice is hereby given that the national average minimum value of donated foods, or cash in lieu thereof, per lunch under NSLP (7 CFR part 210) and per lunch and supper under the Child and Adult Care Food Program (7 CFR part 228) shall be 14.00 cents for the period July 1, 1992 through June 30, 1993.

The Price Index for Food Used in Schools and Institutions is computed on the basis of five major food components in the Bureau of Labor Statistics' Producer Price Index (cereal and bakery products; meats, poultry and fish; dairy products; processed fruits and vegetables; and fats and oil). Each component is assigned a proportional value using the appropriate relative weight as determined by the Bureau of Labor Statistics. The value of food assistance is adjusted each July 1 by the annual percentage change in a three-month simple average value of this Price Index for March, April and May. The three-month average of the Price Index decreased by 0.50 percent from 121.95 for March, April and May of 1991 to 121.34 for the same three months in 1992. When computed on the basis of unrounded data and rounded to the nearest one-quarter cent, the resulting national average for the period July 1, 1992 through June 30, 1993 will be 14.00 cents per meal. This is the same as the rate in effect for the past school year.

Section 14(f) of the Act provides that commodity schools shall be eligible to receive donated foods equal in value to the sum of the national average value of donated foods established under section 6(e) of the Act and the national average payment established under section 4 of the Act (42 U.S.C. 1753). Such schools are eligible to receive up to 5 cents of this value in cash for processing and handling expenses related to the use of such foods.

Commodity schools are defined in section 12(d)(7) of the Act (42 U.S.C. 1760(d)(7)) as "schools that do not participate in the school lunch program under this Act, but which receive commodities made available by the Secretary for use by such schools in nonprofit lunch programs."

For the 1993 school year, commodity schools shall be eligible to receive donated-food assistance valued at 30.25 cents for each lunch served. This amount is based on the sum of the section 6(e) level of assistance announced in this notice and the adjusted section 4 minimum national average payment factor for school year 1993. The section 4 factor for commodity schools does not include the two cents per lunch increase for schools where 60 percent of the lunches were served in the second preceding year free or at reduced prices, since that increase is applicable only to schools participating in the National School Lunch Program.

Cash in Lieu Payments—Value of Donated Commodities for School Year 1991–1992

Section 6(b) of the Act, as amended, (42 U.S.C. 1755(b)) and the regulations governing cash in lieu of donated foods (7 CFR part 240) require the Secretary of Agriculture by June 1 of each school year to estimate the value of agricultural commodities and other foods that will be delivered to States during that school year. Under the food distribution regulations (7 CFR part 250), these foods are used by schools participating in NSLP. If the estimated value is less than the total level of commodity assistance authorized under section 6(e) of the Act, the Secretary is required by July 1 of that school year to pay to each State educational agency funds equal to the difference between the value of programmed deliveries and the total level of authorized assistance for each State.

During the past school year the adjusted minimum national average value of donated foods or payments of cash in lieu thereof per lunch was 14.00 cents. In accordance with section 6(e) of the Act, the mandated level of commodity assistance was $558,065,472 for school year 1992. The Secretary has determined that at least that amount was available for delivery nationally by June 30, 1992 to meet the mandated level of assistance.

Notice is hereby given, therefore, that no shortfall cash payments will be made for the school year ending June 30, 1992.

Dated: June 25, 1992.

Betty Jo Nelsen,

Administrator.

[FR Doc. 92–15701 Filed 7–2–92; 8:45 am]

BILLING CODE 3410–30–M

Forest Service

Spruce Creek Timber Sale, Boise National Forest, Valley County, ID; Intent To Prepare an Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Notice of Intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare an environmental impact statement (EIS) for a timber sale located within the Needles inventoried roadless area (IRA), on the Cascade Ranger District, Boise National Forest. The project area, within the Gold Fork River Drainage, is approximately 27 road miles north and east of Cascade, Idaho, and about 110 road miles north of Boise, Idaho.

The agency invites written comments and suggestions on the scope of the analysis. The agency also hereby gives notice of the environmental analysis and decisionmaking process that will occur on the proposal so interested and affected people are aware of how they may participate and contribute to the final decision.

DATES: The proposal will be scoped by two public meetings from 7 to 9 p.m. on July 7, 1992, in Cascade at the high school, and on July 9, 1992, in Boise at the Boise National Forest Supervisor's Office. In addition, the Cascade Ranger District will mail an informational letter and request for comments in late June 1992 to people who may be interested or affected by the decision. Legal notices inviting comment will also be published in local newspapers. Comments received from these meetings and

request for comments will be incorporated into the analysis process.

Additional written comments concerning the proposal are encouraged. To be considered in the draft environmental impact statement (DEIS), comments should be submitted on or before August 5, 1992.

ADDRESSES: Submit written comments to: District Ranger, Cascade Ranger District, Boise National Forest, P.O. Box 696, Cascade, ID 83611.

FOR FURTHER INFORMATION CONTACT: Steve Patterson, District Resource Operations Manager, Cascade Ranger District, 208–382–4271.

SUPPLEMENTARY INFORMATION: The primary purpose of the proposed action is to help achieve the desired future condition of a healthy, diverse forest in which important resource values, including healthy timber stands, are sustained. The action is also needed to help meet the goals and objectives established by the Boise National Forest Land and Resource Management Plan (Forest Plan) and to provide raw sawlogs to help sustain local sawmills and maintain local economies. Secondary purposes of the proposed action are to improve the forage/cover distribution of elk habitat, provide access for fire suppression activities and future stand treatments, create parking facilities for the Gold Fork trailhead (#4113), minimize visual contrasts of existing roads and plantations, reduce sediment delivery from the 402I and 497 roads, provide fish passage upstream of the 402 road crossing of Spruce Creek and the South Fork Gold Fork River, and rehabilitate sediment sources and areas not naturally regenerating within the 1989 Spruce Creek fire.

The proposed action is to harvest approximately 10 million board feet (MMBF) of sawtimber from an estimated 1,400 acres, using tractor yarding systems on approximately 50 percent of the area, with the remainder being cable and helicopter yarded. Selection and commercial thin silvicultural prescriptions would be implemented on approximately 62 percent of the area, clearcut on 30 percent, and the remainder seed tree and overstory removal. Openings of 15 to 20 acres would be created where necessary to achieve stand health and growth objectives. Due to the generally unroaded nature of the area, the proposed action would require construction of about 8 miles and reconstructing 2 miles of road to access the area.

Alternatives to the proposal will consider various amounts and combinations of activities. The most significant differences between alternatives will be: (1) The volume of timber harvest, (2) the transportation system constructed, (3) silvicultural systems used, (4) the amount of sediment produced, (5) impacts to management indicator species, and (6) the economic viability of each alternative. A "no action" (i.e., the project will not occur) alternative will also be considered in the analysis.

The Forest Service will analyze and document direct, indirect, and cumulative environmental effects of the alternatives. Each alternative will include mitigation measures and monitoring requirements. The EIS will tier to the 1990 Boise Forest Final Environmental Impact Statement (FEIS) and the accompanying Boise Forest Plan for programmatic direction the project area. The project area is located in the Gold Fork/Clear Creek Management Area 53 of the Forest Plan. Direction for this area emphasizes protection of scenic qualities in visually sensitive corridors. In areas of low visual sensitivity, timber and range management activities are intensified to maintain or increase the production of these resources. Nonpoint source pollution to Cascade Reservoir is minimized.

Preliminary issues for the proposal include the following:

—Effects on the wilderness characteristics of the Needles IRA;
—Effects on species dependent upon old-growth habitat;
—Effects on plant and animal species diversity; and
—Effects of sedimentation on water quality and fish habitat.

The scoping process for this project is intended to further define these and other preliminary issues.

Federal, State, and local agencies, potential purchasers, and other organizations and individuals who may be interested in or affected by the decision are invited to participate in the scoping process. This process includes identifying major issues, determining potential cooperating agencies, and identifying groups or individuals interested or affected by the decision.

The analysis is expected to take approximately 6 months. The DEIS is scheduled to be completed and available for public review in December 1992. The FEIS and Record of Decision are scheduled to be completed by May 1993.

The Forest Supervisor, Boise National Forest, is the responsible official.

The comment period on the DEIS will be 45 days from the date the Environmental Protection Agency's notice of availability appears in the **Federal Register**. It is very important that those interested in the proposed action participate at that time. To be most helpful, comments on the DEIS should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (see the Council on Environmental Quality regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3).

In addition, Federal court decisions have established that reviewers of DEIS's must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions (*Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 [1978]). Environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the FEIS (*City of Angoon* v. *Hodel*, Ninth Circuit, 1986; and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 [E.D. Wis. 1980]). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the FEIS.

Dated: June 23, 1992.

Stephen R. Mealey,

Forest Supervisor.

[FR Doc. 92–15644 Filed 7–2–92; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: 1992 National Census Test II.

Form Number: Agency—DB–IB; OMB—None.

Type of Request: New Collection.

Burden: 50,000 respondents; 9,167 reporting hours.

Average Hours Per Response: 11 minutes.

Needs and Uses: This survey is the second National census test to improve the mail response rates of the 2000 Census. The first test, the 1992 National Census Test, was designed to determine if an abbreviated, respondent-administered census questionnaire,

received and returned by mail, yields a higher response rate than does a form of greater length. Results from the test are being analyzed and prepared for dissemination. This second test will compare response rates to three variably applied mailing treatments of a single respondent-administered questionnaire. The three components of the mailing treatments are a pre notice letter, return envelope, and reminder postcard. These components will be variably applied to mailings to eight groups of test respondents. The goal of the second test is to maximize response to the census by identifying the optimum cost-effective mailing approach for gathering basic census data.

Affected Public: Individuals or households.

Frequency: One-time.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Maria Gonzalez, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Forms Clearance Officer, (202) 377–3271, Department of Commerce, room 5327, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maria Gonzalez, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated June 29, 1992.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 92–15733 Filed 7–2–92; 8:45 am]

BILLING CODE 3510–07–M

Bureau of Export Administration

MCTL Implementation Technical Advisory Committee; Partially Closed Meeting

A meeting of the MCTL Implementation Technical Advisory Committee will be held July 22, 1992, 9:30 a.m., in the Herbert C. Hoover Building, room 1617 M–2, 14th Street and Constitution Avenue, NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis in the implementation of the Militarily Critical Technologies List (MCTL) into the Export Administration Regulations as needed.

Agenda

General Session

1. Opening Remarks by the Chairman.
2. Introduction of Members of Visitors.
3. Presentation of Papers or Comments by the Public.
4. Working Group Report on Nuclear Non-Proliferation Controls.
5. Working Group Report on Export Control Policy Guidelines.
6. Discussion of Consolidating Control Lists and MCTL.
7. Presentation on Implementation of EPCI Regulations.

Executive Session

8. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control programs and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, in order to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that you forward your public presentation materials two weeks prior to the meeting to the below listed address: TAC Unit/EA/BXA, Room 1621, U.S. Department of Commerce, 14th & Constitution Avenue NW., Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on December 28, 1990, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittee thereof, dealing with the classified materials listed in 5 U.S.C. 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, room 6628, U.S. Department of Commerce, Washington, DC. For further information or copies of the minutes call 202–377–4959.

Dated: June 29, 1992.

Betty A. Ferrell,

Director, Technical Advisory Committee Unit, Office of the Deputy, Assistant Secretary for Export Administration.

[FR Doc. 92–15740 Filed 7–2–92; 8:45 am]

BILLING CODE 3510–DT–M

International Trade Administration

[A–427–801, et al.]

Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof; Initiation of Antidumping Administrative Reviews and Request for Revocation of Order (in Part)

AGENCY: Import Administration/ International Trade Administration Department of Commerce.

ACTION: Notice of initiation of antidumping administrative reviews and notice of request for revocation of order (in part)

SUMMARY:

In the matter of A–427–801, A–428–801, A–475–801, A–588–804, A–485–801, A–559–801, A–401–801, A–549–801, A–412–801.

The Department of Commerce has received requests to conduct administrative reviews of antidumping duty orders concerning antifriction bearings (other than tapered roller bearings) and parts thereof from the France, Germany, Italy, Japan, Romania, Singapore, Sweden, Thailand and the United Kingdom. In accordance with 19 CFR 353.22(c), we are initiating those administrative reviews for the period May 1, 1991, through April 30, 1992. We have also received a request to revoke the order covering cylindrical roller bearings and parts thereof from the United Kingdom with respect to sales of this merchandise manufactured by Cooper Roller Bearings Co., Ltd.

EFFECTIVE DATE: July 6, 1992.

FOR FURTHER INFORMATION CONTACT: Roland L. MacDonald, Director, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington DC 20230: telephone (202) 377–2104.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce (the Department) has received timely requests, in accordance with 19 CFR 353.22(a), for administrative reviews of antidumping duty orders covering antifriction bearings (other than tapered roller bearings) and parts thereof from France, Germany, Italy, Japan, Romania, Singapore, Sweden, Thailand, and the United Kingdom. The orders cover three classes or kinds of merchandise: ball bearings and parts thereof (BBs), cylindrical roller bearings and parts thereof (CRBs), and spherical plain bearings and parts thereof (SPBs). We have also received a request, in accordance with 19 CFR 353.25(b), to revoke the order covering CRBs from the

United Kingdom with respect to Cooper Roller Bearings Co., Ltd. The request was accompanied by Cooper's certification that it has not sold CRBs at less than foreign market value during the period from the date of the original investigation through the present and will not do so in the future.

Initiation of Reviews

In accordance with 19 CFR 353.22(c), we are initiating administrative reviews of the following antidumping duty orders. We intend to issue the final results of these reviews no later than May 31, 1993.

Firms	Class or kind		
France: A-427-801:			
Dassault Industries (including all relevant affiliates)	BBs	CRBs	SPBs
Eurocopter Deutschland GmbH (formerly Messerschmitt-Boelkow-Blohm (MBB))	BBs	CRBs	SPBs
Eurocopter France (formerly Aerospatiale Division Helicopterers (ADH)	BBs	CRBs	SPBs
ITT Jabsco	BBs	CRBs	
SKF France (including all relevant affiliates)	BBs	CRBs	SPBs
SNFA	BBs	CRBs	
Societe Nouvelle de Roulements (SNR)	BBs	CRBs	
Societe Nationale d'Etude et de Construction de Moteurs d'Aviation (SNECMA)	BBs	CRBs	
Turbomeca	BBs	CRBs	SPBs
Valeo S.A. BBs			
Germany: A-428-801:			
Durbal GmbH & Co.	BBs	CRBs	SPBs
Eurocopter Deutschland GmbH (formerly Messerschmitt-Boelkow-Blohm (MBB))	BBs	CRBs	SPBs
Eurocopter France (formerly Aerospatiale Division Helicopteres (ADH))	BBs	CRBs	SPBs
FAG Kugelfischer George Schaefer KGaA	BBs	CRBs	SPBs
Fichtel & Sachs AG	BBs		
Georg Meuller Nurnberg, AG (GMN)	BBs		
INA Walzlager Schaeffler KG	BBs	CRBs	SPBs
ITT Jabsco	BBs	CRBs	
Kugelfabrik Schute GmbH & Co	BBs		
Neuweg Fertigung GmbH (NWG)	BBs		
NTN Kugellagerfabrik (Deutschland) GmbH	BBs	CRBs	SPBs
SKF GmbH (including all relevant affiliates)	BBs	CRBs	SPBs
Societe Nouvelle de Roulements (SNR)	BBs	CRBs	
Universal-Kugellager-Fabrik GmbH	BBs		
Volkswagen AG	BBs	CRBs	
Italy: A-475-801:			
Eurocopter France (formerly Aerospatiale Division Helicopterers (ADH))	BBs	CRBs	
ITT Jabsco	BBs	CRBs	
FAG Cuscinetti S.p.A	BBs	CRBs	
Meter S.p.A	BBs	CRBs	
O.M.C.G. s.r.l	BBs	CRBs	
SKF-Industrie S.p.A. (including all relevant affiliates)	BBs	CRBs	
Societe Nationale d'Etude et de Construction de Moteurs d'Aviation (SNECMA)	BBs	CRBs	
Japan: A-588-804:			
Asahi Seiko Co. Ltd	BBs		
Eurocopter Deutschland GmbH (formerly Messerschmitt-Boelkow-Blohm (MBB))	BBs	CRBs	SPBs
Fujino Iron Works Co. Ltd	BBs		
Honda Motor Co. Ltd	BBs	CRBs	SPBs
Inoue Jikuuke Kogyo Co. Ltd	BBs	CRBs	
Izumoto Seiko Co. Ltd	BBs		
Koyo Seiko Company Ltd	BBs	CRBs	SPBs
Nachi-Fujikoshi Corporation	BBs	CRBs	
Nakai Bearing Co. Ltd	BBs		
Nankai Seiko Co. Ltd	BBs		
Nippon Pillow Block Sales Company Ltd	BBs		
Nippon Seiko K.K	BBs	CRBs	SPBs
NTN Corp	BBs	CRBs	SPBs
Osaka Pump Co. Ltd	BBs		
Showa Pillow Block Mfg. Ltd	BBs		
Takeshita Seiko Co	BBs		
Tottori Yamakai Bearing Seisakusho Ltd	BBs		
Romania: A-485-801:			
Tehnoimportexport	BBs		
Singapore: A-559-801:			
NMB Singapore/Pelmec Ind	BBs		
Sweden: A-401-801:			
ITT Jabsco	BBs	CRBs	
SKF Sverige (including all relevant affiliates)	BBs	CRBs	
Thailand: A-549-801:			
NMB Thai/Pelmec Thai Ltd	BBs		
United Kingdom: A-412-801:			
Barden Corporation	BBs		
Cooper Bearings Ltd		CRBs	
FAG (U.K.) Ltd	BBs	CRBs	
ITT Jabsco	BBs	CRBs	
RHP Bearings Ltd	BBs	CRBs	
Societe Nouvelle de Roulements (SNR)	BBs	CRBs	
SKF (UK) Ltd. (including all relevant affiliates)	BBs	CRBs	

Interested parties must submit applications for administrative protective orders in accordance with 19 CFR 353.34(b). However, due to the large number of parties to this proceeding, we strongly recommend that parties submit their APO applications as soon as possible, and we will process them on a first-come, first-served basis.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)) and 19 CFR 353.22(c) (1991).

Dated: June 30, 1992.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 92-15739 Filed 7-2-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-549-807]

Antidumping Duty Order; Certain Carbon Steel Butt-Weld Pipe Fittings From Thailand

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: July 6, 1992.

FOR FURTHER INFORMATION CONTACT: Michelle Frederick, Office of Antidumping Investigations, Import Administration, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, at (202) 377-0816.

Order

Scope of Order

The product covered by this order is certain carbon steel butt-weld pipe fittings, having an inside diameter of less than 14 inches, imported in either finished or unfinished from. These formed or forged pipe fittings are used to join sections in piping systems where conditions require permanent, welded connections, as distinguished from fittings based on other fastening methods (*e.g.*, threaded, grooved, or bolted fittings). Carbon steel butt-weld pipe fittings are currently classified under subheading 7307.93.30 of the harmonized tariff schedule (HTS). Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Antidumping Duty Order

In accordance with section 735(a) of the Tariff Act of 1930, as amended (the Act), on May 11, 1992, the Department of Commerce (the Department) made its final determination that certain carbon steel butt-weld pipe fittings (collectively "pipe fittings") from Thailand are being sold at less than fair value (57 FR 21065, May 18, 1992). On June 24, 1992, in accordance with section 735(d) of the Act, the International Trade Commission notified the Department that an industry in the United States is threatened with material injury by reason of such imports. The ITC did not determine, pursuant to section 735(b)(4)(B) of the Act that, but for the suspension of liquidation of entries of pipe fittings from Thailand, the domestic industry would have been materially injured.

When the ITC finds threat of material injury, and makes a negative "but for" finding, the "Special Rule" provision of section 736(b)(2) applies. Therefore, all unliquidated entries or warehouse withdrawals, for consumption of pipe fittings from Thailand, with the exception of AST, whose margin is *de minimis*, made on or after June 24, 1992, the date on which the ITC issued its final affirmative determination of threat of material injury, will be liable for the assessment of antidumping duties. The Department will direct U.S. Customs officers to terminate the suspension of liquidation for entries entered, or withdrawn from warehouse, for consumption before June 24, 1992, and to release any bond or other security, and refund any cash deposit, posted to secure the payment or estimated antidumping duties with respect to these entries.

The Department will direct U.S. Customs officers to assess, upon further advice by the administering authority pursuant to section 736(a)(1) of the Act, antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of pipe fittings from Thailand, with the exception of AST. These antidumping duties will be assessed on all entries of pipe fittings from Thailand, entered or withdrawn from warehouse, for consumption on or after the date on which the ITC issued its final affirmative determination of threat of material injury. U.S. Customs officers must require, at the same time as importers would normally deposit estimated duties, the cash deposits equal to the estimated weighted-average antidumping duty margins as noted below:

Producer/manufacturer/exporter	Margin percentage
TTU Industrial Corp., Ltd.	10.68
Awaji Sangyo (Thailand) Co., Ltd	[1] .22
Thai Benkan Co	50.84
All others	39.10

[1] De minimis.

This notice constitutes the antidumping duty order with respect to pipe fittings from Thailand, pursuant to section 736(a) of the Act. Interested parties may contact the Central Records Unit, room B-099 of the Main Commerce Building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published in accordance with section 736(a) of the Act and 19 CFR 353.21.

Dated: June 28, 1992.

Francis J. Sailer,

Acting Assistant Secretary.

[FR Doc. 92-15736 Filed 7-2-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-570-814]

Antidumping Duty Order and Amendment to the Final Determination of Sales at Less Than Fair Value; Certain Carbon Steel Butt-Weld Pipe Fittings From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: July 6, 1992.

FOR FURTHER INFORMATION CONTACT: Steve Alley or Lori Way, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377-5288 or (202) 377-0656, respectively.

Amended Final Determination

In accordance with section 735(a) of the Tariff Act of 1930, as amended (the Act), on May 11, 1992, the Department made its final determination that certain carbon steel butt-weld pipe fittings ("pipe fittings") from the People's Republic of China (PRC) are being sold in the United States at less than fair value (57 FR 21058, May 18, 1992).

After publication of our final determination, respondents China North Industries Corporation, Jilin Provincial Machinery & Equipment Import & Export Corporation, Liaoning Machinery & Equipment Import & Export Corporation, Liaoning Metals & Minerals Import & Export Corporation, Shandong Metals & Minerals Import & Export Corporation,

and Shenyang Machinery & Equipment Import & Export Corporation (collectively "China Chamber") alleged that the Department committed certain ministerial errors in calculating the final determination margins. We have determined that a ministerial error was committed in calculating the surrogate value for profit and are correcting the final determination accordingly for the cooperative respondents only. (*See* memorandum from Richard W. Moreland to Francis J. Sailer, dated June 1, 1992, item 3.) Although Shenyang Billiongold Pipe Fittings Co., Ltd. (Billiongold) did not allege that the Department committed ministerial errors in calculating its final margin, the nature of the ministerial error regarding profit is such that it applies to all cooperative respondents, and we have, therefore, corrected the final determination for Billiongold as well. The correct cash deposit rates are listed in the "Antidumping Duty Order" section of this notice.

Scope of Order

The products covered by this order are carbon steel butt-weld pipe fittings, having an inside diameter of less than 14 inches, imported in either finished or unfinished form. These formed or forged pipe fittings are used to join sections in piping systems where conditions require permanent, welded connections, as distinguished from fittings based on other fastening methods (*e.g.*, threaded, grooved, or bolted fittings). Carbon steel butt-weld pipe fittings are currently classified under subheading 7307.93.30 of the Harmonized Tariff Schedule (HTS). Although the HTS subheading is provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Antidumping Duty Order

In accordance with section 735(a) of the Tariff Act of 1930, as amended, (the Act), on May 11, 1992, the Department of Commerce (the Department) made its final determination that pipe fittings from the PRC are being sold at less than fair value (57 FR 21058, May 18, 1992). On June 24, 1992, in accordance with section 735(d) of the Act, the International Trade Commission (ITC) notified the Department that an industry in the United States is threatened with material injury by reason of such imports. The ITC did not determine, pursuant to section 735(b)(4)(B) of the Act that, but for the suspension of liquidation of entries of pipe fittings from the PRC, the domestic industry would have been materially injured.

When the ITC finds threat of material injury, and makes a negative "but for" finding, the "Special Rule" provision of section 736(b)(2) applies. Therefore, all unliquidated entries or warehouse withdrawals, for consumption of pipe fittings from the PRC made on or after June 24, 1992, the date on which the ITC issued its final affirmative determination of threat of material injury, will be liable for the assessment of antidumping duties. The Department will direct U.S. customs officers to terminate the suspension of liquidation for entries entered, or withdrawn from warehouse, for consumption before June 24, 1992, and to release any bond or other security, and refund any cash deposit, posted to secure the payment of estimated antidumping duties with respect to these entries.

The Department will direct U.S. Customs officers to assess, upon further advice by the administering authority pursuant to section 736(a)(1) of the Act, antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of pipe fittings from the PRC. These antidumping duties will be assessed on all entries of pipe fitttings from the PRC, entered or withdrawn from warehouse, for consumption on or after the date on which the ITC issued its final affirmative determination of threat of material injury. U.S. Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted-average andtidumping duty margins as noted below:

Manufacturer/producer/exporter	Weighted average margin percentage
China North Industries Corporation	154.72
Jilin Provincial Machinery & Equipment Import & Export Corporation	75.23
Liaoning Machinery & Equipment Import & Export Corporation	134.79
Liaoning Metals & Minerals Import & Export Corporation	103.70
Shenyang Billiongold Pipe Fittings Co. Ltd.	110.39
Shandong Metals & Minerals Import & Export Corporation	35.06
Shenyang Machinery & Equipment Import & Export Corporation; Lianoning Metals; Shenzhen Machinery Industry Corporation; and all others	182.90

This notice constitutes an antidumping duty order with respect to pipe fittings from the PRC, pursuant to section 736(a) of the Act. Interested parties may contact the Central Records Unit, room B-099 of the Main Commerce Building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published in accordance with section 736(a) of the Act and 19 CFR 353.21.

Dated: June 29, 1992.

Francis J. Sailer,

Acting Assistant Secretary for Import Administration.

[FR Doc. 92-15737 Filed 7-2-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-351-813]

Initiation of Antidumping Duty Investigation: Certain Alloy and Carbon Hot Rolled Bars, Rods and Semifinished Products of Special Bar Quality Engineered Steel From Brazil

AGENCY: Import Administration, Interantional Trade Administration, Department of Commerce.

EFFECTIVE DATE: July 6, 1992.

FOR FURTHER INFORMATION CONTACT: Linda Pasden or Richard Weible, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-0194 or (202) 377-0159, respectively.

Initiation

The Petition

On June 9, 1992, we received a petition filed in proper form by The Timken Company and Republic Engineered Steels, Inc. In accordance with 19 CFR 353.12, petitioners allege that imports of certain alloy and carbon hot rolled bars, rods, and semifinished products of special bar quality engineered steel, (referred to as SBQ bars and rods) from Brazil are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that an industry in the United States is being materially injured, or is threatened with material injury, by reason of those imports.

Petitioners have stated that they have standing to file the petition because they are interested parties, as defined under section 771(9)(C) of the Act, and because they filed the petition on behalf of the U.S. industry producing the products that are subject to these investigations. If any interested party, as described under paragraphs (C), (D), (E), or (F) of section 771(9) of the Act, wishes to register support for, or opposition to, this petition, please file a written notification

with the Assistant Secretary f Administration.

Under the Department's regulations, any producer or reseller seeking exclusion from a potential antidumping duty order must submit its request for exclusion within 30 days of the date of the publication of this notice. The procedures and requirements regarding the filing of such requests are contained in 19 CFR 353.14.

United States Price and Foreign Market Value

Petitioners provided multiple methodologies for calculating United States price (USP) and foreign market value (FMV). We have analyzed only the price-to-price allegations. If necessary at a later date, we will analyze petitioners' allegations involving constructed value.

Petitioners estimate of USP is based on both actual price quotes to U.S. customers on a delivered basis and IM 145 import statistics. We relied only on the actual price quotes as a basis for the calculation of USP, because for selected comparisons, the IM 145 import statistics were not contemporaneous with home market prices. Delivered prices were adjusted to reflect a FOB port-or-origin basis. No further adjustments to U.S. price were made.

Petitioners' estimate of FMV is based on actual invoices and price quotations to Brazilian customers on an ex-works basis, and home market price lists. Because of the hyperinflation that exists in Brazil, we excluded comparisons based on invoice prices, certain price quotes, and list prices, because petitioners did not submit contemporaneous U.S. prices. We made comparisons only on the basis of contemporaneous price quotes in the U.S. and home markets. Petitioners deducted the ICMS state value-added tax from all domestic price quotations. Price quotations were reported exclusive of all other taxes.

Based on the 1992 price-to-price comparisons of USP and FMV, petitioners allege dumping margins ranging from 17 to 16 percent.

Initiation of Investigation

Pursuant to section 732(c) of the Act, the Department must determine, within 20 days after a petition is filed, whether the petition sets forth allegations necessary for the initiation of an antidumping duty investigation, and whether the petition contains information reasonably available to petitioners supporting the allegations.

We have examined the petition and found that it complies with the rquirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether imports of SBQ bars and rods from Brazil are being, or are likely to be, sold in the United States at less than fair value. If the investigation proceeds normally, we will make our preliminary determination by November 16, 1992.

Scope of Investigation

The products covered by this investigation are certain hot-finished carbon and alloy (other than stainless, high speed, silico-manganese, and tool steel) steel bars and rods, other than forged, which have a uniform solid cross-section along their whole length and are in the shape of circles, segments of circles, ovals, rectangles, triangles, or other convex polygons, and do not conform to the definitions for semi-finished steel, flat-rolled products, hot-rolled bars and rods in irregularly wound coils, reinforcing bars and rods, and wire. The subject bars and rods are of special bar quality engineered steel that are described in Society of Automotive Engineers (SAE) J403, J404, J411, J1081, J1249, J1268, and modifications thereof, whether they be domestic or foreign, of other than merchant quality grades M 1000 through M 1044, not containing by weight 0.03 percent or more of lead or 0.05 percent or more of bismuth, as classifiable under the following subheadings of the Harmonized Tariff Schedule of the United States (HTS): 7214.30.0000, 7214.40.0010, 7214.40.0030, 7214.40.0050, 7214.50.0010, 7214.50.0030, 7214.50.0050, 7214.60.0010, 7214.60.0030, 7214.60.0050, 7228.30.8005, and 7228.30.8050.

Also included in the scope of this investigation are certain alloy ingots (other than stainless steel, high-speed steel, silico-manganese steel, tool steel, and high-nickel alloy steel), and semi-finished products of carbon and alloy (other than stainless steel, high-speed steel, silico-manganese steel, tool steel, and high-nickel alloy steel) steel, of circular or rectangular (including square) cross-section with a width measuring less than four times thickness, of special bar quality engineered steel that are described in Society of Automotive Engineers (SAE) J403, J404, J411, J1081, J1249, J1268, and modifications thereof, whether they be domestic or foreign, not containing by weight 0.03 percent or more of lead or 0.05 percent or more of bismuth, as classifiable under the following subheadings of the HTS: 7207.11.0000, 7207.12.0010, 7207.19.0030, 7207.20.0025, 7207.20.0075, 7224.10.0075, 7224.90.0045, and 7224.90.0065.

Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of these proceedings is dispositive.

Class of Kind Issue

The Department has accepted, for purposes of this initiation, petitioner's claim that the subject merchandise comprises one class or kind of merchandise. However, given (1) the clear distrinction normally maintained in the steel trade between semifinished products and finished products such as bars and rods, and (2) an examination of the criteria used to evaluate Class or kind of merchandise, established in *Diversified Products* v. *United States*, 6 CIT 155 (1983), we question petitioners' assertion that the subject merchandise comprises one class or kind of merchandise. Therefore, we are requesting all interested parties to comment on the scope of these proceedings, particularly whether the subject merchandise in this case comprises one class or kind of merchandise or more. Comments should be submitted to the Assistant Secretary for Import Administration, Room B–099, at the above address within 14 days of the publication of this notice.

ITC Notification

Section 732(d) of the Act requires us to notify the ITC of these actions and we have done so.

Preliminary Determination by ITC

The ITC will determine by July 24, 1992, whether there is a reasonable indication that imports of SBQ bars and rods, and SBQ semifinished products from Brazil, are materially injuring, or threaten material injury to, a U.S. industry. If the ITC determination is negative, the investigation will be terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 732(c)(2) of the Act and 19 CFR 353.13(b).

Dated: June 29, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92–15738 Filed 7–2–92; 8:45 am]

BILLING CODE 3510–DS–M

[A-570-815]

Final Determination of Sales at Less Than Fair Value: Sulfanilic Acid From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: July 6, 1992.

FOR FURTHER INFORMATION CONTACT: Mary Jenkins or Brian Smith, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC, 20230; telephone: (202) 377-1756 and (202) 377-1766, respectively.

Final Determination

The Department of Commerce ("the Department") determines that sulfanilic acid from the People's Republic of China ("PRC") is being, or is likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended ("the Act") (19 U.S.C. 1673d). The Department also determines that critical circumstances do not exist. The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Period of Investigation

The period of investigation ("POI") is May 1, 1991, through October 31, 1991.

Case History

Since the publication of our preliminary determination on March 18, 1992 (57 FR 9409), the following events have occurred.

On March 20, 1992, respondent, China National Chemicals Import & Export Corporation, Hebei branch ("Sinochem Hebei"), requested a 30 day postponement of the final determination and also requested a public hearing. On March 20, 1992, respondent also requested that the Department reissue its preliminary determination to correct alleged double counting of delivery costs to the factories for certain material and non-material inputs used to produce the subject merchandise. On March 26, 1992, we denied respondent's request to reissue the preliminary determination. However, we informed respondent that for the final determination, we would confirm whether all input prices included delivery to the factories.

Respondent alleged that the sulfanilic acid industry is a fully market-oriented industry ("MOI"). Based on the standard enunciated in the Preliminary Determination of Sales at Less Than Fair Value: Sulfanilic Acid from the People's Republic of China 57 FR 9409, 9410, (March 18, 1992)) (*"Sulfanilic Acid"*), we sent an MOI questionnaire to respondent and the PRC government on March 26, 1992. On March 27, 1991, the PRC government submitted, through the U.S. embassy in Beijing, quantity and value data for inputs used to produce sulfanilic acid.

On April 3, 1992, we published a notice postponing the final determination until no later than June 26, 1992 (57 FR 11466). On April 9, 1992, Sinochem Hebei submitted its response to our MOI questionnaire. From April 20 through April 30, 1992, we conducted verification at Sinochem Hebei, Baoding No. 3 factory, and Xinyu factory at Shijiazhuang, Baoding, and Beijing, PRC. We also examined the sales information of Sinochem U.S.A. in New York, New York on April 23, 1992. On May 22, 1992, we issued verification reports of our findings.

On June 5, 1992, respondent and petitioner submitted their briefs. On June 10, 1992, respondent and petitioner submitted their rebuttal briefs. On June 11, 1992, we requested that respondent re-submit its brief because it contained new factual information in contravention to 19 CFR 353.31(a)(1)(i). On June 11, 1992, respondent re-submitted its brief. On June 12, 1992, respondent was instructed again to re-submit its brief because it still contained new factual information.

A public hearing was held on June 12, 1992. On June 12, 1992, we requested for a third time that respondent re-submit revisions to its brief to delete new factual information. To finally delete all new factual information from its briefs, respondent submitted revisions to its brief on June 12, and June 16, 1992. However, both submissions still contained new factual information. Therefore, on June 23, 1992, pursuant to 19 CFR 353.31(a)(3), we removed the new factual information in question from the record.

Separate Rates

In our preliminary determination, we stated that we would not make a final decision as to whether Sinochem Hebei should receive a company-specific rate until we examined the trading company's claims at verification.

Based on our findings at verification, we have determined that Sinochem Hebei has demonstrated, pursuant to the test enunciated in the Final Determination of Sales at Less than Fair Value: Sparklers from the People's Republic of China, 56 FR 20588 (May 6, 1991) (*"Sparklers"*), that it is entitled to a separate rate. (For further discussion, see DOC Position to Comment 6 below).

Unless a respondent demonstrates entitlement to a separate, company-specific rate pursuant to the test enunciated in *Sparklers*, we will presume that they are subject to a single rate. (See, *e.g.*, Preliminary Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt-Weld Pipe Fittings from the People's Republic of China, 56 FR 66831 (December 26, 1991) (*"Butt-weld Pipe Fittings"*)). Since Sinochem Hebei was the only party to respond to our questionnaire, we will not issue company-specific rates to other PRC exporters of the subject merchandise because these exporters did not fully cooperate or provide all requested information in response to our questionnaire. Margins for the non-responding exporters will be determined based on application of the best information available ("BIA"), pursuant to section 776(c) of the Act. In determining what rate to use as BIA, we have followed the two-tiered methodology, outlined in *Sulfanilic Acid*.

Therefore, as BIA, the dumping margin for all other exporters who did not cooperate in this investigation is the rate set forth in the petition.

Scope of the Investigation

The products covered by this investigation 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).

Sulfanilic acid is a synthetic organic chemical produced from the direct sulfonation of aniline with sulfuric acid. Sulfanilic acid is used as a raw material in the production of optical brighteners, food colors, specialty dyes, and concrete additives. The principal differences between the grades are the undesirable quantities of residual aniline and alkali insoluble materials present in the sulfanilic acid. All grades are available as dry free flowing powers.

Technical sulfanilic acid, classifiable under the subheading 2921.42.24.20 of the Harmonized Tariff Schedule of the United States ("HTS"), contains 96 percent minimum sulfanilic acid, 1.0 percent maximum aniline, and 1.0 percent maximum alkali insoluble materials. Refined sulfanilic acid, also classifiable under the HTS subheading 2921.42.24.20, contains 98 percent minimum sulfanilic acid, 0.5 percent maximum aniline, and 0.25 percent maximum alkali insoluble materials. Sodium salt of sulfanilic acid (sodium sulfanilate), classifiable under the HTS subheading 2921.42.70, is a granular or

crystalline material containing 75 percent minimum sulfanilic acid, 0.5 percent maximum aniline, and 0.25 percent maximum alkali insoluble materials based on the equivalent sulfanilic acid content. Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Fair Value Comparisons

To determine whether sales of sulfanilic acid from the PRC to the United States were made at less than fair value, we compared the United States price to the foreign market value ("FMV"), as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

United States Price

We based United States price on purchase price for sales made directly to unrelated parties prior to the date of importation into the United States, in accordance with section 772(b) of the Act. Also, in accordance with section 772(b) of the Act, we considered sales made by Sinochem Hebei to Sinochem U.S.A. to be purchase price transactions. We used purchase price as defined in section 772 of the Act, because sulfanilic acid was sold to related purchasers in the United States prior to importation into the United States, and because exporter's sales price ("ESP") methodology was not indicated by other circumstances.

We calculated purchase price based on packed, c.i.f. port or undelivered prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, ocean freight, and marine insurance. At verification, we determined that respondent reported amounts for ocean freight and marine insurance based on services provided by shipping companies based in the PRC. Since surrogate country information was not available for these expenses, we used the reported U.S. dollar chargers for these expenses as BIA, pursuant to section 776(c)(1) of the Act. (See, *Butt-weld Pipe Fittings*, 56 FR at 66833.)

Foreign Market Value

Section 773(c)(1) of the Act provides that the Department shall determine FMV using a factors of production methodology if (1) the merchandise is exported from a non-market economy country ("NMEA"), and (2) the information does not permit the calculation of FMV using home market prices, third country prices, or constructed value under section 773(a)(2) of the Act.

The Department treated the PRC as an NME for purposes of the preliminary determination. Since no party to this proceeding has disputed this presumption, and given that there is no information on the record of this proceeding to support a different determination, the Department has treated the PRC as an NME for purposes of the final determination.

Respondent in this investigation has claimed that all of the manufacturer's material and non-material inputs used to produce sulfanilic acid were purchased at market-driven prices during the POI. Accordingly, respondent deems it appropriate for the Department to use the PRC prices for material and non-material inputs for valuing the inputs used to produce sulfanilic acid.

In the preliminary determination in this investigation, the Department announded that the following criteria would be used for determining whether an MOI exists in an economy which will otherwise be considered non-market:

- For merchandise under investigation, there must be virtually no government involvement in setting prices or amounts to be produced. For example, state-required production of the merchandise, whether for export or domestic consumption in the non-market economy country would be an almost insuperable barrier to finding a market-oriented industry.
- The Industry producing the merchandise under investigation should be characterized by private or collective ownership. There may be state-owned enterprises in the industry but substantial state ownership would weigh heavily against finding a market-oriented industry.
- Market-determined prices must be paid for all significant inputs, whether material or non-material, and for an all but insignificant proportion of all the inputs accounting for the total value of the merchandise under investigation. For example, an input price will not be considered market-determined if the producers of the merchandise under investigation pay a state-set price for the input or if the input is supplied to the producers at government direction. Moreover, if there is any state-required production in the industry producing the input, the share of state-required production must be insignificant.

If these conditions are not met, pursuant to 19 CFR 353.52, the producers of the merchandise under investigation will be treated as non-market economy producers, and the foreign market value will be calculated by using prices and costs from a surrogate country, in accordance with section 773(c)(3) & (4) of the Act.

Shortly after we stated the criteria for determining an MOI in an NME in our preliminary determination, we sent an MOI questionnaire to respondent and the PRC government to determine if there was the absence of government control and market forces were at work with respect to the price of inputs used to produce the subject merchandise. In its April 9, 1992, response to that questionnaire, Sinochem Hebei claimed that the prices and costs for all and not some of the material and non-material inputs used to produce sulfanilic acid were market-driven and that none of the four factories' suppliers produced any of the inputs for in-plan production. Specifically, respondent claimed that none of the factories producing the subject merchandise for Sinochem Hebei purchased their material or non-material inputs from suppliers that also produced the same inputs for in-plan factories producing the subject merchandise or other types of merchandise that were designated for in-plan production.

In applying the MOI criteria to the sulfanilic acid industry in the PRC, we find that aniline is a significant material input used to produce sulfanilic acid. We have also found that aniline is a derivative of oil, which is a category one product centrally-controlled by the PRC government. Without the use of aniline, sulfanilic acid cannot be produced. We were told at verification that aniline is subject to state-required production. Because we requested but did not receive quantificable data from the PRC government which might have established the extent of state-required production for this input, we lack the information necessary to evaluate whether or not the aniline prices are market-determined in the PRC. (For further discussion, see DOC position to Comment 4 below).

Since we find that a significant material input may not be purchased at market-determined prices, we do not need to consider whether (1) the prices of other material or non-material inputs are market-determined; (2) whether there is state-required production of the subject merchandise and (3) whether there is substantial state ownership in the sulfanilic acid industry. See, Final Negative Countervailing Duty Determinations: Oscillating and Ceiling Fans from the PRC, 57 FR 24018, 24019 (June 5, 1992). Therefore, we have determined that the criteria outlined in the the preliminary determination has not been met. Based on this finding, we have used surrogate values in calculating FMV, as discussed below. (See, Comment 4 for a complete discussion of this issue).

Surrogate Country

Section 773(c) of the Act requires the Department to value the factors of

production, to the extent possible, in one or more market economy countries that are at a level of economic development comparable to that of the non-market economy country, and that are significant producers of comparable merchandise. The Department has determined that India and Pakistan are the most comparable to the PRC in terms of overall economic development, based on per capita gross national product ("GNP"), the national distribution of labor, and growth rate in per capita GNP. (See memorandum from the Office of Policy to David L. Binder, dated December 4, 1991.) Because India fulfills both requirements outlined in the statute, India is the preferred surrogate country for purposes of calculating the factors of production used in producing the subject merchandise. Since Pakistan is not a producer of sulfanilic acid, we have resorted to Pakistan for surrogate values only if Indian values were not obtainable.

We have used the values for the factors of production, as appropriate, from both countries. In our preliminary Determination, data for valuing the factors of production were obtained from the U.S. embassy in India and the U.S. consulate in Pakistan. Subsequent to our preliminary determination, a hierarchy for preferred input values was set forth in the notice of Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt-Weld Pipe Fittings From the People's Republic of China, 57 FR 21058 (May 18, 1992) (Comment 4) (*"Butt-weld Pipe Fittings, Final"*). Accordingly, in those instances in which petitioner or respondent questioned the validity of the input values used in the preliminary determination, specifically the values for aniline, coal and electricity, we have obtained and relied upon published, publicly available information. Where neither petitioner nor respondent questioned a value used in the preliminary determination, we continued to use that value.

We calculated FMV based on factors of production reported by the factories which produced the subject merchandise for respondent Sinochem Hebei. The factors used to produced sulfanilic acid include materials, labor, and energy. We verified the production information of two of the four factories which submitted information on behalf of Sinochem Hebei. At verification, we found that the two factories we chose to verify did not incur costs for water used in the production process for the subject merchandise (see, Verification Report for Baoding and Xinyu factories, both dated May 22, 1992).

To value aniline, we used published, publicly available information from the Monthly Statistics of the Foreign Trade of India (September 1990). (See, Comment 1 for a complete discussion of this issue).

To value sulfuric acid and activated carbon, we used POI price quotes provided by the U.S. consulate in Pakistan, a producer of comparable merchandise, because the U.S. embassy in India could not obtain values for these inputs. We adjusted the factor values to the POI using wholesale price indices published by the International Monetary Fund.

To value coal, we used the published source, Monthly Statistics of the Foreign Trade of India (September 1990), and a 1990 Indian coal price as published in *OECD IEA Statistics*. We calculated an average undelivered f.o.b. coal price because the coal price from the OECD source differed greatly from the calculated import value for coal using Indian foreign trade statistics. (*See*, Comment 2 for a complete discussion of this issue).

To value electricity, we used the *OECD IEA Statistics's* published, publicly available Indian electricity rate for 1985 and adjusted the value for the POI by using wholesale price indices published by the International Monetary Fund.

To value labor rates, we used unskilled and skilled labor rates, including benefits, obtained from the U.S. embassy in India. We adjusted the unskilled wage rate to account for the number of hours in an Indian work week based on information contained in the published source, Country Reports on Human Rights Practices for 1990. Baoding, one of the factories examined, was a medium size plant. Therefore, we applied the unskilled labor rate provided by the U.S. embassy in India that was applicable for a medium size plant operation. For the other three factories, we applied the unskilled labor rate provided by the U.S. embassy in India for a small size plant operation. We used the same skilled labor rate for all factories.

We received cables from the U.S. embassy in India on January 30, and March 5, 1992, and the U.S. consulate in Pakistan on March 25, 1992, stating with the exception of plastic bags, all input prices used to value the factors of production were undelivered prices during the POI in each respective country.

To calculate FMV, the reported factors of production were multiplied by the appropriate India and Pakistani values for the various components. With the exception of plastic bags, we added an amount for the delivery of inputs to the factory to arrive at a delivered cost of materials. In our preliminary determination, freight rates based on distance and weight with not available. Therefore, we calculated freight rates based on weight in the preliminary determination. However, for our final determination, we used a June 1992 truck freight rate based on weight and distance obtained from the U.S. embassy in India. We also used a December 1989 train freight rate based on weight and distance. We adjusted these factor values to the POI using wholesale price indices published by the International Monetary Fund.

We used an average percentage for factory overhead, based on Indian producers' experience, which we obtained from the U.S. embassy in India. Pursuant to section 773(e)(1)(B), we then added an amount higher than the statutory ten percent minimum for selling, general and administrative expenses, and an amount higher than the statutory eight percent minimum for profit, based on Indian producers' experience, which was obtained from the U.S. embassy in India. We also added, where appropriate, an amount for packing labor based on the appropriate Indian unskilled wage rate, and an amount for packing materials based on Indian prices to arrive at a constructed FMV for one metric ton of sulfanilic acid. We made no adjustments for selling expenses. (For a complete analysis of surrogate values, see our concurrence memorandum dated June 22, 1992.)

Critical Circumstances

Petitioner alleged that "critical circumstances" existed with repect to imports of sulfanilic acid from the PRC. Section 773(e)(1) of the Act provides that critical circumstances exist when we determine that there is a reasonable basis to believe or suspect that:

(A)(i) There is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation, or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of investigation at less than its fair value, and (B) there have been massive imports of the merchandise which is the subject of the investigation at over a relatively short period.

Pursuant to section 773(e)(1)(B) of the Act, we generally consider the following factors in determining whether imports have been masive over a short period of time: (1) The volume and value of the

imports; (2) seasonal trends (if applicable); and (3) the share of domestic consumption accounted for by imports. (See, *e.g.*, Final Determiniation of Sales at Less Than Fair Value; Certain Internal-Combustion, Industrial Forklift Trucks from Japan, 53 FR 12552 (April 15, 1988)). To determine whether imports have been massive, we normally compare the export volume for the base period, which is a period of not less than three months beginning with the month the petition was filed, with a previous period of the same length. Since the petition was filed on October 3, 1991, we compared shipments for Sinochem Hebei, during the six month period from the filing of the petition, October 1991 through March 1992, to shipments during the six month period prior to the month in which the petition was filed, April through September 1991.

On February 24, 1992, respondent submitted quantity figures for exports of sulfanilic acid to the United States during the relevant months of 1991 and 1992. At verification, we found that the quantity figures contained in the February 24, 1992, response included amounts exported to their country designations as well as the United States. At verification, we did obtain accurate quantity figures of sulfanilic acid which Sinochem Hebei exported to the United States during the relevant months of 1991 and 1992.

Under 19 CFR 353.16(f)(2), unless the imports in the comparison period have increased by at least 15 percent over the imports during the base period, we will not consider the imports "massive." Based on our analysis of the data collected at vereification, we find that imports of the subject merchandise from the PRC during the period subsequent to receipt of the petition have not been massive. The other PRC exporters of the subject merchandise accounted for a minimal amount of total PRC exports of the subject merchandise to the United States.

Since we do not find that there have been massive imports, pursuant to section 733(e)(1)(B) of the Act, we do not need to consider whether there is a history of dumping or whether there is reason to believe or suspect that importers of this product knew or should have known that it was being sold at less than fair value.

Therefore, we have determined that critical circumstances do not exist with respect to imports of sulfanilic acid from the PRC.

Currency Conversion

When calculating foreign market value, we made currency conversions in accordance with 19 CFR 353.60(a).

Verification

Pursuant to section 776(b) of the Act, we verified information used in reaching our final determination. We used standard vertification procedures, including examination of relevant accounting records and orginal source documents provided by respondents.

Interested Party Comments

Comment 1: Petitioner argues that the Department should use the domestic price of aniline in India instead of the Indian import price for aniline for calculating FMV. Petitioner maintains that the Department cannot use the import price because this price is based on imports of aniline sourced from Eastern Europe. Petitioner argues that in previous investigations, the Department has presumed that the countries of Eastern Europe are non-market economy countries, unless such countries successfully rebutted this presumption. Furthermore, the Department has stated in previous investigations that factor values should be based on prices of inputs produced in the selected surrogate market economy. Therefore, the Department cannot use the price of an input from a non-market economy in order to value the same input in a market economy country. Petitioner cites to Final Results of Certain Iron Construction Castings from the People's Republic of China, 57 FR 10644 (June 8, 1992), in support of its argument.

Respondent argues that the Department should not use the Indian domestic price aniline because the price is substantially greater than the U.S. price and also does not reflect a world market price for the input. Furthermore, respondent argues that even though the Indian import price is more reflective of a world price for aniline, the Department should not use this price either because the import price is also distortive of the actual cost of PRC producers. Respondent points out the PRC is an oil producer, whereas India is not, and because aniline is a derivative of oil, the Department should use an aniline price from a country, such as Mexico, where the cost of aniline would better reflect the costs PRC producers incur for using aniline.

DOC Position: As described above under the "Surrogate Country" section, when a particular surrogate value used in the preliminary determination was disputed by respondent or petitioner, we sought and employed published, publicly available information in accordance with the hierarchy enunciated in *Butt-Weld Pipe Fittings, Final.* Therefore, since the value for aniline has been placed in dispute, we have used published and publicly available information to value aniline. We considered whether to use the domestic or import price for aniline at the preliminary determination. We determined that the import price was appropriate because imported aniline is used by Indian producers in manufacturing sulfanilic acid for exportation. Therefore, for aniline we used the Monthly Statistics of the Foreign Trade of India (September 1990)

Comment 2: Respondent argues that the Department should use the 1990 Indian coal price as published in *OECD IEA Statistics* rather than the Pakistani price for coal as contained in the U.S. cable because the Indian price reflects the price of coal in the PRC.

Petitioner argue that we should not use the Indian coal price information which respondent submitted in its brief because that information is new factual information which was untimely submitted to the Department.

DOC Position: Since the value for coal was placed in dispute, the Department first examined the 1990 Indian price for coal as published in *OECD IEA Statistics.* In addition, the Department independently obtained another published, publicly available Indian import price from the source, Monthly Statistics of the Foreign Trade of India (September 1990). These prices differed significantly. Since we have no information indicating which of the two prices is more accurate, we calculated and used a simple average of the published Indian coal prices to value coal for the POI. We adjusted the factor values to the POI using wholesale price indices published by the International Monetary Fund.

Comment 3: Petitioner argues that because the Department chose not to verify two of the four PRC producers of sulfanilic acid, the results of the two verified factories' information must be applied to the other verified producers. Otherwise, petitioner argues that the Department should disregard the information provided by the non-verified producers. Petitioner cites to section 776(b) of the Act in support of its argument and the recent decision reached in the Remand of *Sparklers.*

Respondent argues that the Department must accept as accurate the factors data of the two factories not chosen for verification because the Department elected not to verify that information.

DOC Position: We disagree with petitioner's contention. The purpose of verification is to spot-check the respondent's questionnaire response and is not intended to be an exhaustive

examination of the response. See, *Monsanto Company* v. *United States*, 698 F. Supp. 285 (CIT 1988). In this investigation, to determine factors of production, we selected two of the four factories as representative of subject merchandise produced in the PRC (see, memorandum to the file, April 6, 1992). At verification, we found that each factory is unique in its factors of production. We found no major discrepancies in the factors verified that would warrant disregarding the response for any of the four factories. However, we have adjusted our calculation to account for any unique factors that may be applicable to each of the factories.

Comment 4: Petitioner argues that since the People's Republic of China ("PRC") is an NME, the sulfanilic acid industry in the PRC cannot be an MOI. Petitioner maintains that respondent has not demonstrated that the prices for all inputs used to produce the subject merchandise are market-determined. Furthermore, petitioner maintains that even if the Department found the input prices to be market-determined in the PRC, it is not reasonable to convert these prices denominated in remninbi Yun (an alleged non-convertible currency) to a hard currency. Therefore, the Department must resort to surrogate values in calculating the FMV.

Respondent argues that the sulfanilic acid industry in the PRC is sufficiently market-oriented and that the PRC prices for all inputs used to produce the subject merchandise should be used to calculate the FMV. Respondent maintains that the Department should find that the PRC prices for inputs used to produce sulfanilic acid are market-oriented and an insignificant amount of the inputs are subject to mandatory in-plan production. In addition, respondent argues that the input prices are freely negotiated between the factories that use the inputs to produce sulfanilic acid and the suppliers that provide the inputs to the sulfanilic acid factories. Therefore, the Department should find that the sulfanilic acid industry in the PRC is sufficiently market-oriented, and, as a result, the Department should use the PRC prices instead of the surrogate values for calculating FMV.

DOC Position: We disagree with respondent. Prior to verification, and at verification, we requested information from the PRC government regarding the quantity of aniline subject to state required production. We were told at verification that the amount of aniline subject to state-required mandatory in-plan production was insignificant. However, the PRC government officials with whom we met did not provide us with quantifiable data to support such a statement. We deem such information crucial for determining whether the sulfanilic acid industry in the PRC is an MOI, especially since aniline is a derivative of oil and oil is a commodity centrally controlled by the PRC government.

Without the requested information, we are unable to establish the amount of state-required production of this significant material input. Therefore, we cannot analyze the extent to which, aniline prices may be distorted by such state control over production.

As a result, in this investigation, respondent did not overcome the presumption that a significant material input (aniline) is subject to significant state required production. Therefore, respondent has not met the MOI criteria as set forth in the preliminary determination of *Sulfanilic Acid* for determining whether or not the sulfanilic acid industry is an MOI.

Comment 5: Respondent argues that even if the Department finds that some of the inputs do not meet the MOI criteria, the Department should still use the PRC prices for those inputs which the Department finds are not subject to the state plan and for which market prices are paid. Respondent maintains that the Department should restrict its analysis to only determining the proper unit price to use (*i.e.*, surrogate value or NME value) on an input by input basis, and that the Department should not ignore the price of a particular input found to be market-determined simply because a price for another input is found not to be market-determined.

DOC Position: We disagree with respondent. If, as we have found here, an industry does not qualify as an MOI, the Department is obligated to apply section 773(c) of the Act. (See, "Foreign Market Value" section of this notice). Under this provision, the Department must use factor values from a market economy country. Thus, it cannot use the NME domestic price for any inputs.

Comment 6: Petitioner argues that the Department should assign one dumping margin to all PRC producers and resellers of the subject merchandise.

Respondent argues that a separate, company-specific rate should be calculated in this investigation for Sinochem Hebei. Respondent maintains that the only relationship between Sinochem Hebei and the other trading companies of China National Chemicals Import & Export Corporation, Beijing ("Sinochem China"), is in the production and sale of oil, a category one product which is under state control but not subject to this investigation. Respondent contends that Sinochem Hebei is an independent entity regarding the production and sale of sulfanilic acid and all other chemical products which are category three products and are not under or subject to government control.

DOC Position: As stated in *Sparklers*, we will issue separate rates if a respondent can demonstrate both a *de jure* and *de facto* absence of central control. Evidence supporting, though not requiring, a finding of *de jure* absence of central control would include: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; and (2) any legislative enactments devolving central control of export trading companies; or (3) any other formal measures by the government decentralizing control of companies. Evidence supporting a finding of *de facto* absence of central control with respect to exports would include: (1) Whether each exporter sets its own export prices independently of the government and other exporters; and (2) whether each exporter can keep the proceeds from its sales.

We have determined that Sinochem Hebei is independently controlled and entitled to its own rate. At verification, we examined information on company ownership and relationships, sources of inputs, manufacturing processes, distribution channels, involvement of trading companies, controls on external trade, profit retention, and other facets of the production and sale of sulfanilic acid.

To support its argument of *de jure* absence of central control, respondent referenced State Council Directive No. 12 of 1988 as evidence that Sinochem China and its branches were separated. Pursuant to that regulation, the central government and Sinochem China were divested of the managerial and financial control over former Sinochem China branches. According to information supplied by company officials, due to the government mandated reorganization, the only relationship between Sinochem China and Sinochem Hebei is Sinochem Hebei's involvement in the sale of oil, which is a centrally controlled product. Otherwise, Sinochem Hebei has been an independent legal entity since 1988 and has neither financial, managerial, nor any other non-oil responsibilities to Sinochem China. At verification, our examination of the business and export licenses revealed no restrictive stipulations on the export of sulfanilic acid.

In support of respondent's argument of *de facto* absence of central control, we found no evidence that prices for the subject merchandise are set by either the government entities, Sinochem China or by any of its related entities. Also, we found at verification that Sinochem Hebei's sales proceeds were deposited to its own account and that bank records revealed no payments to the PRC government or to Sinochem China. We found no evidence of any control exercised by Sinochem China over Sinochem Hebei's non-oil accounts. Moreover, based on our findings at verification, we have determined that Sinochem Hebei is required by PRC law to report its proceeds from the sale of oil to Sinochem China and prepare separate financial statements for its oil proceeds. We have also determined that Sinochem Hebei retains its proceeds from the sale of the subject merchandise and is a separate and financially independent entity with the exception of the oil relationship with Sinochem China.

Accordingly, in applying the above-referenced criteria, the evidence submitted on the record submitted by respondent demonstrates *de jure* and *de facto* absence of central control. Therefore, we have determined that Sinochem Hebei is independent and entitled to its own rate.

Suspension of Liquidation

We are directing the U.S. Customs Service to continue suspension of liquidation of all entries of sulfanilic acid from the PRC, as defined in the "Scope of Investigation" section of this notice that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. The U.S. Customs Service shall require a cash deposit or bond equal to the estimated weighted-average amount by which the foreign market value of the subject merchandise exceeds the United States price as shown below. The suspension of liquidation will remain in effect until further notice.

The weighted-average dumping margins are as follows:

Weighted-average manufacturer/ producer/exporter	Margin percent
China National Chemicals Import & Export Corporation, Hebei Branch	19.14
All others	85.20

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)) and (19 CFR 353.20(a)(4)).

Dated: June 25, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-15735 Filed 7-2-92; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Marine Mammals

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Issuance of permit modification (P466).

On April 9, 1992, notice was published in the **Federal Register** (57 FR 12294) that a request had been filed by Scott D. Kraus, Edgerton Research Laboratory, New England Aquarium, Central Wharf, Boston, MA 02110-3309, to modify Permit No. 716 to include collection of biopsy samples from up to 50 right whales annually; exportation to Canada, England, and Australia of up to 100 right whales tissues samples annually; and annual importation of up to 50 right whale tissues samples taken from animals that have stranded in foreign countries.

Notice is hereby given that on June 23, 1992, and as authorized the provisions of the Marine Mammal Protection Act of 1992 (16 U.S.C. 1361-1407) and the Endangered Species Act of 1973 (16 U.S.C. 1531-1543), the National Marine Fisheries Service issued a modification for the above taking subject to certain conditions set forth therein.

Issuance of this modified Permit is based on a finding that the proposed taking is consistent with the purposes and policy of the Marine Mammal Protection Act, and on a finding that such permit; (1) was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of this permit; (3) and is consistent with the purposes and policies set forth in Section 2 of the Endangered Species Act of 1973.

Documents submitted in connection with this modification and the environmental assessment conducted on the impact of these activities on right whales are available for review, by appointment, in the Permits Division, Office of Protected Resources, National Marine Fisheries Service, NOAA, 1335 East-West Highway, Room 7324, Silver Spring, MD 20910 (301/713-2289); Director, Southeast Region, National Marine Fisheries Service, NOAA, 9450 Koger Boulevard, St. Petersburg, Florida 33702 (813/893-3141); and Director, Northeast Region, National Marine Fisheries Service, NOAA, One Blackburn Drive, Gloucester, Massachusetts 01930 (508/281-9200).

Dated: June 23, 1992.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 92-15656 Filed 7-2-92; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Issuance of Permit No. 787 (P444A).

SUMMARY: On January 2, 1992, notice was published in the **Federal Register** (57 FR 49) that an application had been filed by Center for Coastal Studies, Box 826, Provincetown, MA 02657, for a permit to inadvertently harass annually, over a three-year period, up to three hundred (300) North Atlantic humpback whales (*Megaptera novaeangliae*), during photo-identification and biopsy collection activities, and to biopsy sample up to 200 of those 300 animals. The application also requested authorization to import and export humpback whale samples.

Notice is hereby given that on June 23, 1992, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407) and Endangered Species Act of 1973 (16 U.S.C. 1531-1543), the National Marine Fisheries Service issued a Permit for the above taking, subject to certain conditions set forth therein.

Issuance of this Permit, as required by the Endangered Species Act of 1973, is based on the finding that such Permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of the Permit; and (3) will be consistent with the purposes and policies set forth in section 2 of the Act. This Permit was also issued in accordance with and is subject to parts 220-222 of the National Marine Fisheries Service regulations governing endangered fish and wildlife permits.

Documents submitted in connection with this permit and the environmental assessment conducted on the impact of these activities on humpback whales are available, by appointment, in the Permits Division, Office of Protected Resources, National Marine Fisheries

Service, 1335 East–West Highway, room 7324, Silver Spring, MD 20910;

Director, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, Massachusetts 01930 (508/281–9200); and

Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Blvd., St. Petersburg, FL 33702(813/893–3141).

Dated: June 23, 1992.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 92–15657 Filed 7–2–92; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals

AGENCY: National Marine Fisheries Service.

ACTION: Issuance of Modification to Permit No. 496 (P79D).

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Scientific Research Permit No. 496 issued to Center for Coastal Marine Studies, University of California at Santa Cruz, Santa Cruz, California 95064, is modified to extend the authority to take elephant seals (*Mirounga angustirostris*) for scientific research purposes until October 31, 1992.

This modification becomes effective on July 1, 1992.

The Permit, as modified, is available for review by appointment in the Permits Division, Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Hwy., suite 7324, Silver Spring, MD 20910 (301/713–2289); and

Director, Southwest Region, National Marine Fisheries Service, 501 W. Ocean Blvd., Long Beach, CA 90802–4213 (310/980–4015).

Dated: June 26, 1992.

Nancy Foster,

Director, Office of Protected Resources.

[FR Doc. 92–15658 Filed 7–2–92; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Issuance of Marine Mammal Permit Modification (P501).

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), Scientific Research Permit No. 780 issued to Dr. Raymond J. Tarpley, Assistant Professor, Department of Veterinary Anatomy, Texas A&M University, College Station, TX 77843, to collect tissue samples from up to 30 bowhead whales (*Balaena mysticetus*) taken during the Alaskan Eskimo subsistence harvest, import tissue samples from 50 beluga whales (*Delphinapterus leucas*) taken for subsistence purposes by the Inuit in Canada, and import tissue samples from harbor porpoise (*Phocoena phocoena*), Dall's porpoise (*Phocoenoides dalli*) and killer whales (*Orcinus orca*) found dead as a result of stranding, on May 13, 1992 (57 FR 21396) has been modified. The modification authorizes the collection of tissue samples from up to 40 beluga whales taken in the Alaskan Eskimo subsistence harvest and the importation of samples collected from up to 10 beluga whales from Canada.

This modification becomes effective upon signature.

Documents submitted in connection with this permit, as modified, are available for review, by appointment, in the Permit Division, Office of Protected Resources, National Marine Fisheries Service, NOAA, 1335 East-West Hwy., suite 7324, Silver Spring, MD 20910 (301/713–2289);

Director, Southeast Region, National Marine Fisheries Service, NOAA, 9450 Koger Blvd., St. Petersburg, FL 33702 (813/893–3141); and

Director, Alaska Region, National Marine Fisheries Service, NOAA, Federal Bldg., 709 W. 9th Street, Juneau, AK 99802 (907/568–7221).

Dated: June 26, 1992.

Charles Karnella,

Deputy Director, Office of Protected Resources.

[FR Doc. 92–15659 Filed 7–2–92; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amendment of an Import Limit and Guaranteed Access Level for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Jamaica

June 30, 1992.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing a limit and guaranteed access level.

EFFECTIVE DATE: July 8, 1992.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these levels, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566–5810. 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 United States Government has agreed to increase the 1992 designated consultation level and guaranteed access level for Categories 352/652.

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 60097, published on November 27, 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.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

June 30, 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 November 21, 1991, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber and other vegetable fiber textiles and textile products, produced or manufactured in Jamaica and exported during the twelve-month period which began on January 1, 1992 and extends through December 31, 1992.

Effective on July 8, 1992, you are directed to amend the November 21, 1991 directive to increase the current limit for Categories 352/652 to 1,500,000 dozen [1].

[1] The limit has not been adjusted to account for any imports exported after December 31, 1991.

Also effective on July 8, 1992, you are directed to increase the current guaranteed access level for Categories 352/652 to 8,000,000 dozen.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92-15734 Filed 7-2-92; 8:45 am]

BILLING CODE 3510-DR-F

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to the Procurement List a commodity and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: August 5, 1992.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 3, suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557-1145.

SUPPLEMENTARY INFORMATION: On April 17 and May 15, 1992, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (57 FR 13715 and 20813) of proposed additions to the Procurement List. After consideration of the material presented to it concerning capability of qualified nonprofit agencies to produce the commodity and provide the services at a fair market price and impact of the addition on the current or most recent contractors, the Committee has determined that the commodity and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity or services to the Government.

2. The action will not have a severe economic impact on current contractors for the commodity or services.

3. The action will result in authorizing small entities to furnish the commodity or services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the commodity or services proposed for addition to the Procurment List.

Accordingly, the following commodity and services are hereby added to the Procurement List:

Commodity

Necktab, Women's Shirt

8445-01-242-1009

Services

Grounds Maintenance

U.S. Naval Home Gulfport, Mississippi

Janitorial/Custodial

U.S. Army Reserve Center, Corrine Drive, Orlando, Florida

Janitorial/Custodial

Paul B. Dunbar Building, 1141 W. Central Parkway, Cincinnati, Ohio

This action does not affect contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 92-15731 Filed 7-2-92; 8:45 am]

BILLING CODE 6820-33-M

Procurement List; Proposed Additions and Deletion

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to and deletion from Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete a commodity previously furnished by such agencies.

COMMENTS MUST BE RECEIVED ON OR BEFORE: August 5, 1992.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 3, suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman. (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51-2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the services.

3. The action will result in authorizing small entities to furnish the services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

It is proposed to add the following services to the Procurement List:

Services

Commissary Shelf Stocking and Custodial, Naval Construction Battalion Center, Gulfport, Mississippi.

Nonprofit Agency: Goodwill Industries of South Mississippi, Inc., Gulfport Mississippi.

Food Service Attendant, Davis-Monthan Air Force Base, Arizona.

Nonprofit Agency: Tempe Center for Habilitation, Inc., Tempe, Arizona.

Janitorial/Custodial, Portsmouth Naval Shipyard, Buildings 153 and 170, Kittery, Maine.

Nonprofit Agency: Easter Seal Society of New Hampshire/Vermont, Inc., Manchester, New Hampshire.

Deletion

It is proposed to delete the following commodity from the Procurement List:
Mat, Floor, 7220–00–224–6487.

Beverly L. Milkman,
Executive Director.
[FR Doc. 92–15729 Filed 7–2–92; 8:45 am]
BILLING CODE 6820–33–M

Procurement List; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List commodities and a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: August 5, 1992.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 3, suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and service listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and service to the Government.

2. The action will result in authorizing small entities to furnish the commodities and service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and service proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

It is proposed to add the following commodities and service to the Procurement List:

Commodities

Tag, Cattle Ear
9905–00–NSH–0027
9905–00–NSH–0028
9905–00–NSH–0029
(Requirements for the Department of Agriculture, Minneapolis, Minnesota)
Nonprofit Agency: Constructive Workshops, Inc. New Britain, Connecticut.

Service

Convert Documents to Braille, Internal Revenue Service, Washington, DC.
(20% of the Government's Requirement)
Nonprofit Agency: Lighthouse for the Blind, New Orleans, Louisiana.

Beverly L. Milkman,
Executive Director.
[FR Doc. 92–15729 Filed 7–2–92; 8:45 am]
BILLING CODE 6820–33–M

COMMODITY FUTURES TRADING COMMISSION

Financial Products Advisory Committee

This is to give notice, pursuant to section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, section 10(a) and 41 CFR 101–6.1015(b), that the Commodity Futures Trading Commission's Financial Products Advisory Committee will conduct a public meeting in the Lower Level Hearing Room (B1) at the Commission's Washington, DC headquarters located at 2033 K Street, NW., Washington, DC 20581, on July 23, 1992, beginning at 1:30 p.m. and lasting until 5 p.m. The agenda will consist of :

Agenda

1. Briefings on and discussion of surveys being conducted of off-exchange derivatives: their purpose, status and scope.

2. Review and discussion of third party custodial account requirements under Section 17(f) of the Investment Company Act as they relate to the use of futures and options on futures by registered investment companies.

3. Interim Report of the Hedging Working Group: discussion of possible modifications to the hedging definition and revisions to CFTC Rule 4.5.

4. Report from the Office of General Counsel on *Salomon Forex Inc.* v. *Tauber,* Civ. No. 91–1415 (E.D. Va. June 1, 1992).

5. Report from the Division of Trading and Markets on the status of proposed rule changes dealing with trade options.

6. Follow-up reports from the March 1992 meeting: progress on proposed Rule 4.7 and recent filing by the CME to establish large lot execution procedures in foreign currencies futures.

7. Status report on reauthorization.

8. Development of agenda items and timing of next meeting, other Committee business.

The purpose of this meeting is to solicit the views of the Committee on these agenda matters. The Advisory Committee was created by the Commodity Futures Trading Commission for the purpose of advising the Commission on the assessment of issues concerning individuals and industries interested in or affected by financial markets regulated by the Commission. The purposes and objectives of the Advisory Committee are more fully set forth in the April 25, 1991 Charter of the Advisory Committee.

The meeting is open to the public. The Chairman of the Advisory Committee, CFTC Commissioner Sheila C. Bair, is empowered to conduct the meeting in a fashion that will, in her judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Advisory Committee should mail a copy of the statement with the Advisory Committee should mail a copy of the statement to the attention of: the Commodity Futures Trading Commission Financial Products Advisory Committee, c/o Susan Milligan, 2033 K Street, NW., Washington, DC 20581, before the meeting. Members of the public who wish to make oral statements should also inform Ms. Milligan in writing at the foregoing address at least three business days before the meeting. Reasonable provision will be made, if time permits. For an oral presentation of no more than five minutes each in duration.

Issued by the Commission in Washington, DC on June 29, 1992.

Jean A. Webb,
Secretary of the Commission.
[FR Doc. 92–15688 Filed 7–2–92; 8:45 am]
BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Intent to Prepare Draft Supplemental Environmental Impact Statement (SEIS) for Flood Control Project; Lower Mission Creek, Santa Barbara County, CA

AGENCY: U.S. Army Corps of Engineers, Department of Defense.

ACTION: Notice of Intent to Prepare a Draft Supplemental Environmental Impact Statement (SEIS).

SUMMARY: In 1986, the U.S. Army Corps of Engineers, Los Angeles District, published a Feasibilty Report and Environmental Impact Statement (EIS) entitled, "Lower Mission Creek Interim, Santa Barbara County Streams, California." This report analyzed the flood and associated problems along Mission Creek, and considered various alternative solutions to these problems. The Lower Mission Creek Plan (Carrillo Inlet Plan) was selected as the recommended plan. This project would include construction of a 1.2 mile-long, rectangular, concrete channel in Lower Mission Creek, from a point near Carrillo Street to the Pacific Ocean. It would join with an exising concrete channel that now terminates just downstream from Carrillo Street. The proposed plan for flood control would provide 100-year level of protection to the urban community surrounding Lower Mission Creek. Mitigation measures, including the creation of 1.6 acres of riparian oak woodland habitat and 1.0 acre of estuarine soft-bottom habitat, were determined to be necessary to the implementation of this alternative.

As directed by the Office of the Assistant Secretary of the Army (Civil Works), the Corps of Engineers is undertaking further evalution of the approved mitigation plan. Certain environmental issues, including the possibility of onsite mitigation, will be reviewed. Due to the time lapse between the Feasibility and Preconstruction Engineering and Design (PED) stages of the project, it is important to ensure that all possible environmental effects of both the project and the required mitigation have been adequately addressed. A supplemental EIS will be prepared to resolve the outstanding concerns, and update all environmental issues. Santa Barbara County, the City of Santa Barbara and the Corps of Engineers are working together to produce a joint document that will satisfy both federal and state environmental requirements.

Alternatives

In addition to the "no action" alternative, various structural and nonstructural plans for flood control were considered in the 1986 EIS, described above. These alternatives include construction or expansion of debris basins, and various channelization alternatives. The SEIS will examine new alternatives, not fully discussed in the original document.

Several alternative mitigation sites are also available for review. There is the potential of exploring at least one riparian mitigation alternative on the project site, dependent upon its meeting engineering, economic and environmental criteria. All potential mitigation sites will be further discussed in the SEIS.

Scoping Process

A public meeting will be held to assess public needs and desires relative to flood protection and mitigation concerns. The public meeting will be held in Santa Barbara. Participation in the public meeting by Federal, State, and local agencies, and other interested private organizations and parties is encouraged. Significant issues to be addressed in these public meetings include: potential impacts to biological resources (including endangered and threatened species), cultural resources, land use, water quality, and air quality.

Time and Location of Scoping Meeting

The public scoping meeting is scheduled for July 24th, 9:00 am, in the Santa Barbara City Hall, Council Chambers. City Hall is located at 735 Anacapa St., in De la Guerra Plaza.

Availability of the SEIS

The Draft SEIS is anticipated to be circulated for public review in Fall 1992.

ADDRESS: Comments and questions regarding the project may be addressed to U.S. Army Corps of Engineers, Los Angeles District, ATTN: Ms. Hayley Lovan, CESPL–PD–RQ, P.O. Box 2711, Los Angeles, California 90053–2325, (213) 894–0237.

Dated: June 13, 1992.

Charles S. Thomas,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 92–15763 Filed 7–2–92; 8:45 am]

BILLING CODE 3710–KF–M

DEPARTMENT OF EDUCATION

Business and Education Standards Program

AGENCY: Department of Education.

ACTION: Notice of proposed priority for fiscal year (FY) 1993.

SUMMARY: The Secretary proposes to establish a priority for FY 1993 under the Business and Education Standards Program. Under the proposed priority, the Secretary would fund projects that develop skill standards so that workers and trainees are aware of the skills that are required to perform a job well in national and international labor markets. The Secretary takes this action in an effort to help meet the needs of business, industry, and educational institutions that educate and train workers. This proposed priority is intended to result in competent entry-level workers who have attained national skill standards.

DATES: Comments must be received on or before August 5, 1992.

ADDRESSES: All comments concerning this proposed priority should be addressed to Debra J. Nolan, U.S. Department of Education, 400 Maryland Ave., SW., room 4512, Switzer Building, Washington, DC 20202–7242.

FOR FURTHER INFORMATION CONTACT: Debra J. Nolan. Telephone: 202–205–9650. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time).

SUPPLEMENTARY INFORMATION: The Business and Education Standards Program is authorized by section 416 of the Carl D. Perkins Vocational and Applied Technology Act, as amended by Public Law 101–392, 104 Stat. 756, 818 (1990). Under this proposed priority the Secretary would fund projects that will organize and operate business-labor-education technical committees to develop national skill standards and skill certificates for competencies in industries and trades. The following entities are eligible for an award under this program: Industrial trade associations, labor organizations, national joint apprenticeship committees, and comparable national organizations, such as educational associations, industry councils, business and industry organizations, and associations of private or national research organizations.

The Secretary encourages applicants, in meeting the proposed priority, to replicate standards or adapt methods used in this country and abroad. In the United States, for example, the automotive industry is notable in the development of skill standards and the certification of individuals who have

completed vocational-technical education programs. The work of the Vocational-Technical Education Consortium of States is notable in converting job analysis information into curriculum objectives and methods for assessing student achievement.

Other organizations that have attempted to define and measure employability and workplace competencies include the National Occupational Competency Testing Institute, the Educational Testing Service, the American College Testing Service, the American Society for Training and Development, the Secretary of Labor's Commission on Achieving Necessary Skills, and the National Occupational Information Coordinating Committee.

Other countries, such as Canada, the Netherlands, and Scotland, have done considerable work in developing national industry-based skill standards. These countries have been successful in establishing industry-occupational platform committees with strong representation from management, labor, education, and government.

The Netherlands has developed a computerized interactive curriculum information system for entering job analysis data and using artificial intelligence methods to convert those data into skill standards and vocational curricular objectives. The Netherlands has invited the United States to make use of this system, and the Secretary encourages interested applicants to do this. Applicants may obtain an abstract that describes the Netherlands system from the National Occupational Information Coordinating Committee in Washington, DC (Telephone: 202–653–5665).

The Assistant Secretary for Vocational and Adult Education has consulted with the Assistant Secretary of Labor for Employment and Training regarding the Business and Education Standards Program. Both Departments will be involved in reviewing applications under this competition and will continue meeting throughout the operation of the program.

The Business and Education Standards Program directly supports National Educational Goal 5—to ensure that every adult American possesses the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship. The program is also an important element of AMERICA 2000, the President's strategy to help America achieve the National Education Goals. Specifically, it addresses Track III of the AMERICA 2000 strategy—transforming America into "A Nation of Students"—by establishing standards for job skills and knowledge through a cooperative effort by business, industry, labor, and education groups, so that workers can see what skills are needed to perform a job and can evaluate their own grasp of those skills.

The Secretary will announce the final priority in a notice in the **Federal Register**. The final priority will be determined by responses to this notice, available funds, and other considerations of the Department. Funding of particular projects depends on the availability of funds, the nature of the final priority, and the quality of the applications received. The publication of this proposed priority does not preclude the Secretary from proposing additional priorities, nor does it limit the Secretary to funding only this priority, subject to meeting applicable rulemaking requirements.

Note: This notice of proposed priority does *not* solicit applications. A notice inviting applications under this competition will be published in the **Federal Register** concurrent with or following publication of the notice of final priority.

Priority: Under 34 CFR 75.105(c)(3) the Secretary proposes to give an absolute perference to applications that meet the following priority. The Secretary proposes to fund under this competition only applications that meet this absolute priority:

Projects that propose to carry out all of the following activities:

(1) Develop a coalition—of employers, labor organizations, associations, vocational educators and others—who will participate in the development of skill standards that will serve as a basis for a certification process. The coalition must broadly represent entities associated with a majority of the persons employed in a particular industry or industry cluster.

(2) Develop standards that include job-specific, academic, and reasoning skills along with a basis for certification process that show promise of being maintained and updated after termination of the project.

(3) Devlop methods for using skill standards as the basis for the development of curricula in vocational-technical education and for certification.

(4) Propose procedures for testing the validity of the skill standards to ensure nondiscrimination on the basis of race, color, national origin, gender, age, or disability.

(5) Develop a method for determining whether certified personnel are better performers than non-certified personnel.

(6) Propose procedures for identifying and accommodating probable future skill standards at the national and world class levels for business and industry.

Intergovernmental Review: This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order to to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation to Comment: Interested persons are invited to submit comments and recommendations regarding this proposed absolute priority. All comments submitted in response to this notice will be available for public inspection, during and after the comment period in room 4518, Switzer Building, 330 C Street, SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

Applicable Program Regulations: 34 CFR part 421.

Program Authority: 20 U.S.C. 2416.

(Catalog of Federal Domestic Assistance Number 84.244, Business and Education Standards Program)

Dated: May 12, 1992.

Lamar Alexander,

Secretary of Education.

[FR Doc. 92–15669 Filed 7–2–92; 8:45 am]

BILLING CODE 4000–01–M

[CFDA No.: 84.252]

Urban Community Service Program; Notice Extending the Closing Date for Transmittal of Applications for New Awards for Fiscal Year (FY) 1992

Deadline For Transmittal of Applications: On June 2, 1992, a notice was published that established the closing date for transmittal of applications for the FY 1992 competition under the Urban Community Service Program (57 FR 23276). The purpose of this notice is to extend the closing date for transmittal of applications. This action is taken as a result of the unavailability of applications until June 5, 1992. The closing date for applications is extended from July 17, 1992 to July 20, 1992.

For Applications or Information Contact: Mr. W. Stanley Kruger, Director, Division of Higher Education Incentive Programs, U.S. Department of Education, 400 Maryland Avenue, SW.,

room 3022, ROB–3, Washington, DC 20202–5251. Telephone: (202) 708–7389. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

Program Authority: 20 U.S.C. 1137–1138b.

Dated: June 29, 1992.

Carolynn Reid-Wallace,

Assistant Secretary for Postsecondary Education.

[FR Doc. 92–15667 Filed 7–2–92; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Notice of Solicitation for Financial Assistance

AGENCY: Idaho Field Office, U.S. Department of Energy.

ACTION: Notice of solicitation for financial assistance award(s).

SUMMARY: The U.S. Department of Energy (DOE) Idaho Field Office (ID), requests financial assistance applications on the basis of open competition, for cost sharing of new technology for the direct use of geothermal energy. The statutory authority for this action is the Federal Nonnuclear Energy Research and Development Act of 1974 (Pub. L. 93–577) and the Geothermal Energy Research Development Act (Pub. L. 93–410), which authorized DOE to conduct a program of research, development, and demonstration designed to promote geothermal technologies to commercial feasibility. This announcement is the complete solicitation document and no other document for this work is available. The objective of this program is to execute one or more cooperative agreements to support project(s) which use new technology for the direct use of geothermal energy in the research and development of smaller scale applications of byproduct heat from geothermal fluids, especially for applications in areas with rich geothermal resources, such as Hawaii. Award of one or more cooperative agreements is anticipated.

DATES: Five Copies of each application and a signed original are due by 4 p.m., Mountain Standard Time, September 4, 1992. late applications will be handled in accordance with 10 CFR 600.13.

ADDRESSES: Information regarding loan availability, eligibility criteria, and how to apply may be obtained from: U.S. Department of Energy, San Francisco Field Office, Attn: Minority Loan Program Office, (415) 273–6403, 1333 Broadway, Oakland, California 94612.

FOR FURTHER INFORMATION CONTACT: Dallas L. Hoffer, Contracts Management Division, U.S. Department of Energy, Idaho Field Office, 785 DOE Place, Idaho Falls, Idaho 83401–1562, (208) 526–0014.

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 600.202, DOE and/or DOE Contractors shall be substantially involved in the project(s). This involvement shall include shared responsibility by DOE and the participant for the direction of the project. DOE and the participant shall jointly determine what special tests, if any, shall be conducted; the content and format for reports, the type of data that shall be taken; and what equipment shall be procured. DOE shall also have the right to intervene in the conduct or performance of the project activities for programmatic reasons. Intervention shall include the interruption or modification of the conduct or performance of the project activities as necessary to meet DOE programmatic goals. A statement of substantial involvement further specifying the anticipated involvement of DOE during performance shall be negotiated and incorporated within the award instrument.

The projects(s) shall be cost shared by DOE and the participant. The project duration shall not exceed one year. No fee or profit shall be paid to the recipients of the award(s). DOE has obligated $700,000 for support of activities during the one year project period, and no other funds are currently available. Negotiation, award, and administration shall be in accordance with DOE Financial Assistance Regulations (10 CFR part 600). The Catalog of Federal Assistance number for this program is 81.087.

Application submitted in response to this solicitation shall provide detailed program, management, personnel, technology, site, environmental, cost share and budget information as further specified in this solicitation.

In the period since the enactment of the enabling legislation (Pub. L. 93–410) the DOE has supported an ongoing program supporting the development of commercially viable geothermal technologies. Optimization of new technologies for the direct use of geothermal energy in the research and development of smaller scale applications of byproduct heat from geothermal fluids, especially for applications in areas with rich natural resources is part of this program. New technologies for the direct use of geothermal energy can be used in systems for resorts and baths; fish farming; space heating; district heating; industrial processes; greenhouses; enhanced oil recovery; and, other similar applications.

New technologies for the direct use of geothermal energy may require entire new systems or retrofits to existing systems.

The project(s) is expected to test a new technology for the direct use of geothermal energy which is not currently used. The test is to be of a size which can be related to performance of a full scale unit. This does not mean that the test must be of full scale unit, but that the results of the experiment (e.g., equipment, cost, performance) can readily be extrapolated to full scale. The results shall be presented in a form which shall illustrate the benefit of the new direct use of geothermal energy technology.

A final report shall be required at the completion of the project which details the technical merit and economic benefits of the system. This report shall be prepared when sufficient data are available to actually demonstrate the conclusion, e.g., if the project involves a prototype or full scale system, this would be after sufficient operating time had elapsed to give indication of mature system performance and economic benefit. The report shall be of a form which can be disseminated to the geothermal industry to show the economic benefit of the proposed direct use technology.

The applicant shall include a concise but definitive statement of objectives for inclusion into any resulting agreement. The individual key tasks are to be defined and listed in logical sequence. It is the responsibility of the applicant to include all items in the statement of objectives that are required to accomplish the stated purpose of the project. Each task shall be priced separately.

The application shall be broken down into categories. The following is a list of the categories with a brief description of each. The application shall address each category.

(a) *Program and Management Plan:* The applicant shall submit a plan detailing the program objectives and how it plans to accomplish these objectives. This shall include where applicable, a discussion of all facilities to be constructed and/or retrofitted during the project duration. The applicant shall submit detailed plans that shall include where applicable, site location, engineering, construction, testing, operation and other relevant information which will assist DOE in

evaluating the project. A financial plan shall be included with proposed costs, manhours, and duration (with schedule and milestones) of the total project. In addition, the plan shall document internal support and shall detail the organization of the proposed team; communication plans; points of contact internally and externally; team organization fit/connection within the applying organization.

(b) *Key personnel:* The applicant shall submit a list of key personnel that will comprise the team. The list shall include education and prior experience in operations and maintenance, program/project management and testing and evaluation of geothermal systems. It shall be submitted in matrix form with resumes documenting claimed experience.

(c) *Data collection and reports:* There shall be a section in the application that details the participant's data plan and report submission to ensure accurate data and timely submission of progress reports and the final report. This includes the applicant's quality assurance plan. Plan for the final report shall be detailed. The method of extrapolating the results reported to operation of a full scale unit shall be included (if the project is smaller than full scale).

(d) *Direct use technology:* The applicant shall provide documentation to illustrate that the proposed direct use technology is new, viable and capable of being implemented into a test project. This description shall include a discussion of the improvement which will be exploited to achieve the economic benefit; evidence of the direct use technology feasibility; and, estimates of the economic benefit in terms of projected energy savings.

(e) *Site applicability:* The applicant shall provide documentation that demonstrate the geothermal resources is adequate and compatible with the proposed direct use technology in addition to the likelihood that the geothermal fluid will be available for the duration of the project. The ability to provide fluid can be demonstrated by inclusion of data such as documented well flow tests, multi-well interference tests, temperature logs, brine chemistry, pre-existence of production and injection wells (and documentation of their characteristics), and other suitable date. Site applicability shall also discuss the commercial and legal status of the site, including factors such as permitting, commercial arrangements, and environmental sensitivities. If the proposer does not control the resources, letter of intent or other documents establishing the right of the applicant to utilize the resource from the resource provider shall be included. In addition, sources of ancillary items such as electrical power shall be discussed if these resources are required as part of the proposed project.

(f) *Environmental impact:* The applicant shall include a listing, discussion and existing documentation if the project/activity has the possibility of involving, generating or resulting in changes to any of the following: (1) Air Pollutants—released or discharged into the atmosphere through point or fugitive sources; (2) Liquid Effluent—any waste stream discharged; (3) Solid Waste—nonradioactive, nonhazardous solid waste; (4) Radioactive Waste—waste containing >2 nCi/g; (5) Hazardous Waste—RCRA hazardous per 40 CFR 261.3 and polychlorinated biphenyls (PCBs); (6) Mixed Waste—combination of radioactive and hazardous waste; (7) Chemical Storage/Use—define species, uses and estimated volumes; (8) Petroleum Products Storage—define product, volume, use and type of storage; (9) Asbestos Waste—define friability, estimated volume, and if project is renovation or demolition; (10) Water Use/Diversion—withdrawal of groundwater or diversion or withdrawal of surface water; (11) Sewage System—all pipes, tanks, treatment structures, disposal areas, etc. for collection, treatment, and disposal of sewage; (12) Clearing/Excavation—removal of surface debris, vegetation, and other changes in soil surface features; (13) Construction/Renovation; (14) Excess Noise Levels—ambient noise level near proposed project/activity; (15) Pesticide Use—identify pesticide name, target organism, use area, application rate, method, and applicator; (16) Radiation Exposures—radiation levels at or near the proposed project/activity.

The discussion shall also address the following questions. Will this action contribute to cumulative impact with on-going activities? Is this action related to a proposed action with potentially significant impacts? Will the project create uncertain, unique, or unknown risks? Will the project require siting, construction, or expansion of a waste facility? Will the project impact a RCRA-regulated unit or facility? Will the project threaten or violate any statute, regulation, or DOE Order? Will the project require any federal, state, or local permits, approvals, etc.? Has this action/area been previously assessed under NEPA? Will the action take place in an area of previous or on-going disturbance? Will the action have any socioeconomic concerns? Will the project adversely affect any of the following environmentally sensitive resources? (1) Threatened/Endangered Species; (2) Wildlife/Vegetation; (3) Soils/Erosion; (4) Cultural/Historical; (5) Wilderness/Scenic Areas; (6) Prime/Unique Farmland; (7) Wild/Scenic Rivers; (8) Lakes/Floodplains/Wetlands; (9) Domestic/Groundwater; (10) Air Resources/Quality.

Discussions shall include how all environmental impacts will be mitigated. If an environmental impact cannot be mitigated, what are the direct and indirect, short term and long term adverse effects that can not be avoided?

(g) *Cost share:* The applicant shall include their proposed cost share for the cost of purchasing, installing, testing and operating equipment to test a new technology for the direct use of geothermal energy and preparing reports. A complete cost breakdown shall be provided to show how the cost share was determined.

Evalaution Criteria

All timely applications received shall be evaluated and point scored in accordance with the 10 CFR part 600, as amended October 13, 1989, and the subsequent published procedure issued May 31, 1990, for the Objective Merit Review of Discretionary Financial Applications and the technical evaluation criteria listed below.

The Technical Evaluation Criteria are weighted in the following manner: Criterion A.1 is weighed one-half of the total weight assigned to Criterion A. Criterion A.2 is weighed one-third of the total weight assigned to Criterion A. Criterion A.3 is weighed one-sixth of the total weight assigned to Criterion A. Criterion B is weighed five-sixths of Criterion A. Criterion C is weighed one-half of Criterion A. Criterion C, D and E are equally weighed.

Criterion A: Program and Management Plan, Key Personnel and Data Collection and Reports

(1) The Program and Management Plan shall be evaluated to determine the objectives of the applicant, the proposed methods of achieving these objectives and the schedule to achieve these objectives. In addition, it shall be evaluated to assess the quality of the provisions for technical, quality and administrative controls and to assure appropriate project maintenance and overall management.

(2) Key Personnel shall be evaluated as to their capabilities in project management, operation and maintenance, and testing and evaluating geothermal systems as demonstrated by education and past work experience.

(3) The Data Collection and Reports section of the application shall be evaluated to determine the adequacy of method(s) used to determine the economic benefits of the new direct use technology, extrapolate the results to a full size unit (if proposal is not a full scale unit), and extrapolate results to different resource conditions and, the method(s) for insuring the accuracy and timeliness of reports and data.

Criterion B: Direct Use Technology

(1) The Direct Use Technology shall be evaluated on the technical merit of the proposed direct use technology. The evaluation shall determine if the direct use technology is new; is based on sound scientific/engineering principles; the general applicability and timeliness of the direct use technology; the proposed reduction in use of energy compared to existing technology; the probability of implementing the direct use technology into a test project successfully.

Criterion C: Site Applicability

(1) The Site Applicability shall be evaluated on the compatibility of the proposed resource characteristics with the temperature, flow rate and flow duration requirements of the proposed direct use technology; site availability (commercial and legal status of the site); and, the availability of ancillary support services.

Criterion D: Environmental Impact

(1) Environmental impact shall be evaluated on the impact to the proposed project site and the impact (negative or positive) on the implementation of the proposed technology at other sites.

Criterion E: Cost Share

(1) Cost share shall be evaluated on the apparent cost share advantage to the Government.

Applications shall be responsive to all the above criteria. Total cost considerations will not be point scored or adjectivally rated. In making the selection decision, the apparent advantages of individual technical applications will be weighed against the evaluated probable total cost to the Government (including cost sharing) to determine whether technically superior applications, are worth the evaluated probable total cost differentials over other applications. If applications are very closely ranked and the Selecting Official determines that the superiority in the technical aspects of the higher rated application(s) is not meaningful when viewed in relationship to lower rated applications, evaluated probable total costs to the Government may form the basis for selection; therefore, a complete cost proposal shall be provided, detailing the cost elements i.e. direct labor, fringe benefit, equipment, supplies, materials, travel, overhead, indirect, etc. The application(s) determined by the Selecting Official to be in the overall best interest of the Government based upon the evaluation criteria contained in this solicitation and the programmatic goals identified in the enabling statute will be selected for negotiation and award.

Award will not be made until all environmental requirements are completed. In conducting the application evaluations, the Government may use assistance and advice from non-government personnel. Applicants are therefore requested to state on the application cover sheet if they do not consent to use of non-government personnel. Applicants are further advised that DOE may be unable to give full consideration to an application submitted without such consent. Information contained in the applications shall be treated in accordance with the policies and procedures set forth in 10 CFR 600.18.

DOE reserves the right to fund, in whole or in part, any, all, or none of the applications submitted in response to the solicitation. DOE may require applications to be clarified or supplemented to the extent considered necessary, either through additional written submissions or oral presentations; however, the award may be made solely on the information contained in the application. DOE is under no obligation to pay for any costs associated with preparation or submission of applications if an award is not made. If an award is made, such costs may be allowable as provided in applicable cost principles.

Instructions and Other Information

For-Profit, Not-For-Profit, Institutions of Higher Learning and State and Local Governments are eligible to submit applications in response to this solicitation. Application will reference the number of the Federal Register Solicitation, which is DE–PS07–ID13203. For-Profits shall include in their applications/proposals a certified copy of their most current calendar year financial statements. A–95 clearance is not required. Proposals from federal agencies and/or laboratories owned and operated, or under the direction of the Federal Government will also be accepted; however, any awards made to such entities may not be subject to 10 CFR 600. Applications anticipating participation of a federal laboratory through subcontract, use agreement, or other arrangement must include satisfactory evidence of specific authorization from the cognizant federal agency.

In accordance with the intellectual property prescriptions of the Department of Energy's 10 CFR part 600 Regulations (dated 1/1/91) for Financial Assistance Awards, the following provisions apply to this solicitation:

1. 600.33(b)(1), Patent Rights (Small Business Firm or Nonprofit Organization);
2. 600.207(b)(2), Patent Rights (Long Form);
3. 600.207(b)(3), Rights in Technical (Long Form);
4. 600.207(b)(4), Additional Technical Data Requirements;
5. 600.207(b)(5), Patent Indemnity;
6. 600.207(b)(7), Authorization and Consent;
7. 600.207(b)(8), Notice and Assistance; and;
8. 600.207(b)(9), Reporting of Royalties.

Note: 600.107(b)(2), Patent (Long Form) is applicable unless the applicant/proposer is a domestic small business or a domestic not-for-profit organization, in which case 600.33(b)(1), Patent Rights (Small Business Firm or Nonprofit Organization is applicable).

In accordance with the intellectual property prescription of the Department of Energy's Acquisition Regulation (DEAR), the following clauses apply to this solicitation:

1. 952.227–80, Technical Data Certification;
2. 952.227–82, Right to Proposal Data;
3. 952.227–83, Rights in Technical Data Solicitation representations; and
4. 952.227–84, Notice of Right to Request Waiver (DOE's 10 CFR 600 Regulation Provisions, 33(b)(1), Patent Rights (Small Business Firm or Nonprofit Organization) should be substituted where DEAR Clause 952.227–71 is referenced in DEAR Clause 952.227–84.

Notice of Possible Availability of Loans for Bid Proposal Preparation by Minority Business Enterprises Seeking DOE Contracts and Assistance

Section 212(e)(1) of the DOE Act (Pub. L. 95–91 as amended by Public Law 95–619) authorizes the Department of Energy (DOE) to provide financial assistance to minority business enterprises to assist them in their efforts to participate in DOE acquisition and assistance programs. Financial assistance is in the form of direct loans to enable the preparation of bids or proposals for DOE contracts and assistance awards, subcontracts with DOE operating contractors, and contracts with subcontracts of DOE

operating contractors. The loans are limited to 75 percent of the costs involved. Availability of these loans is subject to annual appropriation of funds and the remaining availability of funds from such appropriations under CFDA number XX.XXX. DOE does not warrant that such assistance can be made available in sufficient time to prepare an application for this solicitation. DOE does point out that the program includes provisions for a preliminary review in advance of a specific loan request.

Each application in response to this solicitation should be prepared in one volume. One original and five copies of each application are required. Applications shall exclude material not essential to evaluation of the proposal. The application is to be prepared for the complete project.

Applications shall be as short as possible consistent with completeness, clearly and concisely written and neat and logically assembled. The importance of supplying full and completely responsive information for each of the evaluation criteria cannot be overemphasized. If the offer is submitted under a joint venture arrangement, this fact mut be clearly set forth. The cost principles that shall apply will depend on the type of awardee(s): FAR 31.2 and DEAR 931.2 shall apply to commercial organizations, OMB Circular A–21 shall apply to institutions of higher education, OMB Circular A–87 shall apply to state and local governments; and OMB circular A–122 shall apply to nonprofit organizations. Reporting under any agreement awarded will be in accordance with DOE Order 1332.2 "Uniform Reporting System for Federal Assistance." The awardee(s) must have an accounting system capable of accumulating costs by project. All applicants are required to provide in their proposal the nine-digit Taxpayer Identification Number (TIN) assigned by the U.S. Internal Revenue Service. Applications must include completed Standard Forms 424 "Application for Federal Assistance," 424A "Budget Information," 424B "Assurances-Non-Construction Programs," and DOE Form 1600.5 "Nondiscrimination in Federally Assisted Programs," and include certifications for Drug-Free Workplace, Lobbying and Regarding Debarment, Suspension and Other Responsibility Matters—Primary Covered Transactions. These may be obtained from the DOE contact person named below. The specific reporting requirements, prepared in accordance with DOE Order 1332.2 "Uniform Reporting System for Federal Assistance," are also obtainable from the DOE Contact Person. Applications should be submitted to the DOE contact given below.

Prospective applicants intending to submit an application in response to this solicitation should notify the Contact Person below of their intent in writing within 30 days after the date of this publication. Questions regarding this solicitation should also be submitted to the Contact Person in writing by August 10, 1992. Questions and answers will be issued in writing by amendment to this solicitation. Copies of all amendments to this solicitation will be sent only to those notifying the Contact Person of their intent to submit an application. Selection is expected to be made on or about November 10, 1992, and the earliest award(s) is expected to be made February 12, 1993. Unsuccessful applications will not be returned to the applicants and may be retained by DOE.

Dated: June 24, 1992.

Dolores J. Ferri,

Director, Contracts Management Division.

[FR Doc. 92–15722 Filed 7–2–92; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. ER92–459–000, et al.]

PacifiCorp, et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

Take notice that the following filings have been made with the Commission:

1. PacifiCorp

[Docket No. ER92–459–000]

June 24, 1992

Take notice that June 17, 1992, PacifiCorp tendered for filing an amendment to its original filing filed in this docket on April 14, 1992.

Comment date: July 8, 1992, in accordance with Standard Paragraph E at the end of this notice.

2. Gordonsville Energy, L.P. (Unit II)

[Docket No. QF92–167–000]

June 24, 1992

On June 19, 1992, Gordonsville Energy, L.P. of 12500 Fair Lakes Circle, Suite 420, Fairfax, Virginia 22033, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to Section 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 near Gordonsville, Virginia and will consist of a combustion turbine generator, a supplementary fired heat recovery boiler and an extraction/condensing steam turbine generator (STG). Steam recovered from the STG will be used by Liberty Fabrics in fabric dyeing and drying process. The maximum net electric power production capacity of the facility will be approximately 128 MW. The primary energy source will be natural gas. Construction of the facility is expected to commence in the latter part of 1992.

Comment date: August 5, 1992, in accordance with Standard Paragraph E at the end of this notice.

3. Florida Power & Light Co.

[Docket No. ER92–648–000]

June 24, 1992

Take notice that on June 17, 1992, Florida Power & Light Company (FPL) tendered for filing the Contract for Purchases and Sales of Scheduled Power and Energy Between FPL and City of Lake Worth, Florida. FPL requests an effective date of July 1, 1992.

Comment date: July 8, 1992, in accordance with Standard Paragraph E at the end of this notice.

4. Northern Indiana Public Service Co.

[Docket No. ER92–649–000]

June 24, 1992

Take notice that on June 17, 1992, Northern Indiana Public Service Company tendered for filing Modification No. 1 to the Service Agreement with IMPA and affected changes to its FERC Electric Service Tariff—Fourth Revised Volume No. 1.

Modification No. 1 covers new Service Schedules G, H, I, J, and K. A new delivery point is provided for IMPA in Supplement B.

The proposed effective date of service under this Modification No. 1 and the proposed service map is August 1, 1992.

Copies of this filing have been served upon all of the parties and the Indiana Utility Regulatory Commission.

Comment date: July 8, 1992, in accordance with Standard Paragraph E end of this notice.

5. Green Mountain Power Co.

[Docket No. ER92–330–001]

June 24, 1992

Take notice that on June 5, 1992, Green Mountain Power Company (Green Mountain) tendered for filing its compliance filing in the above-referenced docket.

Comment date: July 8, 1992, in accordance with Standard Paragraph E at the end of this notice.

6. Mid-Continent Area Power Pool

[Docket No. ER92–483–000]

June 24, 1992

Take notice that on June 15, 1992, Mid-Continent Power Pool (MAPP) tendered for filing an amendment to its original filing filed on April 27, 1992 in the above-referenced docket.

Comment date: July 8, 1992, in accordance with Standard Paragraph E at the end of this notice.

7. Idaho Power Co.

[Docket No. ER92–408–000]

June 25, 1992

Take notice that on June 1, 1992, Idaho Power Company (IPC) tendered for filing an amendment to the rate schedule filing in the above referenced docket regarding a firm energy sale to Oregon Trail electric Consumers Cooperative, Inc.

Idaho Power has renewed its request for an effective date of January 1, 1992, for the Service Agreement and Letter Agreement dated December 24, 1991.

Comment date: July 10, 1992, in accordance with Standard Paragraph E at the end of this notice.

8. Public Service Company of New Hampshire

[Docket Nos. ER92–32–000 and ER92–73–000]

June 25, 1992

Take notice that on June 9, 1992, Public Service Company of New Hampshire (PSNH) tendered for filing supplemental information regarding the above-referenced dockets.

Comment date: July 10, 1992, in accordance with Standard Paragraph E at the end of this notice.

9. Iowa Southern Utilities Co.

[Docket No. ES92–43–000]

June 26, 1992

Take notice that on June 18, 1992, Iowa southern Utilities Company (Iowa Southern) filed an application with the Federal Energy Regulatory Commission under § 204 of the Federal Power Act requesting authorization to issue not more than $50 million of First Mortgage Bonds, over a two-year period. Also, Iowa Southern requests exemption from the Commission's competitive bidding regulations.

Comment date: July 17, 1992, in accordance with Standard Paragraph E at the end of this notice.

10. Gordonsville Energy, L.P. (Unit I)

[Docket No. QF92–166–000]

June 26, 1992

On June 19, 1992, Gordonsville energy, L.P. of 12500 Fair Lakes Circle, Suite 420, Fairfax, Virginia 22033 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 in Louisa County, near Gordonsville, Virginia and will consist of a combustion turbine generator, a supplementary fired heat recovery boiler, and an extraction/condensing steam turbine generator (STG). Steam recovered from the STG will be used by Liberty Fabrics in fabric dyeing and drying process. The maximum net electric power production capacity will be approximately 128 MW. The primary energy source will be natural gas. Construction of the facility is expected to commence in the latter part of 1992.

Comment date: August 5, 1992, 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. 92–15708 Filed 7–2–92; 8:45 am]

BILLING CODE 6717–01–M

Hydroelectric Applications (City of Tacoma, Washington, et al.); Notice of Applications

[Project Nos. 1862–009 et al.]

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

a. *Type of Application:* New License.

b. *Project No.* 1862–009.

c. *Date filed*: December 26, 1991.

d. *Applicant*: City of Tacoma, Washington.

e. *Name of Project*: Nisqually Hydroelectric Project.

f. *Location*: On the Nisqually River in Pierce, Thurston, and Lewis Counties, Washington, near the town of Eatonville. The project occupies lands within the Mt. Baker-Snoqualmie National Forest. Willamette Meridian.

g. *Filed Pursuant to*: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact*:

Garth Jackson, P.E., Resource Development Coordinator, City of Tacoma, Dept. of Public Utilities, Light Division, P.O. Box 11007, Tacoma, WA 98411, (206) 593–8298.

Ms. Pamela Klatt, Project Manager, Harza Northwest, Inc., P.O. Box C–98009, Bellevue, WA 98009, (206) 882–2455.

i. *FERC Contact*: Ms. Deborah Frazier-Stutely (202) 219–2842.

j. *Comment Date*: August 27, 1992.

k. *Description of Project*: The existing project would consist of two Developments. The Adler Development would consist of: (1) The 285-foot-high, 1,600-foot-long concrete arch Alder dam; impounding, (2) the 3,065 acre Alder reservoir with a storage capacity of 161,457 acre-feet with a surface elevation of 1,140 feet msl; (3) a reinforced concrete spillway channel consisting of four 32-foot-wide spillway gates; (4) two 10-foot-diameter steel penstocks located within the dam, each with four removable trashracks; (5) a 130-foot-long, 53-foot-wide reinforced concrete powerhouse, located at the base of Alder Dam, containing two vertical shaft hydraulic-turbine driven generators with a combined capacity of 50,000 kW; (6) a switchyard; (7) two 115-kV, 3-mile-long transmission lines terminating at a Tacoma Public Utilities line.

The average annual energy generation at the Alder Development is 228,000,000 kWh.

The LaGrande Development would consist of: (1) The 192-foot-high, 710-foot-long concrete gravity LaGrande Dam at elevation 942 feet msl, 1.5 miles downstream of the Alder Development; impounding, (2) the 45 acre LaGrande Reservoir with a storage capacity of 2,700 acre-feet with a surface elevation of 935 feet msl; (3) a 164-foot-long-spillway consisting of four 23-foot-high, 32-foot-long radial gates; (4) a 78-inch-diameter overflow pipe with a 66-inch Howell-Bunger valve; (5) a 14.5-foot-diameter, 6,400-foot-long underground tunnel; (6) a surge tank at end of tunnel; (7) a 13.5-foot-diameter steel pipe; ending at (8) a 10-foot-diameter manifold branching into (9) four 5-foot-diameter penstocks; (10) a 11.5-foot-diameter penstock; (11) powerhouse containing five generating units with a combined

capacity of 69,000 kW; (12) a tailrace; (13) a 115-kV switchyard; (14) two 115-kV, 26.2-mile-long transmission line terminating at the Cowlitz Substation.

The average annual generation at the LaGrande Development is 345,000,000 kWh.

m. *Purpose of Project*: Project power would be sold to a local utility.

n. *This notice also consists of the following standard paragraphs:* B1, E.

o. *Available Locations of Applications*: A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at the applicant's office (see item (h) above).

2a. *Type of Application:* New Major License.

b. *Project No.:* 2376–001.

c. *Date filed:* December 13, 1991.

d. *Applicant:* Appalachian Power Company.

e. *Name of Project:* Reusens Hydroelectric Project.

f. *Location:* On the James River in the city of Lynchburg, Virginia.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contract:* Mr. B. H. Bennett, Assistant Vice President, American Electric Power Service Corporation, 1 Riverside Plaza, Columbus, Ohio 43215, (614) 223–2930.

i. *FERC Contact:* Mr. Hector Perez, (202) 219–2843.

j. *Comment Date:* August 17, 1992.

k. *Status of Environmental Analysis:* This application is not ready for environmental analysis at this time—see attached paragraph E.

l. *Description of Project:* The run-of-river project consists of: (1) A 25-foot-high, 416-foot-long concrete dam and spillway section topped with eight 16¾-foot-high flood gates; (2) a 25-foot-high, 125-foot-long curved auxiliary spillway section topped with 7¼-foot-high flashboards; (3) a 500-acre impoundment; (3) two powerhouses, one containing three generating units with a total installed capacity of 7,500 kW, and one containing two generating units with a total installed capacity of 5,000 kW; and (4) appurtenant facilities.

The Applicant is not proposing any changes to the existing project works as licensed. The average annual generation for the project is 37,280 MWh.

m. *Purpose of Project:* All energy generated by the project would be utilized by the customers of the Appalachian Power Company.

n. *This notice also consists of the following standard paragraphs:* B1 and E.

o. *Available Locations of Application:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at the Appalachian Power Company, located at 40 Franklin Road, Roanoke, Virginia 24022, or by calling Mr. B. H. Bennett at (614) 223–2930.

3a. *Type of Application:* New Major License.

b. *Project No.:* 2420–001.

c. *Date filed:* December 23, 1991.

d. *Applicant:* PacifiCorp Electric Operations.

e. *Name of Project:* Cutler Hydroelectric Project.

f. *Location:* On the Bear River near the city of Logan, in Cache and Box Elder Counties, Utah.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Stanley A. deSousa, Director, Hydro Resources, PacifiCorp Electric Operations, 920 SW., Sixth Avenue, Portland, Oregon 97204, (503) 464–5343.

i. *FERC Contact:* Mr. Hector Perez, (202) 219–2843.

j. *Comment Date:* August 17, 1992.

k. *Status of Environmental Analysis:* This application is not ready for environmental analysis at this time—see attached paragraph E.

l. *Description of Project:* This project consists of: (1) A 109-foot-high, 545-foot-long concrete gravity arch dam; (2) a 5,459-acre reservoir; (3) a 1,160-foot-long, 18-foot-diameter flowline; (4) two 120-foot-long, 14-foot-diameter steel penstocks extending from a bifurcation in the flowline to a powerhouse; (5) the powerhouse containing two generating units with a total installed capacity of 30 MW; (6) step-up transformers connecting to transmission facilities; and (7) appurtenant facilities.

The Applicant is not proposing any changes to the existing project facilities as licensed. The estimated average annual generation for the Cutler project is 106,014 MWh.

m. *Purpose of Project:* All energy generated by the project would be utilized by the customers of PacifiCorp Electric Operations.

n. *This notice also consists of the following standard paragraphs:* B1 and E.

o. *Available Locations of Application:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at the office of PacifiCorp Electric Operations, located at 920 SW. Sixth Avenue, Portland, Oregon 97204, or by calling Mr. Stanley A. deSousa at (503) 464–5343.

4a. *Type of Application:* New Major License.

b. *Project No.:* 2422–004.

c. *Date Filed:* October 11, 1991.

d. *Applicant:* James River-New Hampshire Electric, Inc..

e. *Name of Project:* Sawmill Project.

f. *Location:* On the Androscoggin River, Coos County, New Hampshire.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contract:* Mr. George W. Hill, James River-New Hampshire Electric, Inc., 650 Main Street, Berlin, NH 03570–2489, (603) 752–4600.

i. *FERC Contact:* Mary Golato (tag) (202) 219–2804.

j. *Deadline Date:* Comments due August 21, 1992. Reply comments due October 5, 1992. .

k. *Status of Environmental Analysis:* This application is ready for environmental analysis at this time—see attached paragraph D9.

l. *Description of Project:* The proposed project's principal features consists of the following: (1) An existing 720-foot-long dam; (2) an existing impoundment with a surface area of about 72.5 acres, a storage capacity of about 620 acre-feet, and a normal pool elevation of 1,094.5 feet mean sea level (msl); (3) an existing powerhouse equipped with four turbine-generators having a total rated capacity of 3,174 kilowatts; (4) an existing tailrace channel; (5) an existing transmission line of about 1,800 feet long; and (6) appurtenant facilities. The owner of the dam is the James River-New Hampshire Electric Company.

The applicant is not proposing any changes to the existing projects works as licensed. The applicant estimates the average annual generation would be 17.85 gigawatthours and owns all existing project facilities.

The existing project would be subject to Federal takeover under section 14 and 15 of the Federal Power Act. Based on the license expiration of December 31, 1993, the applicant's estimated net investment in the project would amount to $2,158,000.00.

m. *Purpose of Project:* All project energy generated would be utilized by the applicant for sale to its customers.

n. *This notice also consists of the following standard paragraphs:* A4 and D9.

o. *Available Locations of Application:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 219–1371. A copy is also available for inspection and reproduction at Mr. George W. Hill, James River-New Hampshire Electric, Inc., 650 Main Street, Berline, NH 03570–2489, (603) 752–4600.

5a. *Type of Application:* New Major License.

b. *Project No.:* 2448–011.

c. *Date filed:* December 19, 1991.

d. *Applicant:* Consumers Power Company.

e. *Name of Project:* Mio.

f. *Location::* On the Au Sable River within the Huron National Forest near Mentor and Big Creek in Oscoda County, Michigan.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Stan Martin, 1945 Parnall Road, Jackson, MI 49201, (517) 788–1270.

i. *FERC Contact:* Ms. Julie Bernt, (202) 219–2814.

j. *Deadline Date:* August 28, 1992.

k. *Status of Environmental Analysis:* This application is not ready for environmental analysis at this time—see attached paragraph E1.

l. *Description of Project:* The licensed project would consist of the following existing facilities: (1) A 2,120-foot-long earth embankment dam; (2) a 30-foot-long reinforced concrete spillway; (3) a reservoir with a surface area of 661 acres at surface elevation 962.6 feet m.s.l. and a storage area of 6,061 acre-feet; (4) a powerhouse containing two generating units each with a rated capacity of 2,480 kW; (5) a concrete tailrace; and (6) appurtenant facilities. The applicant is proposing no changes to the project. The average annual net energy generation is 15,396 MWh. The applicant owns all the existing project facilities.

The existing project would also be subject to Federal takeover under Sections 14 and 15 of the Federal Power Act.

m. *Purpose of Project:* Project power would be utilized by the applicant for sale to its customers.

n. *This notice also consists of the following standard paragraphs:* B1 and E1.

o. *Available Location of Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Consumers Power Company, 1945 Parnall Road, Jackson, Mi 49201, or by calling (517) 788–1270.

6a. *Type of Application:* New Major License.

b. *Project No.:* 2449–007.

c. *Date filed:* December 19, 1991.

d. *Applicant:* Consumers Power Company.

e. *Name of Project:* Loud.

f. *Location:* On the Au Sable River within the Huron National Forest near Plainfield and Oscoda in Iosco County, Michigan.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Stan Martin, 1945 Parnall Road, Jackson, MI 49201, (517) 788–1270.

i. *FERC Contact:* Ms. Julie Bernt, (202) 219–2814.

j. *Deadline Date:* August 28, 1992.

k. *Status of Environmental Analysis:* This application is not ready for environmental analysis at this time—see attached paragraph E1.

l. *Description of Project:* The licensed project would consist of the following existing facilities: (1) A 2,000-foot-long earth embankment dam; (2) a 90-foot-long reinforced concrete spillway; (3) a reservoir with a surface area of 743 acres at surface elevation 742.6 feet m.s.l. and a storage area of 6,987 acre-feet; (4) a powerhouse containing two generating units each with a rated capacity of 2,000 kW; (5) a concrete tailrace; and (6) appurtenant facilities. The applicant is proposing no changes to the project. The average annual net energy generation is 18, 964 MWh. The applicant owns all the existing project facilities.

The existing project would also be subject to Federal takeover under Sections 14 and 15 of the Federal Power Act.

m. *Purpose of Project:* Project power would be utilized by the applicant for sale to its customers.

n. *This notice also consists of the following standard paragraphs:* B1 and E1.

o. *Available Location of Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. A copy if also available for inspection and reproduction at Consumers Power Company, 1945 Parnall Road, Jackson, MI 49201, or by calling (517) 788–1270.

7a. *Type of Application:* New Major License.

b. *Project No.:* 2514–003.

c. *Date filed:* December 16, 1991.

d. *Applicant:* Appalachian Power Company.

e. *Name of Project:*Byllesby/Bucks Hydroelectric Project.

f. *Location:* On the New River near the city of Galax, in Carroll County, Virginia.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. B. H. Bennett, Assistant Vice President, American Electric Power Service Corporation, 1 Riverside Plaza, Columbus, Ohio 43215, (614) 223–2930.

i. *FERC Contact:* Mr. Hector Perez, (202) 219–2843.

j. *Comment Date:* August 17, 1992.

k. *Status of Environmental Analysis:* This application is not ready for environmental analysis at this time—see attached paragraph E.

l. *Description of Project:* This project consists of two developments. The first, the Byllesby development, consists of: (1) A 44-foot-high, 528-foot-long concrete dam and spillway section topped with nine 9-foot-high flashboards; (2) a 239-acre impoundment; (3) a powerhouse containing four generating units with a total installed capacity of 21,600 kW; and (4) appurtenant facilities.

The second, the Buck development, consists of: (1) A 44-foot-high, 352-foot-long concrete dam; (2) a 1,005-foot-long, 19-foot-high spillway section topped with twenty-two 9-foot-high flashboards; (3) a 66-acre impoundment; (4) a powerhouse containing three generating units with a total installed capacity of 10,505 kW; and (5) appurtenant facilities.

The Applicant is not proposing any changes to the existing project facilities as licensed. The estimated average annual generation for the Byllesby and Buck developments are 64,000 MWh and 42,000 MWh, respectively.

m. *Purpose of Project:* All energy generated by the project would be utilized by the customers of the Appalachian Power Company.

n. *This notice also consists of the following standard paragraphs:* B1 and E.

o. *Available Locations of Application:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104,

Washington, DC 20426, or by calling (202) 208–1371. A copy if also available for inspection and reproduction at the Appalachian Power Company, located at 40 Franklin Road, Roanoke, Virginia 24022, or by calling Mr. B. H. Bennett at (614) 223–2930.

8a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11285–000.

c. *Date Filed:* May 1, 1992.

d. *Applicant:* Casitas Municipal Water District.

e. *Name of Project:* Casitas Dam Hydroelectric.

f. *Location:* On land owned by Bureau of Reclamation; on Lake Casitas in Ventura County, California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. John J. Johnson, Casitas Municipal Water District, 1055 Ventura Avenue, P.O. Box 37, Oak View, CA 93022, (805) 649–2251.

i. *FERC Contact: Mr. Surender M. Yepuri, P.E., (202) 219–2847.*

j. *Comment Date:* August 20, 1992.

k. *Description of Project:* The applicant would utilize the existing dam owned by the Bureau of Reclamation. Water for the project would be taken from the dam's existing outlet works and then discharged into the applicant's proposed water treatment plant. The proposed project would consist of a 34-foot-wide, 60-foot-long powerhouse containing two turbine generator units with a total rated capacity of 1,000 kW. The applicant estimates an average annual generation of 2.47 GWh and the cost of the work to be performed under the permit to be $120,000.

l. *Purpose of Project:* Project power would be utilized by the applicant to operate its water treatment plant and pumping station.

m. *This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.*

9a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11290–000.

c. *Date Filed:* May 11, 1992.

d. *Applicant:* Taiya Inlet Hydro.

e. *Name of Project:* Taiya Inlet Hydro Power.

f. *Location:* Within Tongass National Forest, on Dayebas Creek, Haines Borough, near Haines, Alaska (Sections 1–12, 14–17, 21, 22, 26, 27, 28, and 32–35; T29S and T30S; R60E).

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Earle V. Ausman, 1503 W. 33rd Avenue, Anchorage, AK 99503, (907) 258–2420.

i. *FERC Contact: Mr. Surender M. Yepuri, P.E. (202) 219–2847.*

j. *Comment Date:* August 27, 1992.

k. *Description of Project:* The proposed project would consist of: (1) A 9.5-foot-high, 80-foot-long timber buttress dam; (2) a reservoir at elevation 509.5 feet with a surface area of 2 acres; (3) a 30-inch-diameter, 1400-foot-long steel penstock; (4) a 24-foot-wide, 30-foot-long powerhouse containing a turbine-generator unit with a rated capacity of 2 MW; (5) a short tailrace; (6) a 3-mile-long, 14.4-kV/24.9-kV transmission line (submerged cable); and (7) appurtenant structures.

The applicant estimates an average annual generation of 13.87 GWh and the cost of the work to be performed under the permit to be $45,000.

l. *Purpose of Project:* Project power would be sold to a local utility.

m. *This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.*

10a. *Type of Application:* Preliminary Permit.

b. *Project No.*: 11292–000.

c. *Date filed*: May 20, 1992.

d. *Applicant*: Dunkirk Dam Lake District.

e. *Name of Project*: Dunkirk Dam Hydroelectric Project.

f. *Location*: On the Yahara River, Town of Dunkirk, Dane County, Wisconsin.

g. *Filed Pursuant to*: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact*: Mr. Joseph Campbell, Chair, P.O. Box 83, Stoughton, Wisconsin 53589, (608) 873–0993.

i. *FERC Contact*: Mary Golato (202) 219–2804.

j. *Comment Date*: August 28, 1992.

l. *Description of Project*: The proposed project would consist of the following facilities: (1) An existing dam consisting of a fixed crest overflow spillway, two stop-log bays, tainter gate bays and gates, and earthern embankments; (2) a reservoir with a surface area of 70 acres at a storage capacity of 260 acre-feet; (3) a proposed powerhouse containing two vertical shaft turbine units at an installed capacity of 345 kilowatts; (4) an existing transmission line; and (5) appurtenant facilities. The dam is owned by the Wisconsin Edison Corporation. The average annual generation would be 1,000,000 kilowatthours. The estimated cost of the studies under permit would be $20,000.

m. *This notice also consist of the following standard paragraphs*: A3, A7, A9, A10, B, C, and D2.

11a. *Type of Application*: Preliminary Permit.

b. *Project No.*: 11294–000.

c. *Date filed*: May 22, 1992.

d. *Applicant*: Racehorse Company.

e. *Name of Project*: Racehorse Creek.

f. *Location*: On Racehorse Creek, in Whatcom county Washington. Township 39 N, Range 5 E, Sections 10, 11, 13, 17, and 18.

g. *Filed Pursuant to*: Federal Power Act 16 U.S.C. 791(a)—825(r).

h. *Applicant Contact*: Mr. William L. Devine, P.O. Box 68, Maple Falls, WA 98266, (202) 599–2927.

i. *FERC Contact*: Michael Spencer at (202) 219–2846.

j. *Comment Date*: August 27, 1992.

k. *Description of Project*: The proposed project would consist of: (1) A 10-foot-high diversion dam; (2) 30-inch-diameter, 15,000-foot-long penstock; (3) a powerhouse containing a generating unit with a capacity of 4.5 MW and an average annual generation of 17.0 GWh; and (5) a 9,100-foot-long transmission line.

No new access road will be needed to conduct the studies. The applicant estimates that the cost of the studies to be conducted under the preliminary permit would be $20,000.

l. *Purpose of Project*: Project power would be sold.

m. *This notice also consist of the following standard paragraphs*: A5, A7, A9, A10, B, C, and D2.

12a. *Type of Application*: Preliminary Permit.

b. *Project No.*: 11299–000.

c. *Date filed*: June 2, 1992.

d. *Applicant*: Peak Power Corporation.

e. *Name of Project*: West Mesa Modular Pumped Storage Project.

f. *Location*: On lands administered by the Bureau of Land Management in the Fish Creek Mountains, approximately 23 miles northwest of El Centro, California. Sections 4, 6, 7, 8, and 9 in T14S, R10W.

g. *Filed Pursuant to*: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact*: Mr. Rick S. Koebbe, Peak Power Corporation, 10 Lombard Street, Suite 410, San Francisco, CA 94111, (415) 362–0887.

i. *FERC Contact*: Mr. Michael Strzelecki, (202) 219–2827.

j. *Comment Date*: August 22, 1992.

l. *Description of Project*: The proposed pumped storage project would consists of: (1) A 60-foot-high concrete dam and 61-acre upper reservoir; (2) a 118-inch-diameter, 8,000-foot-long penstock connecting the upper reservoir with a lower reservoir; (3) a 120-foot-high concrete dam and 30-acre lower reservoir; (4) an underground powerhouse containing two 50-MW generating units; (5) a 13,000-foot-long transmission line interconnecting with an existing Imperial Irrigation District transmission line; and (6) appurtenant facilities.

No new access roads will be needed to conduct the studies. The approximate cost of the studies would be $1,00,000.

m. *This notice also consist of the following standard paragraphs*: A5, A7, A9, A10, B, C, and D2.

Standard Paragraphs

A3. Development Application—Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permits will not be accepted in response to this notice.

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. Under the Commission's regulations, any competing development application must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a dvelopment application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

B1. Protests or Motions to Intervene—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, Room 1027, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D9. Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to § 4.34(b) of the regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. (August 21, 1992 for P–2422–004).

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title "COMMENTS", "REPLY COMMENTS", "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and

conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, Room 1027, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

E. Filing and Service of Responsive Documents—The application is not ready for environmental analysis at this time; therefore, the Commission is not now requesting comments, recommendations, terms and conditions, or prescriptions.

When the application is ready for environmental analysis, the Commission will notify all persons on the service list and affected resource agencies and Indian tribes. If any person wishes to be placed on the service list, a motion to intervene must be filed by the specified deadline date herein for such motions. All resource agencies and Indian tribes that have official responsibilities that may be affected by the issues addressed in this proceeding, and persons on the service list will be able to file comments, terms and conditions, and prescriptions within 60 days of the date the Commission issues a notification letter that the application is ready for an environmental analysis. All reply comments must be filed with the Commission within 105 days from the date of that letter.

All filings must (1) bear in all capital letters in the title "PROTEST" or "MOTION TO INTERVENE;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 19 CFR 385.2001 through 385.2005. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, Room 1027, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

E1. Filing and Service of Responsive Documents—The application is not ready for environmental analysis at this time; therefore, the Commission is not now requesting comments, recommendations, terms and conditions, or prescriptions.

When the application is ready for environmental analysis, the Commission will issue a public notice requesting comments, recommendations, terms and conditions, or prescriptions.

All filings must (1) bear in all capital letters the title "PROTEST" or "MOTION TO INTERVENE;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, Room 1027, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

Dated: June 30, 1992, Washington, DC.

Lois D. Cashell,

Secretary.

[FR Doc. 92–15709 Filed 7–2–92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. JD92–07395T Oklahoma-23]

State of Oklahoma; NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formation

June 29, 1992.

Take notice that on June 25, 1992, the Corporation Commission of the State of Oklahoma (Oklahoma) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Medrano Formation underlying a protion of Grady County qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The designated area consists of Sections 7, 18 and 19, Township 5 North, Range 6 West; Sections 3, 4, 5, 9 and 10, Township 4 North, Range 7 West and Sections 8 through 17, 20 through 29 and 32 through 35, Township 5 North, Range 7 West.

The notice of determination also contains Oklahoma's findings that the referenced portion of the Merdrano Formation meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell.

Secretary.

[FR Doc. 92–15714 Filed 7–2–92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. JD92–07394T Oklahoma-22]

State of Oklahoma; NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formation

June 29, 1992.

Take notice that on June 25, 1992, the Corporation Commission of the State of Oklahoma (Oklahoma) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Cherokee Group Formation underlying a portion of Roger Mills County qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The designated area consists of Sections 7, 15, 16, 17 and 18, Township 15 North, Range 21 West and Sections 12 and 13, Township 15 North, Range 22 West.

The notice of determination also contains Oklahoma's findings that the referenced portion of the Cherokee Group Formation meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and

275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell

Secretary.

[FR Doc. 92-15715 Filed 7-2-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP92-537-000, et al.]

Viking Gas Transmission Company, et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Viking Gas Transmission Co.

[Docket No. CP92-537-000]

June 24, 1992.

Take notice that on June 16, 1992, Viking Gas Transmission Company (Viking), 1010 Milam Street, Houston, Texas 77002, filed in Docket No. CP92-537-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to establish a new delivery point for service to Northern States Power Company (NSP), an existing transportation customer, under Viking's blanket certificate issued in Docket No. CP82-414-000 [1], all as more fully described in the request which is on file with the Commission and open to public inspection.

Viking requests authorization to add the new delivery point on its system in Chippewa County,Wisconsin. It is stated that Viking transports natural gas for NSP on an interruptible basis under the terms of its IT-2 Rate Schedule and that Viking and NSP are parties to a transportation agreement dated October 30, 1990. It is asserted that Viking would deliver up to 26,400 Mcf of natural gas per day to NSP at the additional delivery point. It is further asserted that this volume is within NSP's currently authorized entitlement from Viking. It is explained that NSP will reimburse Viking for the cost of new facilities required. This cost is estimated at $275,000. It is stated that Viking has sufficient capacity to accomplish deliveries at the new delivery point without detriment or disadvantage to its other customers.

Comment date: August 10, 1992, in accordance with Standard Paragraph G at the end of this notice.

2. United Gas Pipe Line Co.

[Docket No. CP92-553-000]

June 26, 1992

Take notice that on June 25, 1992, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-5390, filed in Docket No. CP92-553-000, a request pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to install a two-inch delivery tap, meter station and flow computer on the existing Hayes 12-inch line to provide a delivery point on behalf of Endevco Oil & Gas Company (Endevco) to serve Strohs' Brewery, under the authorization issued in Docket No. CP82-430-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

It is stated that these facilities are required to comply with the terms of an interruptible transportation agreement between Endevco and United to deliver an estimated daily volume of 2,500 MMBtu per day to Strohs' Brewery. United states that the facilities will be located in Marshall Mann Survey (A0256), Gregg County, Texas. It is estimated that the cost for the proposed facilities is $21,365, and Endevco will reimburse United for the costs resulting from the proposal.

United states that installation of facilities for Endevco will not have an impact on United's curtailment plan because the proposed service is interruptible in nature. Additionally, it is stated that the service will remain with the current certificated level of service.

Comment date: August 10, 1992, in accordance with Standard Paragraph G at the end of this notice.

3. Panhandle Eastern Pipe Line Co. and Trunkline Gas Co.

[Docket No. CP92-539-000]

June 25, 1992

Take notice that on June 16, 1992, Panhandle Eastern Pipe Line Company (Panhandle) and Trunkline Gas Company (Trunkline) referred to herein as "Applicants", P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP92-539-000 a joint application pursuant to section 7(b) of the Natural Gas Act requesting permission and approval to abandon their interruptible transportation service provided to Central Illinois Public Service Company (CIPSCO), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicants state that by Commission order issued July 22, 1981, in Docket No. CP81-100-000 (16 FERC ¶ 62,084), they were authorized to provide a transportation and exchange service on behalf of CIPSCO pursuant to a Transportation and Exchange Agreement (Agreement) among the parties dated September 30, 1980. This Agreement is currently designated as Panhandle's Rate Schedule TE-4 and Trunkline's Rate Schedule TE-8 in their respective FERC Gas Tariffs, Original Volume No. 2. Further, Applicants state that in accordance with this Agreement: (1) During the Summer Period (April through October) CIPSCO could designate up to 4,000 Mcf/d to be transported on an interruptible basis from a point of interconnection between the facilities of CIPSCO and Trunkline at CIPSCO's Hoopeston System in Vermilion County, Illinois to Panhandle for redelivery at the point of interconnection between the facilities of Panhandle and CIPSCO for storage by CIPSCO in Pike, Fulton or Edgar County, Illinois; and (2) during the Winter Period (November through March) CIPSCO could request up to 8,000 Mcf/d to be transported by Panhandle from Pike, Fulton or Edgar Counties, Illinois to Trunkline for redelivery to CIPSCO at the Hoopeston System.

Applicants state that in accordance with Article VI the Agreement any party may terminate the Agreement by giving six months prior written notice and that such notice was provided to CIPSCO by Panhandle's letter dated April 30, 1992. Therefore, Panhandle and Trunkline request that the abandonment authorization be effective October 30, 1992. Upon approval of the abandonment authorization requested herein, Applicants will modify their existing tariffs to reflect the abandonment of Rate Schedules TE-4 and TE-8.

Comment date: July 16, 1992, in accordance with Standard Paragraph F at the end of this notice.

4. K N Energy, Inc.

[Docket No. CP92-545-000]

June 25, 1992

Take notice that on June 22, 1992, K N Energy, Inc. (K N), P.O. Box 281304, Lakewood, Colorado, 80228, filed in Docket No. CP92-454-000 a request pursuant to Section 157.205(b) of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate sales taps for the delivery of gas to end users under blanket certificate issued in Docket Nos. CP83-140-000, CP83-140-001, and CP83-140-002 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

K N states that it requests authorization to construct and operate sales taps to various end users located

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[1] Issued to Midwestern Gas Transmission Company, Viking's predecessor.

along its jurisdictional pipelines. K N also states that the proposed sales taps are not prohibited by any of its existing tariffs and that the additional taps will have no significant impact on its peak day and annual deliveries.

Comment date: August 10, 1992, in accordance with Standard Paragraph G at the end of this notice.

5. Northern Natural Gas Co.

[Docket No. CP92–544–000]

June 25, 1992

Take notice that on June 19, 1992, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124–1000, filed in Docket No. CP92–544–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate a new delivery point to accommodate deliveries of natural gas to Interstate Power Company (Interstate Power) and Iowa Electric Light and Power Company (Iowa Electric), both jurisdictional sales customers, under Northern's blanket certificate issued in Docket No. CP82–401–000 pursuant to Section 7 of the Natural Gas Act, all as more fully described in the request which is on file with the Commission and open to public inspection.

Northern proposes to construct and operate the new delivery point in Kossuth County, Iowa, in response to requests from Interstate Power and Iowa Electric. It is stated that the 2 customers require the delivery point as a result of expansion of their distribution systems into new areas and that the gas would be used in the communities of Ledyard, Swea City and Armstrong, Iowa, for residential, commercial and industrial end uses. It is explained that Northern makes sales of natural gas to the 2 customers under the following rate schedules: CD–1, SS–1, WPS–1, FT–1 and IT–1. It is asserted that the volumes delivered at the proposed delivery point would total 1,483 Mcf on a peak day and 155,580 on an annual basis. It is further asserted that these volumes would be within currently authorized entitlements.

Comment date: August 10, 1992, in accordance with Standard Paragraph G at the end of this notice.

6. United Gas Pipe Line Co.

[Docket No. CP92–550–000]

June 25, 1992.

Take notice that on June 22, 1992, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP92–550–000, a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate a one-inch tap and related facilities on the 8-inch Lafourche Line to serve South Coast Gas Company's (South Coast) residential customers on the existing Bayou Blue Station Location under United's blanket certificate issued in Docket No. CP82–430–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United states that the proposed facilities are required to comply with the terms of an open access transportation agreement between South Coast and United to deliver an estimated daily volume of 851 MMBtu to South Coast. United further states that it would install the facilities in Lafourche Parish, Louisiana at an estimated cost of $1,840. It is indicated that South Coast would reimburse United for all costs resulting from the proposed installation.

It is stated that United and South Coast would execute a new interruptible transportation agreement, which would contain the delivery point proposed herein prior to the commencement of gas flow. It is further stated that this interruptible transportation service would be provided to South Coast pursuant to United's blanket certificate issued in Docket No. CP88–6–000 and under United's ITS Rate Schedule.

Comment date: August 10, 1992, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 92–15713 Filed 7–2–92; 8:45 am]

BILLING CODE 6717–01–M

Office of Energy Research

Basic Energy Sciences Advisory Committee; Open Meeting

Pursuant to the provision of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Basic Energy Sciences Advisory Committee (BESAC)

Date and Time: August 10, 1992—9 a.m.–5 p.m., August 11, 1992—8:30 a.m.–4:30 p.m.

Place: Argonne National Laboratory, Building 201, Room 275, 9700 South Cass Avenue, Argonne, Illinois 60439.

Contact: Louis C. Ianniello, Department of Energy, Office of Basic Energy Sciences (ER–10), Office of Energy Research, Washington, DC 20585, Telephone: 301–903–3081.

Purpose of the Committee: To provide advice on a continuing basis to the Department of Energy (DOE) on the many complex scientific and technical issues that arise in the planning, management, and

implementation of the research program for the Office of Basic Energy Sciences (BES).

Tentative Agenda: Briefings and discussions of:

August 10, 1992

- Status of BES Program.
- Argonne Research Briefings.
- Argonne Facility Briefings.
- Public Comment (10 Minute Rule).

August 11, 1992

- Argonne Research Briefings.
- Argonne Facility Briefings.
- Public Comment (10 Minute Rule).

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact: Louis C. Ianniello at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: The transcript of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on June 29, 1992.

Marcia L. Morris,

Deputy Advisory Committee Management Officer.

[FR Doc. 92–15716 Filed 7–2–92; 8:45 am]

BILLING CODE 6450–01–M

Basic Energy Sciences Advisory Committee; Open Meeting

Pursuant to the provision of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Basic Energy Sciences Advisory Committee (BESAC)

Date and Time: August 6, 1992—9 a.m.–5 p.m.; August 7, 1992—8:30 a.m.–4:30 p.m.

Place: Lawrence Berkeley Laboratory, Building 50A, Room 5132, One Cyclotron Road, Berkeley, California 94720.

Contact: Louis C. Ianniello, Department of Energy, Office of Basic Energy Sciences (ER–10), Office of Energy Research, Washington, D.C. 20585, Telephone: 301–903–3081.

Purpose of the Committee: To provide advice on a continuing basis to the Department of Energy (DOE) on the many complex scientific and technical issues that arise in the planning, management, and implementation of the research program for the Office of Basic Energy Sciences (BES).

Tentative Agenda: Briefings and discussion of:

August 6, 1992

- Status of BES Program
- Lawrence Berkeley Research Briefings.
- Lawrence Berkeley Facility Briefings.
- Public Comment (10 Minute Rule).

August 7, 1992

- Lawrence Berkeley Research Briefings.
- Lawrence Berkeley Facility Briefings.
- Public Comment (10 Minute Rule).

Public Participation; The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact: Louis C. Ianniello at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: The transcript of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on June 29, 1992.

Marcia L. Morris,

Deputy Advisory Committee Management Officer.

[FR Doc. 92–15717 Filed 7–2–92; 8:45 am]

BILLING CODE 6450–01–M

Basic Energy Sciences Advisory Committee; Notice of Open Meeting

Pursuant to the Provision of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Basic Energy Sciences Advisory Committee (BESAC)

Date and Time: August 3, 1992—9 a.m.–5 p.m.; August 4, 1992—8:30 a.m.–4:30 p.m.

Place: Oak Ridge National Laboratory, Cafeteria, Bethel Valley Road, Oak Ridge, Tennessee 37831.

Contact: Louis C. Ianniello, Department of Energy, Office of Basic Energy Sciences (ER–10), Office of Energy Research, Washington, DC 20585, Telephone: 301–903–3081.

Purpose of the Committee: To provide advice on a continuing basis to the Department of Energy (DOE) on the many complex scientific and technical issues that arise in the planning, management, and implementation of the research program for the Office of Basic Energy Sciences (BES).

Tentative Agenda: Briefings and discussions of:

August 3, 1992

- Status of BES Program.
- Oak Ridge Research Briefings.
- Oak Ridge Facility Briefings.
- Public Comment (10 Minute Rule).

August 4, 1992

- Oak Ridge Research Briefings.
- Oak Ridge Facility Briefings.
- Public Comment (10 Minute Rule).

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact: Louis C. Ianniello at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: The transcript of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on June 29, 1992.

Marcia L. Morris,

Deputy Advisory Committee Management Officer.

[FR Doc. 92–15726 Filed 7–2–92; 8:45 am]

BILLING CODE 6450–01–M

Office of Fossil Energy

[FE Docket No. 92–57–NG]

ARCO Products Co., Division of Atlantic Richfield Co.; Application for Blanket Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: The Office of Fossil Energy of the Department of Energy (DOE) gives notice of receipt on April 29, 1992, as revised on May 19, 1992, of an application filed by ARCO Products Company, Division of Atlantic Richfield Company (ARCO), requesting blanket authorization to import from Canada up to 25 Bcf of natural gas over a two-year

term beginning with the date of first import after September 19, 1992. ARCO would use existing pipeline facilities and would provide DOE with quarterly reports detailing each import transaction.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., eastern time, August 5, 1992.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, FE–50, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION:

Yvonne Gabbay, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–4587.

Diane Stubbs, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E–042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: ARCO is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business in Los Angeles, California. ARCO is, among other things, a refiner and marketer of petroleum products.

In relation to this filing, ARCO owns and operates a 185,000 barrel per day oil refinery in Blaine, Washington. The sole source of natural gas for this refinery is from Canada. ARCO states that any imports of gas would be based on the specific needs of ARCO's refinery and would reflect market conditions existing at the time of negotiation of the short-term purchase agreements. ARCO proposes to import the gas at any existing point on the United States/Canadian border.

The decision on the application for import authority will be made consistent with DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the market served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties should comment on the issue of competitiveness as set forth in those guidelines. ARCO asserts that its proposal is in the public interest and that the proposed arrangement is competitive. Parties opposing ARCO's application bear the burden of overcoming these assertions.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have their written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the address listed above.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of ARCO's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on June 29, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92–15720 Filed 7–2–92; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 92–31–NG]

ARCO Natural Gas Marketing Inc.; Order Granting Blanket Authorization to Import and Export Natural Gas, Including Liquefied Natural Gas, From and to Canada, Mexico and Other Countries

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting ARCO Natural Gas Marketing Inc. blanket authorization to import and export up to 120 Bcf of natural gas from and to Canada, Mexico and other countries over a two-year term beginning on the date of the first import or export.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, June 29, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92–15721 Filed 7–2–92; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 92-30-NG]

Arco Oil and Gas Co., Division of Atlantic Richfield Co.; Order Granting Blanket Authorization To Import and Export Natural Gas, Including Liquefied Natural Gas, From and To Canada, Mexico and Other Countries

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of Order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting ARCO Oil and Gas Company, Division of Atlantic Richfield Company, blanket authorization to import and export up to 120 Bcf of natural gas from and to Canada, Mexico and other countries over a two-year term beginning on the date of the first import or export.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, June 29, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92-5724 Filed 7-2-92; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 92-16-NG]

Northwest Natural Gas Co.; Order Granting Blanket Authorization To Import Natural Gas From Canada and Granting Intervention

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of an order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Northwest Natural Gas Company blanket authorization to import up to 5 Bcf of natural gas from Canada over a two-year term beginning on the date of the first import. The order also grants intervention to Northwest Pipeline Corporation.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, June 29, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92-15723 Filed 7-2-92; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 92-43-NG]

Tenaska Gas Co.; Application for Long-Term Authorization to Import Natural Gas from Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt of an application filed on March 31, 1992, by Tenaska Gas Co. (Tenaska) for authorization to import near Sumas, Washington, up to 18,000 MMBtu (approximately 18,000 Mcf) per day of Canadian natural gas from BP Resources Canada, Limited (BP). This imported gas would be sold by Tenaska to its affiliate, Tenaska Washington, Inc. (TWI), and used for fuel in a 245 megawatt, combined cycle, cogeneration facility to be built in Ferndale, Washington, and owned by TWI. The term of the proposed import authorization would begin on the date of the first deliveries to the TWI cogeneration plant and continue through December 31, 2011. The gas would be transported from Sumas by Cascade Natural Gas Corporation (Cascade). Cascade would be required to construct additional pipeline facilities to deliver the gas.

The application is filed under section 3 of the Natural Gas Act (NGA) and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., eastern time August 5, 1992.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-056, FE-50, 1000 Independence Avenue, SW., Washington, DC. 20585, (202) 586-9478.

FOR FURTHER INFORMATION CONTACT:

Stanley C. Vass, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-094, FE-53, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9482.

Diane Stubbs, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E-042, GC-14, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-6667.

SUPPLEMENTARY INFORMATION: Tenaska is a Nebraska Corporation with its principal office in Omaha, Nebraska. The imported gas would be purchased by TWI from Tenaska to generate electricity that would be sold to Puget Sound Power and Light Company. TWI does not at this time have a contract to sell thermal energy from the plant. The cogeneration facility would be operated as a "qualifying facility" under section 201 of the Public Utility Regulatory Policies Act.

The term of the gas purchase agreement between Tenaska and BP, dated March 31, 1992, extends until the earlier of December 31 of the seventeenth year after TWI's proposed cogeneration facility begins commercial operation, or December 31, 2011. Commercial operation is expected to begin by October 1, 1993. The agreement includes a take-or-pay provision requiring Tenaska to take the daily contract quantity (18,000 MMBtu) times the number of days in the month.

Tenaska would pay a monthly contract price equal to the index value for San Juan Basin gas sold into El Paso Natural Gas Company's pipeline system, as published each month in Inside FERC's Gas Market Report. For any deficiencies in the required monthly takes, Tenaska would pay either 10 percent of the contract price or the difference between the contract price and a reference price reflecting the spot market prices for Canadian gas delivered into Northwest Pipeline Corporation's system as published in Inside FERC's Gas Market Report, whichever is greater. Tenaska would not be responsible for specific payment of Canadian transportation charges, but instead would pay only a commodity charge for actual deliveries.

Two related applications by Tenaska for authority to import gas from Canada needed to serve the proposed TWI cogeneration facility are currently pending before FE in Docket Nos. 91-59-NG and 91-102-NG. In this regard, Tenaska has executed contracts with Husky Oil Operations Ltd. and Petro-Canada to import 13,000 MMBtu per day and 15,000 MMBtu per day, respectively. See 56 FR 66863 (December 26, 1991) and 57 FR 6021 (February 19, 1992). On May 4, 1992, FE issued DOE/FE Opinion and Order No. 614 conditionally authorizing Tenaska to import the volumes from Petro-Canada (not yet published in the Federal Energy Guidelines). This authorization was conditioned upon the issuance of a final order after DOE assesses the potential environmental

impacts of both the construction and operation of the additional pipeline facilities required by Cascade to transport the gas on behalf of Tenaska and TWI's proposed cogeneration facility which is directly related to Tenaska's import project.

In support of the application in this docket, Tenaska asserts that the price of the imported gas would be competitive since it is tied directly to spot market prices in the San Juan Basin. Tenaska also asserts that the gas is needed to supply part of the gas requirements of TWI's cogeneration plant and that security of supply is assured by BP's proven reserves in British Columbia, Canada, totalling about 255 Bcf of natural gas, and by a BP contractual guaranty to deliver the daily contract quantity or reimburse Tenaska for costs incurred in obtaining alternate supplies of fuel to replace the delivery shortfall.

The decision on Tenaska's application for import authority will be made consistent with DOE's natural gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). In the case of a long-term arrangement such as this, other matters will be considered in making a public interest determination, including need for the natural gas and security of the long-term supply. Parties that may oppose this application should comment in their responses on the issues of competitiveness, need for the gas, and security of supply as set forth in the policy guidelines. Tenaska asserts that this import arrangement is in the public interest because it is needed, competitive, and its natural gas source will be secure. Parties opposing the proposed import arrangement bear the burden of overcoming these assertions.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. Cascade has an application pending before the Federal Energy Regulatory Commission (FERC) for a Presidential Permit and authorization under section 3 of the NGA to construct, operate, and maintain various natural gas pipeline facilities at the international border near Sumas, Washington that would be used to import the volumes proposed by Tenaska. (*See* FERC Docket No. CP91–2650–000.) FERC has the lead in preparing an environmental analysis to assess the potential impact of Cascade's facilities. DOE is a cooperating agency in this environmental review process. We will independently examine the results of the FERC evaluation in the course of making our own environmental determination. Furthermore, DOE is obligated to consider the environmental consequences of TWI's proposed cogeneration facility. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have their written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR § 590.316.

A copy of Tenaska's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC., June 29, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92–15725 Filed 7–2–92; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FLR–4150–9]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before August 5, 1992.

FOR FURTHER INFORMATION OR A COPY OF THIS ICR CONTACT: Sandy Farmer at EPA, (202) 260–2740.

SUPPLEMENTARY INFORMATION:

Title: Requirements for Generators, Transporters, and Waste Management Facilities Under the RCRA Hazardous Waste Manifest System (EPA No. 0801.09; OMB No. 2050–0039). This ICR is a renewal of an existing information collection.

Abstract: Under Section 3002(a)(5) of the Resource Conservation and Recovery Act (RCRA), EPA has established a hazardous waste manifesting system to assure that hazardous waste is designated for and arrives at a treatment, storage or

disposal facility (TSDF) permitted under RCRA Subtitle C. The information collected in this system includes the completion, submission, and recordkeeping of the manifest itself, completion and submission of discrepancy and exception reports, notification of hazardous waste discharges in the event of an accident, and primary exporter manifest requirements. This information will be collected from large quantity and small quantity generators of hazardous waste, hazardous waste transporters, and owner/operators of treatment, storage and disposal facilities.

The information will be used to: (1) Provide notice to hazardous waste transporters and waste management facility workers on the risks posed by the wastes being handled; (2) track shipments from generator to facility; (3) assist emergency response personnel in determining appropriate responses to accidents; and (4) compliment facility inspections to determine compliance.

Burden Statement: The public reporting burden for this collection of information is estimated to average 46 minutes to 1.3 hours per hazardous waste shipment for generators, 16 minutes to 1.8 hours per shipment for transporters, and 17 minutes to 6.5 hours per shipment for TSDFs. This estimate includes all aspects of the information collection including time for reviewing instructions, gathering the data needed, reviewing the collection of information, and submitting the information.

Respondents: Generators, Transporters and Handlers of Hazardous Waste.

Estimated Number of Respondents: 223,173.

Estimated Number of Responses Per Respondent: 1.

Estimated Total Annual Burden on Respondents: 434,944.

Frequency of Collection: As needed.

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to: Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223Y), 401 M. Street, SW., Washington, DC 20460, and Jonathan Gledhill, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th St., NW., Washington, DC 20503.

Dated: June 29, 1992.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 92–15743 Filed 7–2–92; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

[Announcement Number 209]

Fiscal year 1992 Regional Training and Demonstration Centers for the Early Detection and Control of Breast and Cervical Cancer; Amendment

A notice announcing the availability of Fiscal Year 1992 funds for cooperative agreements for Regional Training and Demonstration Centers for the Early Detection and Control of Breast and Cervical Cancer was published in the **Federal Register** on May 19, 1992, (57 FR 21294). The notice is amended as follows:

On page 21295, first column, under the heading "Eligible Applicants," the paragraph should read: "Eligible applicants are the official public health agencies of any of the states of the United States, the District of Columbia, Commonwealth of Puerto Rico, and any territory or possession of the United States; or any bona fide agent or instrumentality of a state government."

All other information and requirements of the May 19, 1992, **Federal Register** notice remain the same.

Dated: June 26, 1992

Robert L. Foster,

Acting Associate Director for Management and Operations, Centers for Disease Control.

[FR Doc. 92–15672 Filed 7–2–92; 8:45 am]

BILLING CODE 4160–18–M

Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HC (Centers for Disease Control) of the Statement of organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–67776, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 57 FR 8878, dated March 13, 1992) is amended to reflect the following organizational changes within the Centers for Disease Control and the National Center for Environmental Health and Injury Control: (1) Establishment of the National Center for Injury Prevention and Control, and (2) title change for the National Center for Environmental Health and Injury Control.

Section HC–B, Organization and Functions, is hereby amended as follows:

1. After the functional statement for the *National Institute for Occupational Safety and Health (HCC),* insert the following:

National Center for Injury Prevention and Control (HCE). The National Center for Injury Prevention and Control plans, directs, and coordinates a national program to maintain and improve the health of the American people by preventing premature death and disability and reducing human suffering and medical costs caused by nonoccupational injury, addressing both intentional injuries that result from violent and abusive behavior and unintentional injuries. The national program encompasses the prevention of nonoccupational injuries, and applied research and evaluations in acute care and rehabilitation of injured persons. The Center will address injury prevention and control through an orderly sequence of activities beginning with research on causes, circumstances, and risk factors; progressing through research on interventions and their impact on defined populations. These activities then lead to the broad, systematic applications of interventions that are soundly based scientifically.

In carrying out this mission, the Center: (1) Provides leadership in developing and executing a national program for nonoccupational injury prevention and control with Federal, State and local agencies, voluntary and private sector organizations; (2) proposes goals and objectives for national injury prevention and control programs, monitors progress toward these goals and objectives, and recommends priority prevention and control activities and develops guidelines for these activities; facilitates similar activities by other Federal, state, and local agencies, academic institutions, and private and other public organizations; (3) plans, directs, conducts, and supports research focused on development and evaluation of strategies to prevent and control injuries, including research in biomechanics, epidemiology and prevention, and the treatment and rehabilitation of the injured; (4) plans, establishes, and evaluates surveillance systems to monitor national trends in morbidity, mortality, disabilities, and costs of injuries and facilitates the development of surveillance systems by State and local agencies; (5) develops, implements, directs, and evaluates demonstration programs to prevent and control injuries; (6) serves as the primary Federal health resource for technical assistance and management expertise in the epidemiology, statistics, prevention, and control of nonoccupational injuries; (7) assists in

increasing the capacity of States and localities to prevent and control injuries by providing financial assistance and technical and management consultation and assistance in assessing the problem of injuries, conducting surveillance, planning injury prevention and control programs, and evaluating injury prevention and control activities; (8) serves as the principal focus for training programs to increase the number and competence of personnel engaged in injury prevention and control research or practice; (9) supports the dissemination of research findings and the transfer of injury prevention and control technologies to Federal, State, and local agencies, private organizations, and other national and international groups; (10) in carrying out the above functions, collaborates with other CDC Centers/Institute/Offices, PHS agencies, and National Highway Traffic Safety Administration, Consumer Product Safety Commission and other Federal Departments and Agencies, and private organizations, as appropriate.

Office of the Director (HCE1). (1) Manages, directs, coordinates and evaluates the activities of the National Center for Injury Prevention and Control (NCIPC); (2) develops goals and objectives and provides leadership, policy formation, scientific oversight, and guidance in program planning and development; (3) coordinates NCIPC program activities with other CDC components, other PHS regional offices, other Federal agencies, State and local health departments, community-based organizations, business and industry; (4) consults and coordinates activities with medical, engineering, and other scientific and professional organizations interested in injury prevention and control; (5) provides administrative support, program management and fiscal services to the Center; (6) supports the activities of the Secretary's Advisory Committee for Injury Prevention and Control; (7) coordinates technical assistance to other nations and international organizations in establishing and implementing injury prevention and control programs; (8) directs and coordinates information resources management activities, the production and distribution of technical and nontechnical injury prevention and control publications and information, and the conduct of health education and health promotion activities; (9) provides overall guidance and support for center-wide grant activities.

2. Change the title for the *National Center for Environmental Health and Injury Control (HCN)* to the *National Center for Environmental Health (HCN).*

Section HC–D, Delegations of Authority

All delegations and redelegations of authority to any officers or employees which were in effect immediately prior to this reorganization and which are consistent with this reorganization shall continue in effect pending further redelegation.

Effective Date: June 25, 1992.

Louis W. Sullivan,

Secretary.

[FR Doc. 92–15695 Filed 7–2–92; 8:45 am]

BILLING CODE 4160–18–M

Food and Drug Administration

[Docket No. 92D–0176]

Compliance Policy Guides for Issuing Orders for Post-Approval Record Reviews; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of Compliance Policy Guide (CPG) 7132c.07 entitled "Orders for Post-Approval Record Review." The CPG states FDA policy and guidance for issuing orders to manufacturers to conduct and report post-approval record reviews for approved new drug products for human and animal use pursuant to certain sections of the Federal Food, Drug, and Cosmetic Act (the act) and the current good manufacturing practice regulations for drugs. FDA developed the CPG to provide internal policy and guidance for requiring firms to conduct such reviews. In addition, CPG's 7125.34 (Veterinary Drugs) and 7126.27 (Animal Feed) are being made available to provide reference to the guidance that is contained in CPG 7132c.07.

ADDRESSES: CPG's 7132c.07, 7125.34, and 7126.27 may be ordered as a single set from National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Rd., Springfield, VA 22161. Orders must reference NTIS order number PB-183250 and include payment of $12.50 (A02) (papercopy) or $9.00 (A01) (microfiche) for each set. Payment may be made by check, money order, charge card (American Express, VISA, or Mastercard), or billing arrangements made with NTIS. Charge card orders must include the charge card account number and expiration date. For telephone orders or further information on placing an order, call NTIS at 703–487–4650. CPG's 7132c.07, 7125.34, and 7126.27 are available for public examination in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Paul J. Motise, Division of Manufacturing and Product Quality (HFD–323), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8089 or, Edward J. Ballitch, Division of Compliance (HFV–230), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–295–8726.

SUPPLEMENTARY INFORMATION: FDA is issuing CPG 7132c.07 to provide internal policy and guidance for FDA to issue an order requiring a records review and report pursuant to sections 505(e), 505(k), 512(e), 512(l), 512(m)(4), 512(m)(5), 701(a), and 704(a) of the act (21 U.S.C. 355(e), 355(k), 360b(e), 360b(l), 360b(m)(4), 360b(m)(5), 371(a), and 374(a)) and the current good manufacturing practice regulations for drugs that are enforceable under section 501(a)(2)(B) of the act (21 U.S.C. 351(a)(2)(B)). FDA developed the CPG to provide internal policy and guidance for requiring firms to conduct such reviews where there are questions about the safety or effectiveness of approved drugs or about the truth or falsity of information submitted in support of the original application; for example, where omissions, inconsistencies, untrue statements of material facts, or fraud were found in records submitted to support the approval of new drug products, or where there has been noncompliance with approved manufacturing procedures. The purpose of the records review and report is to determine whether there is or may be ground to withdraw approval of the drug application(s) under sections 505(e), 512(e), and/or 512(m)(4) of the act.

The statements made herein are not intended to create or confer any rights, privileges, or benefits on or for any private person, but are intended merely for internal guidance.

Dated: June 25, 1992.

Gary Dykstra,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 92–15686 Filed 7–2–92; 8:45 a.m.]

BILLING CODE 4160–01–F

Advisory Committee Meeting; Amendment of Notice

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an amendment to the agenda of a meeting of the Drug Abuse Advisory Committee which is scheduled for July 14 and 15, 1992. This meeting was announced in the **Federal Register** of June 23, 1992 (57 FR 27982). The change is being made to add additional items for discussion. There are no other changes. This amendment will be announced at the beginning of the open portion of the meeting.

FOR FURTHER INFORMATION CONTACT: Lee L. Zwanziger, Center for Drug Evaluation and Research (HFD–9), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4695.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 23, 1992 (57 FR 27982), FDA announced that a meeting of the Drug Abuse Advisory Committee would be held on July 14 and 15, 1992. On page 27982, in the second column, the agenda for this meeting is amended to read as follows:

Open committee discussion. On July 14, 1992, the committee will discuss the rationale for changes in the recommendations for indications, contraindications, warnings, precautions, and pregnancy for nicotine substitution products. A copy of the "Discussion Paper: Nicotine Substitution Products" may be obtained before the meeting by visiting the FDA Medical Library, Parklawn Bldg., Rm. 11B–40, 5600 Fishers Lane, Rockville, MD after July 1, 1992. Copies will also be available at the meeting on July 14. After the meeting, the document can be requested through FDA's Freedom of Information Staff. The committee will also discuss serious post-marketing adverse reaction reports received by FDA and a citizen petition from the Health Research Group of the Public Citizen Foundation calling for a box warning in the labeling. Also on July 14, the committee will discuss data on the abuse and epidemiology of dextromethorphan in order to assess public health problems reported to FDA and other Government agencies. On July 15, 1992, the committee will discuss procedures and policies for, and approaches to, the study of hallucinogenic drugs.

Dated: June 29, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92–15687 Filed 7–2–92; 8:45 a.m.]

BILLING CODE 4160–01–F

[Docket No. 79D–0183]

Lead in Ceramic Foodware; Revised Compliance Policy Guide; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of revised Compliance Policy Guide (CPG) 7117.07 "Pottery (Ceramics); Imported and Domestic—Lead Contamination." This CPG has been revised to lower the lead release guidelines for ceramic foodware. In addition, specific lead release levels are included for cups and mugs as well as for pitchers because these articles are frequently used under conditions that may enhance lead leaching. The lead release levels are guides to when the agency may regard the ceramic foodware as adulterated within the meaning of section 402(a)(2)(C) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 342(a)(2)(C)).

ADDRESSES: Submit written requests for single copies of revised CPG 7117.07, "Pottery (Ceramics); Imported and Domestic—Lead Contamination" to the Regulations and Industry Activities Branch, Industry Activities Section (HFF–326), Food and Drug Administration, rm. 5425B, 200 C Street SW., Washington, DC 20204. Send two self-addressed adhesive labels to assist that office in processing your requests. Submit written comments on revised CPG 7117.07 "Pottery (Ceramics); Imported and Domestic—Lead Contamination" to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857. Requests and comments should be identified with the docket number found in brackets in the heading of this document. A copy of CPG 7117.07, "Pottery (Ceramics); Imported and Domestic—Lead Contamination" and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Michael E. Kashtock, Center for Food Safety and Applied Nutrition (HFF–312), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–205–5229.

SUPPLEMENTARY INFORMATION: Lead is frequently used as a component of the glazes and decorations used in the manufacture of ceramic foodware such as pottery, earthenware, and bone china. Lead glazes are used to impart a smooth and lustrous coating on ceramic foodware. Through the ages, the nonporous and easily cleaned glazed surfaces have facilitated good sanitation in food service. If a glaze is improperly applied, or if the ware is improperly fired during the manufacturing process, large quantities of lead may be left on the ware that can leach from the glaze into food that is placed in the vessel. Even in properly glazed and fired ceramicware, some lead may migrate to food in contact with the ware; however, the amounts will be much lower than in poorly made ware.

Since the 1930's, FDA has taken action to protect the public from the hazards associated with excessive exposure to lead in food. These efforts have focused on lead from sources such as agricultural chemicals, glazes for ceramicware, enamelware, pewter, silver-plated holloware, and lead-soldered cans. In May 1971, FDA initiated a formal compliance program for foreign and domestic pottery. The program was designed to enforce a limit of 7 parts per million on lead migration into a special leaching solution. The guidelines were revised in 1979 by reducing the levels. (See 44 FR 47162, August 10, 1979.)

Although lead has long been recognized as a toxic substance, evidence that lead is responsible for behavioral and performance deficiencies in children exposed to lead levels below those that produce clinical effects did not begin to appear in the scientific literature until the late 1970's (Ref. 1). Additional studies published during the 1980's have shown that adverse effects in children, including deficits in intelligence and stature, occur at blood lead levels well below those suggested by the initial studies of subclinical effects of exposure to lead (Refs. 2 through 4). Recent research has also shown that in utero exposure to low levels of lead in maternal blood can affect fetal neurobehavioral development, gestational age, and birth weight (Refs. 3 and 4). In light of the public health concerns raised by these findings, i.e., concern over the effects of exposure to very low levels of lead by pregnant women, infants, and children, the agency is undertaking a comprehensive effort to further reduce consumers' exposure to lead. (For example, toward this end, FDA, in accordance with a 1987 memorandum of

understanding with the U.S. Department of Treasury, Bureau of Alcohol, Tobacco and Firearms (BATF) (Ref. 10), evaluated the potential health effects of the levels of lead found in alcoholic beverages, and, in 1991, informed BATF that it believes that available evidence will support enforcement actions against table wines containing lead at levels greater than 300 parts per billion (Refs. 11 through 15).)

In this notice, FDA is announcing the availability of revised CPG 7117.07, "Pottery (Ceramics); Imported and Domestic—Lead Contamination," issued to FDA regional and district field offices on November 5, 1991. The purposes of revising CPG 7117.07 were to lower the guidelines for lead leaching from ceramic foodwares (as measured by the standard regulatory test procedure (Ref. 5)) and to create two new categories of ceramic foodwares with specific lead release guidelines: (1) Cups and mugs and (2) pitchers. The guidelines in the revised CPG state lead release levels at which the agency may take enforcement action against ceramic foodware under the act.

The lead release levels in the previous CPG 7117.07 were:

(1) Flatware—an average exceeding 7.0 micrograms (μg) of lead (Pb) per milliliter (Ml) of leaching solution from six units examined,

(2) Small hollowware—a level exceeding 5.0 μg Pb/Ml in any one of six units examined, and

(3) Large hollowware—a level exceeding 2.5 μg Pb/Ml in any one of six units examined.

The revised policy addresses five categories of ceramic foodware and their lead release levels. These are:

(1) Flatware—an average exceeding 3.0 μg Pb/Ml from six units examined,

(2) Small hollowware—a level exceeding 2.0 μg Pb/Ml in any of six units examined,

(3) Large hollowware—a level exceeding 1.0 μg Pb/Ml in any of six units examined,

(4) Cups and mugs—a level exceeding 0.5 μg Pb/Ml in any of six units examined, and

(5) Pitchers—a level exceeding 0.5 μg Pb/Ml in any of six units examined.

In the Federal Register of June 1, 1989 (54 FR 23485), the agency requested comments on a variety of concerns regarding ceramic foodware, including the leachability of lead under various conditions, the lowest leachable lead levels routinely attainable for various types of ceramic foodware, and the amount of lead that leaches from ceramic foodware under the normal range of actual conditions of use as compared to the amount that leaches during the standard test procedure, wherein lead is leached into a 4-percent acetic acid solution at 22 °C over a 24-hour period and then is measured in the test solution. The agency has reviewed data submitted in response to this request as well as other data on the leachability of lead including data in the published scientific literature (Refs. 6 through 9).

On the basis of its review of the data, the agency has lowered its lead release guidelines for all types of ceramic foodware. However, the agency has identified ceramic cups and mugs and pitchers as foodware that are generally used under conditions that may be more conducive to the leaching of lead than is the case for other ceramic foodware. These vessels are generally used to hold acidic beverages, such as citrus juices in the case of pitchers and coffee or tea in the case of cups and mugs. In addition, the beverages placed in cups and mugs are generally hot, and this fact, together with the acidic nature of the beverage, enhances the rate of lead leaching.

The agency's review shows that the amount of lead that leaches into the acetic acid leaching solution may frequently be about 5 times higher than the amount of lead that leaches into orange juice during 24 hours of refrigerated storage and about 2.5 to 5 times higher than the amount of lead that leaches into hot coffee during 15 to 30 minutes. Lead leaching into food from other types of ceramic foodware typically occurs at levels much lower relative to the acetic acid leaching solution. Because of the greater relative potential for lead to leach into food from cups and mugs and pitchers under normal use, the agency is separating them from the more general categories of large and small hollowware, and it is setting out lead release guidelines that are lower than those for the other types of hollowware.

The lead release levels assigned to the categories of foodware are not substantive rules. Rather, they constitute guides that FDA will use in its discretion when considering whether the agency will regard the article as adulterated within the meaning of section 402(a)(2)(C) of the act. This CPG does not limit the agency's enforcement discretion on whether to initiate regulatory action after an evaluation of all the relevant facts.

This notice does not constitute final action on FDA's proposal of June 1, 1989, to establish a legally binding regulatory limit for lead leaching from ceramic pitchers, nor does it preclude the agency from initiating any new rulemaking on ceramicware. The agency chose to revise CPG 7117.07 on ceramicware to reflect its concerns about the ongoing need to reduce human exposure to lead from foods. The agency is interested in receiving comments on the guidelines in revised CPG 7117.07.

I. Environmental Impact

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

II. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Needleman, H.L. et al., "Deficits in Psychologic[al] and Classroom Performance of Children with Elevated Dentine Lead Levels," *New England Journal of Medicine*, 300(13), pp. 689–695, 1979.

2. Air Quality Criteria for Lead, U.S. Environmental Protection Agency, Research Triangle Park, NC, Office of Health and Environmental Assessment, Environmental Criteria and Assessment Office, EPA Report No. EPA–600/8–83/028aF–Df.4V, 1986.

3. "The Nature and Extent of Lead Poisoning in Children in the United States: A Report to Congress," part 3, Ch. IV, Agency for Toxic Substances and Disease Registry, U.S. Department of Health and Human Services, Public Health Service, Atlanta, GA, 1988.

4. Needlemán, H.L., "The Persistent Threat of Lead: A Singular Opportunity," *American Journal of Public Health*, 79(5), pp. 643–645, 1989.

5. *Official Methods of Analysis of the Association of Official Analytical Chemists*, 15th ed., section 973.32, 1990. Division of Regulatory Guidance (HFF–312), dated August 21, 1991.

7. Memorandum from Food and Color Additives Review Section (HFF–415) to Division of Regulatory Guidance (HFF–312), dated July 7, 1987.

8. Comments of the Coalition for Safe Ceramicware—Phase I Report, November 30, 1989, in Docket No. 89N–0014.

9. Comments of the Coalition for Safe Ceramicware Relative to the Adequacy of the Current Action Levels for Leachable Lead in Ceramic Tableware Other than Pitchers, Phase II Report, February 28, 1991, in Docket No. 89N–0014.

10. Memorandum of Understanding between the Food and Drug Administration and the Bureau of Alcohol, Tobacco and Firearms, November 1987.

11. Department of the Treasury, BATF, "Report of Analyses of Wines and Related Products to Determine Lead Content," Washington, DC, June 1991.
12. Letter to L. Robert Lake, Director, Office of Compliance, Center for Food Safety and Applied Nutrition (CFSAN), FDA, from Terry L. Cates, Chief, Industry Compliance Division, BATF, dated August 2, 1991.
13. Letter to Daniel Black, Deputy Director, BATF, from L. Robert Lake, Director, Office of Compliance, CFSAN, FDA, dated September 9, 1991.
14. Health Hazard Evaluation No. 2663, CFSAN, FDA, August 16, 1991.
15. HHS NEWS, dated September 9, 1991.

Dated: June 29, 1992.

Gary Dykstra,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 92-15647 Filed 7-2-92; 8:45 am]

BILLING CODE 4160-01-M

Indian Health Service

Indian Health Service Research Program Grants Application Announcement

AGENCY: Indian Health Service, HHS.

ACTION: Notice of final funding emphases for competitive grant applications for the Indian Health Service (IHS) Research Program.

SUMMARY: The IHS announces the final funding emphases for fiscal year (FY) 1993 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 described at 93.905 in the Catalog of Federal Domestic Assistance. Executive Order 12372 requiring intergovernmental review is not applicable to this program.

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 IHS 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.

3. These grants will be awarded and administered in accordance with the published program announcement in the **Federal Register** of May 14, 1992 (57 20696) and the Indian Health Care Improvement Act, as amended, 25 U.S.C. 1621g.

Research Funding Emphases

Proposed funding emphases were published in the **Federal Register** of May 14, 1992 (57 FR 20696) for public comment. No comments were received during the 30-day comment period. Therefore, as proposed the following funding emphases will be retained as listed below.

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.

Review Process

Applications meeting eligibility requirements that are complete and conform to the published program announcement in the **Federal Register** of May 14, 1992 (57 FR 20696) will be reviewed in accordance with the following 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 46. 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.)

4a. Specific Aims: statement of study question(s) and objective(s). (Are the study questions stated clearly and precisely? Does the rest of the Research Plan follow logically from the study questions?)

10b. 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?)

4c. 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?)

15d. 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?)

10e. 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?)

4f. 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 search *J. Priority and Utility.*)

10g. 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?)

9h. 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?)

4i. 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]?)

10j. 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?)

5k. 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?)

5l. 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 competing continuation, are the additional years necessary? Is the cost justified by the expected benefit?)

10m. 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?)

FOR FURTHER INFORMATION, CONTACT: 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.

Dated: June 26, 1992.

Everett R. Rhoades,

Assistant Surgeon General Director.

[FR Doc. 92–15685 Filed 7–2–92; 8:45 am]

BILLING CODE 4160–16–M

National Institutes of Health

Director's Strategic Planning Retreat; Meeting

Notice is hereby given that the National Institutes of Health will convene the NIH Director's Strategic Planning Retreat to advance the strategic planning initiative of the Agency and to synthesize and summarize input received thus far on the *Framework for Discussion of Strategies for NIH* from the National Advisory Councils, five public meetings, written public testimony received subsequent to the public meetings, and recommendations of the ad hoc National Task Force on the NIH Strategic Plan. Retreat participants will consist of the directors of the institutes, centers, and divisions, as well as the directors of the research institutes of the Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA); principal members of the Office of the Director staff; and members of the extramural community and other advisors meeting as an ad hoc group of consultants to the Advisory Committee to the Director, NIH. The outcome of the Retreat will be the development of a document that will contain the major elements of the NIH strategic plan. The meeting will be held at NIH, Shannon Building, Wilson Hall, 9000 Rockville Pike, Bethesda, Maryland 20892. The Retreat will begin at 6:30 p.m. on July 15, and end on July 16, 1992.

Due to meeting space limitations, observers will be accommodated as space is available.

If you plan to attend the meeting as an observer, or, if you wish additional information, please contact Ms. Mary Demory, National Institutes of Health, Shannon Building, room 218, 9000 Rockville Pike, Bethesda, Maryland 20892, (301) 496–1454, by July 9.

Dated: June 25, 1992.

Bernadine Healy,

Director, NIH.

[FR Doc. 92–15648 Filed 7–2–92; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Meeting of the Cancer Center Support Review Committee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Cancer Center Support Review Committee, National Cancer Institute, on August 7, 1992, Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Bethesda, MD 20815.

This meeting will be open to the public on August 7 from 8 a.m. to 8:30 a.m., to review administrative details and other cancer center review issues. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public on August 7 from approximately 8:30 a.m. to adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Carole Frank, the Committee Management Officer, 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 the roster of committee members, upon request.

Dr. David E. Maslow, Scientific Review Administrator, Cancer Center Support Review Committee, National Cancer Institute, Westwood Building, room 804, National Institutes of Health, Bethesda, Maryland 20892 (301/496–2330) 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; 93.197, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control)

Dated: June 22, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92-15649 Filed 7-2-92; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Environmental Health Sciences; Meeting of Environmental Health Sciences Review Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Environmental Health Sciences Review Committee on July 27-28, 1992 at the National Institute of Environmental Health Sciences, Building 101 Conference Room, South Campus, Research Triangle Park, North Carolina. The meeting will be open to the public on July 27 from 9 a.m. to approximately 12 Noon for general discussion. Attendance by the public is limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92-463, the meeting will be closed to the public July 27, from approximately 1 p.m. to adjournment on July 28, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Drs. John Braun, Carol Shreffler or Donald McRee, Scientific Review Administrators, Environmental Health Sciences Review Committee, National Institute of Environmental Health Sciences, National Institutes of Health, P.O. Box 12233, Research Triangle Park, North Carolina 27709, (telephone 919-541-7826), will provide summaries of meeting and rosters of committee members.

(Catalog of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation; 93.894, Resource and Manpower Development, National Institutes of Health)

Dated: June 23, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92-15650 Filed 7-2-92; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Meetings

Pursuant to Public Law 92-463, notice is hereby given of the meetings of the following Heart, Lung, and Blood Special Emphasis Panels.

These meetings will be open to the public to discuss administrative details relating to Special Emphasis Panel (SEP) business for approximately one half hour at the beginning of the first session of each meeting. Attendance by the public will be limited to space available. These meetings will be closed thereafter in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92-463, 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.

The Office of Committee Management, National Heart, Lung, and Blood Institute, Westwood Building, room 7A15, National Institutes of Health, Bethesda, Maryland 20892, telephone 301-496-7548, will furnish summaries of the meetings and rosters of panel members. Substantive program information may be obtained from each Scientific Review Administrator whose telephone number is provided. Since it is necessary to schedule meetings well in advance, it is suggested that anyone planning to attend a meeting contact the Scientific Review Administrator to confirm the exact date, time and location.

Name of Panel: NHLBI SEP on RFA for Alzheimer's Amyloid Beta Protein in Hemostasis and Thrombosis
Scientific Review Administrator: Dr. Carl A. Ohata, 301-496-8184.
Dates of Meeting: July 26-27, 1992.
Place of Meeting: Holiday Inn Bethesda, Bethesda, MD.
Time of Meeting: 8 p.m.

Name of Panel: NHLBI SEP on RFA for the Collaborative Studies on the Genetics of Asthma
Scientific Review Administrator: Dr. Dennis R. Lang, 301-496-8818.
Dates of Meeting: July 27, 1992.
Place of Meeting: Holiday Inn, Bethesda, MD.
Time of Meeting: 9 a.m.

(Catalog of Federal Domestic Assistance Program Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: June 23, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92-15651 Filed 7-2-92; 8:45 am]

BILLING CODE 4140-01-M

National Cancer Institute; Notice of Meeting of the Cancer Biology-Immunology Contracts Review Subcommittee C

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Cancer Biology-Immunology Contracts Review Subcommittee C, National Cancer Institute, National Institutes of Health, July 17, 1992, National Institutes of Health, 9000 Rockville Pike, Conference Room 10, Bethesda, MD 20815.

This meeting will be open to the public on July 17 from 8:30 a.m. to 9:30 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 July 17 from 9:30 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 invasions of personal privacy.

The 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. Lalita D. Palekar, Scientific Review Administrator, Cancer Biology-Immunology Contracts Review SubCommittee C, 5333 Westbard Avenue, room 805, Bethesda, Maryland 20892 (301/496-7575) 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: June 22, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92–15652 Filed 7–2–92; 8:45 am]

BILLING CODE 4140–01–M

National Center for Nursing Research; Meeting: Nursing Science Review Committee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Nursing Science Review Committe, National Center for Nursing Research, July 15–17, 1992, Building 31C, Conference Room 9, National Institutes of Health, Bethesda, Maryland 20892.

This meeting will be open to the public on July 15 from 8:30 to 10 a.m. Agenda items to be discussed will include a Report from the Director, NCNR; and an Administrative Report by the Scientific Review Administrator, Nursing Science Review Section. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S. Code and section 10(d)) of Public Law 92–463, the meeting will be closed to the public on July 15 from 10 a.m. to adjournment on July 17 for the review, discussion, and evaluation of individual grant applications. The 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.

Dr. Mary Stephens, Scientific Review Administrator, Nursing Science Review Section, National Center for Nursing Research, National Institutes of Health, Building 31, room 5B25, Bethesda, Maryland 20892, (301) 496–0472, will provide a summary of the meeting, and a roster of committee members upon request.

(Catalog of Federal Domestic Assistance Program No. 93.361, Nursing Research, National Institutes of Health)

Dated: June 22, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92–15633 Filed 7–2–92 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

[Docket No. N–91–3243; FR–2954–N–02]

Announcement of Funding Awards for Fair Housing Initiatives Program

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this document notifies the public of funding awards made under the Fair Housing Initiatives Program (FHIP). The purpose of this document is to announce the names and addresses of the award winners and the amount of the awards to be used to strengthen the Department's enforcement of the Fair Housing Act and to further fair housing.

FOR FURTHER INFORMATION CONTACT: Jacquelyn J. Shelton, Director, Office of Fair Housing Assistance and Voluntary Programs, room 5234, 451 Seventh Street, SW., Washington, DC 20410–2000. Telephone number (202) 708–0800. A telecommunications device (TDD) for hearing and speech impaired persons is available at (202) 708–1425. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: Title VIII of the Civil Rights Act of 1968, as amended, 42 U.S.C. 3601–19 (The Fair Housing Act), charges the Secretary of Housing and Urban Development with responsibility to accept and investigate complaints alleging discrimination based on race, color, religion, sex, handicap, familial status or national origin in the sale, rental, or financing of most housing. In addition, the Fair Housing Act directs the Secretary to coordinate with State and local agencies administering fair housing laws and to cooperate with and render technical assistance to public or private entities carrying out programs to prevent and eliminate discriminatory housing practices.

Section 561 of the Housing and Community Development Act of 1987, 42 U.S.C. 3616 note, established the Fair Housing Initiatives Program (FHIP) to strengthen the Department's enforcement of the Fair Housing Act and to further fair housing. This program assists projects and activities designed to enhance compliance with the Fair Housing Act and substantially equivalent State and local fair housing laws. Implementing regulations are found at 24 CFR part 125.

The FHIP has three funding categories: the Administrative Enforcement Initiative, the Education and Outreach Initiative, and the Private Enforcement Initiative.

In a Notice of Funding Availability (NOFA) published in the **Federal Register** on April 24, 1991 (56 FR 18954), the Department announced the availability of approximately $5.8 million in funds for FHIP. The Department reviewed, evaluated and scored the applications received based on the criteria in the NOFA. As a result, HUD has funded 60 applications.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101–235, approved December 15, 1989), the Department is publishing details concerning the recipients of these awards, by Initiative category, as follows:

FAIR HOUSING ENFORCEMENT INITIATIVE—PRIVATE ENFORCEMENT GRANTEES (TESTING)

Interfaith Housing Center of the Northern Suburbs.	1140 Wilmette Avenue, Wilmette, IL 60091	Ms. Barbara Boyts	$62,590
Oregon Legal Services	516 SE Morrison, Portland, OR 97214	Mr. Ira Zarov	99,997
Heartland Human Relations Association	7435 University Avenue, La Mesa, CA 92041	Ms. Clara Hams	69,846
Housing Opportunities Made Equal of Buffalo, Inc.	700 Main Street, Buffalo, NY 14202	Mr. Scott Gehl	46,500
Fair Housing Council of Greater Washington, Inc.	1400 Eye Street, NW., Washington, DC 20005	Ms. Ellen Shogan	186,795
Toledo Fair Housing Center	1900 Monroe Street, Toledo, OH	Ms. Lisa Rice	114,970
Civic League of Greater New Brunswick	47–49 Throop Avenue, New Brunswick, NJ 08901.	Mr. Roy Epps	75,917
Westchester Residential Opportunities, Inc	470 Mamaroneck Avenue, White Plains, NY 10605.	Ms. Blossom Blum	79,940

FAIR HOUSING ENFORCEMENT INITIATIVE—PRIVATE ENFORCEMENT GRANTEES (TESTING)—Continued

Access Living Center	310 Peoria, Chicago, IL 60607	Mr. James Charlton	158,610
Project Sentinel	430 Sherman Avenue, Palo Alto, CA 94306	Ms. Ann Marquart	163,298
Lawyer's Committee for Civil Rights Under Law of the Boston Bar Association.	294 Washington Street, Boston, MA 02108	Ms. Barbara W. Rabin	277,408
Metropolitan Milwaukee Fair Housing Council	1442 N. Farwell Avenue, Milwaukee, WI 53202	Mr. William Tisdale	155,254
Marin Housing Center	88 Belvedere Street, San Rafael, CA 94901	Ms. Nancy Kenyon	58,500
Fair Housing Council of Northern New Jersey	345 Union Street, Hackensack, NJ 07601	Ms. Lee Porter	134,910
Housing Discrimination Project	380 High Street, Holyoke, MA 01040	Ms. Margaret Maisel	149,530
HOPE, Inc	154 South Main Street, Lombard, IL 60091	Mr. Bernard J. Klein	68,000
Housing Opportunities Made Equal of Richmond, Inc.	503 East Main Street, Richmond, VA 23219	Ms. Constance K. Chamberlain	87,566
Housing Opportunities Corporation	147 Jefferson, Memphis, TN 38103	Ms. Carol Gish	221,567
Fair Housing Center for Metropolitan Detroit	1249 Washington Blvd., Detroit, MI 48226	Mr. Clifford C. Schrupp	166,810
Leadership Council for Metropolitan Open Communities.	401 South State Street, Chicago, IL 60605	Mr. Kale Williams	93,932
Open Housing Center, Inc	594 Broadway, New York, NY 10012	Ms. Phyllis Spiro	224,184
Fair Housing Congress of Southern California	6565 Sunset Blvd., Los Angeles, CA 90028	Ms. Michelle White	57,076
Fair Housing Council of Delaware County, Inc	P.O. Box 161, Drexel Hill, Delaware County, PA 19026.	Ms. Naomi Marcus	99,340
Housing Opportunities Project for Excellence, Inc.	19 West Flagler Street, Miami, FL 33130	Mr. William Thompson	77,376
South Suburban Housing Center	2057 Ridge Road, Homewood, IL 60430	Mr. George Cole	55,000

PRIVATE ENFORCEMENT GRANTEES (NON-TESTING)

Lawyer's Committee for Civil Rights Under Law, DC	1400 Eye Street, Washington, DC 20005	Mr. Thomas J. Henderson	$200,000
Operational Sentinel	430 Sherman Avenue, Palo Alto, CA	Ms. Ann Marquart	31,808
Chicago Lawyer's Committee	185 North Wabash Avenue, Chicago, IL 60601.	Ms. Rosslyn C. Lieb	91,316
Lawyer's Committee for Civil Rights Under Law of the Boston Bar Association.	294 Washington Street, Boston, MA 02108	Ms. Barbara W. Rabin	325.000
New York Lawyers for the Public Interest	30 West 21 Street, New York, NY 10010	Ms. Ruth Lowenkron	46,000
Mental Health Law Project	2021 L Street, NW., Washington, DC 20036	Mr. Leonard S. Rubenstein	90,000

FAIR HOUSING INITIATIVE—EDUCATION AND OUTREACH GRANTEES (REGIONAL, STATE AND LOCAL)

Fair Housing Council of Oregon, Inc	2600 SE Belmont Street, Portland, OR 97214	Ms. Donna Butler	$75,000
Office Fair Employment Practices	156 Trinity Avenue, SW., Atlanta, GA 30303	Ms. Carla Ford	75,000
Providence Housing Authority	100 Broad Street, Providence, RI 20903	Ms. Marcia Sullivan	37,115
Housing Help Inc	91–101 Broadway, Greenlawn, NY 11740	L. Von Kuhen	34,930
National Fair Housing Alliance	1400 Eye Street, NW., Washington, DC 20005.	Ms. Shanna Smith	75,000
South Carolina Human Affairs Commission	P.O. Box 4490, 2611 Forest Drive, Columbia, SC 29240.	Mr. James Clyburn	75,000
Community Action Inc	25 Locust Street, Haverhill, MA 01826	Mr. Gerald Goldman	49,741
Open Housing Center	594 Broadway, New York, NY 10012	Ms. Sylvia Kramer	75,000
Fair Housing Council of Greater Washington	1400 Eye Street, NW., Washington, DC 20005.	Ms. Susan Weiss	75,000
City of Dallas, Office of Community Development, Fair Housing Office.	1500 Marilla Street, Dallas, TX 75201	Ms. Holly Malloy	75,000
Tenants' Action Group of Philadelphia	311 South Juniper Street, Philadelphia, PA 19107.	Ms. Eva Gladstein	75,000
Housing for all, The Metro Denver Fair Housing Center	3800 York Street, Denver, CO 80205	Ms. Kathie Cheever	39,398
Northern Bergen County CHRB	345 Union Street, Hackensack, NJ 07601	Ms. Lee Porter	58,000
Fair Housing Congress of Southern California	6565 Sunset Blvd., Los Angeles, CA 90028	Ms. Michelle White	75,000
Austin Tenants' Council, Inc	1619 East First Street, Austin, TX 78702	Ms. Katherine Stark	43,500
Long Island Housing Services, Inc	550 Smithtown Bypass, Long Island, NY 11787.	Mr. David Berenbaum	75,000
Arkansas Delta Housing Development Corporation	2080 South Washington, Forrest City, AR 72335–1410.	Mr. Clarence Wright	75,000
Maine Human Rights Commission	State House Station 51, Augusta, ME 04333	Ms. Patricia Ryan	75,000
Leadership Council for Metropolitan Open Communities	401 South State Street, Chicago, IL 60605	Mr. Kale Williams	60,000
Alaska State Commission for Human Rights	800 "A" Street, Anchorage, AK 99501	Ms. Paula Haley	75,000
Cuyahoga Plan of Ohio, Inc	1101 Euclid Avenue, Cleveland, OH 44115	Ms. Susie Rivers	75,000
Kentucky Fair Housing Council	835 West Jefferson Street, Louisville, KY 40202.	Mr. Galen Martin	27,116

FAIR HOUSING INITIATIVES—EDUCATION AND OUTREACH GRANTEES (NATIONAL)

National Fair Housing Alliance	1400 Eye Street, NW., Washington, DC 20005.	Ms. Shanna Smith	$25,000
National Federation for Neighborhood Diversity	1612 "K" Street, NW., Washington, DC 20006.	Mr. John Taylor	89,140
Kentucky Fair Housing Council	835 West Jefferson Street, Louisville, KY 40202.	Mr. Galen Martin	20,000
Howard University	2900 Van Ness Street, NW., Washington, DC 20008.	Ms. Jean McRae	99,573
Massachusetts Rehabilitation Commission	27-34 Wormword Street, Boston, MA 02210	Mr. John Chappell	186,287
International Association of Official Human Rights Agencies.	444 North Capitol St., NW, Washington, DC 20001.	Ms. Anthea Boarman	40,000
NAACP Special Contribution Fund, Department of Housing.	4805 Mount Hope Drive, Baltimore, MD 21215.	Ms. Beverly Cole	40,000

Dated: June 26, 1992.

Gordon H. Mansfield,

Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 92-15692 Filed 7-2-92; 8:45 am]

BILLING CODE 4210-28-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT-930-4111-09]

Blackleaf Oil and Gas Field Development, Montana

AGENCY: Bureau of Land Management, Interior

ACTION: Notice of Availability of Final Environmental Impact Statement

SUMMARY: In accordance with section 102(2) (c) of the National Environmental Policy Act of 1969, a Final Environmental Impact Statement (FEIS) for the Blackleaf Field Development Project has been prepared. It is the result of an interagency effort led by the Bureau of Land Management (BLM), with the Forest Service (FS) and Montana Department of Fish, Wildlife and Parks (MDFWP) as cooperating agencies.

Th EIS areas encompasses approximately 58,503 surface acres managed by the BLM, FS, MDFWP, and various private land owners. The area includes 40,327 acres of Federal mineral estate administered by the BLM. The EIS area is located in Teton County, approximately 25 miles northwest of Choteau, Montana.

The FEIS documents the issues and impacts, including cumulative effects, associated with reasonably foreseeable oil and gas activities in the Blackleaf Unit and surrounding area. It explores alternative ways of integrating oil and gas activities with management of the area's other valuable natural resources. It also assesses a wide range of mitigation measures which can be used to reduce impacts.

Under the authority of the Mineral Leasing Act of 1920 and subsequent amendments, the BLM is responsible for approval of oil and gas operations on federal minerals. This includes responsibility for approving the Drilling Plan, Hydrogen Sulfide Drilling Operations Plan, and if applicable, the Public Protection Plan for Applications for Permit to Drill (APD) on federal minerals where the surface is managed by the FS, MDFWP, or is privately owned.

PUBLIC PARTICIPATION: The Draft EIS (DEIS) was available for public review from April 20, 1990, to July 20, 1990. Approximately 700 copies of the DEIS was distributed. During the review period, 5 information meetings were held with 120 members of the public attending. Approximately 123 cards and letters were received. All comments were considered during preparation of the FEIS.

Copies of the FEIS are available for review at the Great Falls, East Glacier, and Choteau, Montana, public libraries. Copies are also available from the Lewistown District Office, Airport Road, Lewistown, Montana 59457, telephone (406) 538-7461; and the Great Falls Resources Area Office, 812 14th Street North, Great Falls, Montana 59401, telephone (406) 727-0503.

DECISIONMAKING AND ADMINISTRATIVE REVIEW: No decision is being made at this time regarding development of the Blackleaf Field. However, a decision will be issued following receipt of the first proposal for oil and gas activity within the EIS area. Proposals may be submitted at any time in the form of APDs, Sundry Notices, or by other appropriate means. Such proposals may be approved, denied, or approved with modification, based on the results of agency review.

The Blackleaf FEIS will be used as a basis for making future decisions. Additional analysis and documentation will be completed at the time development activities are proposed. Such analysis will evaluate the site-specific impacts associated with wellsites, roads, pipelines, and related facilities, and will assure full compliance with all applicable laws, regulations, and guidelines. Any additional environmental analysis and documentation will be tiered to the Blackleaf FEIS. Public notification and opportunities for administrative review of decisions will be provided.

FOR FURTHER INFORMATION CONTACT: Tad Day, BLM, Great Falls Resource Area, 812 14th Street North, Great Falls, Montana 59401, telephone (406) 727-0503.

SUPPLEMENTARY INFORMATION: The Blackleaf FEIS addresses a variety of issues associated with potential oil and gas activities in the Blackleaf area. These issues involve direct, indirect, and cumulative effects on wildlife (including grizzly bears, elk, mule deer, bighorn sheep, Rocky Mountain goats, and raptors); scenic values; the nearby Bob Marshall Wilderness; social and economic conditions; local landowner concerns; human health and safety; and tourism and recreation.

The FEIS analyzes four alternatives which place varying degrees of emphasis on surface resource protection and energy resource production. Under Alternative 1, the no action alternative, four existing wells in the area would remain active, although storage facilities would be removed and the wellsites would be partially rehabilitated. Gas would be piped to a central gas processing facility, and wells would be remotely monitored. No other development activity would be allowed and future APDs in the EIS area would be denied. Only 2 of the 25 federal leases in the EIS area would be developed under this alternative.

Under Alternative 2, which emphasizes energy resource production, the development scenario includes nine

step-out wells and six exploration wells. Production facilities, including storage tanks, would be located onsite, and gas would be piped to an existing facility outside of the EIS area. Periodic removal of condensate from onsite production facilities would be necessary. This alternative would require 15.6 miles of new road construction and 15.4 miles of new pipeline. Thirteen federal leases would be developed under this alternative.

Alternative 3, which emphasizes protection of surface resources while permitting additional oil and gas development, addresses the effects of allowing two step-out wells and two exploration wells to be drilled. Production facilities would be centralized at an offsite location, and wells would be remotely monitored. This alternative would require 2.1 miles of new road construction and 4.9 miles of new pipeline. Seven federal leases would be developed under this alternative.

Alterntive 4, the preferred alternative, combines elements of Alternatives 2 and 3. The development scenario for Alternative 4 includes seven step-out wells and six exploration wells. Production facilities would be centralized at an offsite location, and wells would be remotely monitored. This alternative would require 12.5 miles of new road construction and 15.1 miles of new pipeline. Twelve federal leases would be developed under this alternative.

Dated June 29, 1992.

Richard Hopkins,

Area Manager, Great Falls Resource Area.

[FR Doc. 92–15697 Filed 7–2–92; 8:45 am]

BILLING CODE 4310–DN–M

[NV–060–4370–10]

Battle Mountain District Advisory Council Meeting in Battle Mountain, NV

SUMMARY: Notice is hereby given in accordance with Public Law 94–579 and CFR part 1780 that a meeting of the Battle Mountain District Advisory Council will be held on Thursday, July 30, 1992. The meeting will convene at 9 a.m. at the Battle Mountain District Office.

SUPPLEMENTARY INFORMATION: The agenda will include:

1. Discussion on the Bureau's restructuring plan, 2015
2. Update on the Tonopah R.A. Resource Management Plan
3. Discussion and tour of Mill Creek Showcase Riparian Project

The meeting is open to the public. Interested persons may make statements beginning at 11:30 a.m. If you wish to make an oral statement, please contact James D. Currivan by July 27, 1992.

FOR FURTHER INFORMATION CONTACT: James D. Currivan, District Manager, P.O. Box 1420, Battle Mountain, Nevada, 89820 or phone (702) 635–4000.

Dated: June 23, 1992.

Peter J. Keenan,

Acting District Manager, Battle Mountain District.

[FR Doc. 92–15643 Filed 7–2–92; 8:45 am]

BILLING CODE 4310–HC–M

[MT–020–02–4320–02]

Montana; Notice of Meeting

AGENCY: Bureau of Land Management, Miles City District Office, Interior.

ACTION: Notice of Meeting.

SUMMARY: The Miles City District Advisory Council will meet August 10 and 11, 1992. New council members will meet at 1 p.m. Monday, August 10, for an orientation. The Council will meet at 8 a.m. on Tuesday, August 11. The meeting will be held in the District Office Conference Room on Garryowen Road. Specific agenda items to be discussed are the District budget and updates on the Brewer Ranch, Cherry Creek Dam, the weed control program, wild horse management, Pompeys Pillar, Fort Meade, guides and outfitters, effects of land exchanges and purchases on school taxation, and discussion of additional Council generated topics.

The meeting is open to the public. The public may make oral statements before the Council or file written statements for the Council to consider. Depending on the number of persons wishing to make an oral statement, a per person time limit may be established. Summary minutes of the meeting will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

FOR FURTHER INFORMATION CONTACT: District Manager, Miles City District, Bureau of Land Management, P.O. Box 940, Miles City, Montana 59301 or phone (406) 232–4331.

Arnold E. Dougan,

Acting Associate District Manager.

[FR Doc. 92–15670 Filed 7–2–92; 8:45 am]

BILLING CODE 4310–DN–M

[NV–940–02–4212–22]

Filing of Plats of Survey; Nevada

June 24, 1992.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested State and local government officials of the latest filing of Plats of Survey in Nevada.

EFFECTIVE DATES: Filing was effective at 10 a.m. on June 15, 1992.

FOR FURTHER INFORMATION CONTACT: John S. Parrish, Chief, Branch of Cadastral Survey, Bureau of Land Management (BLM), Nevada State Office, 850 Harvard Way, P.O. Box 12000, Reno, Nevada 89520, 702–785–6543.

SUPPLEMENTARY INFORMATION: The Plats of Survey of lands described below were officially filed at the Nevada State Office, Reno, Nevada on June 15, 1992:

Mount Diablo Meridian, Nevada

T. 49 N., R. 61 E.—Supplemental Plat of Sections 7 and 18.
T. 15 N., R. 19 E.—Dependent Resurvey and Survey.

These surveys were accepted May 29, 1992, and were executed to meet certain administrative needs of the Bureau of Land Management and the Forest Service.

The above-listed surveys are now the basic record for describing the lands for all authorized purposes. These surveys will be placed in the open files in the BLM Nevada State Office and will be available to the public as a matter of information. Copies of the surveys and related field notes may be furnished to the public upon payment of the appropriate fees.

Alan J. Dunton,

Acting Deputy State Director, Operations.

[FR Doc. 92–15642 Filed 7–2–92; 8:45 am]

BILLING CODE 4310–HC–M

INTERSTATE COMMERCE COMMISSION

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling

operations as authorized in 49 U.S.C. 10524(b).

Parent Corporation: Maytag Corporation, 403 W. 4th St. N., Newton, IA 50208.

Wholly-Owned Subsidiaries: (i) Dixie-Narco, Inc.—West Virginia Corp., (ii) Holland Distributors, Inc.—Delaware Corp., (iii) The Hoover Company—Delaware Corp.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92–15699 Filed 7–2–92; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Antitrust Division

United States of America Against Certain Property Owned by Salomon Brothers Inc

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (b) through (h), that a proposed Final Judgment, Stipulation, and Competitive Impact Statement have been filed with the United States District Court for the Southern District of New York in *United States of America against Certain Property Owned by Salomon Brothers Inc,* Civil Action No. 92–3700.

The Complaint in this case alleges that in or about June and July, 1991, Salomon Brothers Inc and certain unnamed co-conspirators engaged in a combination and conspiracy to coordinate their trading activities in the two-year notes issued by the United States Treasury on May 31, 1991, in order to limit the supply of the notes in the secondary market (in which persons buy and sell the securities) and the financing market (in which owners of the notes lend them in exchange for cash), in violation of section 1 of the Sherman Act, 15 U.S.C. 1.

Pursuant to section 6 of the Sherman Act, 15 U.S.C. 6, the proposed Final Judgment requires Salomon Brothers Inc to forfeit $27.5 million to the United States Department of Justice.

Public comment is invited within the statutory 60-day comment period. Such comments, and responses thereto, will be published in the **Federal Register** and filed with the Court. Comments should be directed to Richard L. Rosen, Acting Chief, Communications & Finance Section, Department of Justice, Antitrust Division, room 8104, 555 4th Street, NW., Washington, DC 20001 (202–514–5622).

Joseph H. Widmar,

Director of Operations, Antitrust Division.

United States District Court

Southern District of New York

United States of America, Plaintiff, against Certain Property Owned By Salomon Brothers Inc., Defendant, Salomon Brothers Inc., Real Party in Interest.

Civil Action No. 92 Civ. 3700.

Filed: May 20, 1992.

Stipulation

It is stipulated by and between the undersigned, by their respective attorneys, that:

1. The United States and Salomon Brothers Inc consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of either of them or upon the Court's own motion, as soon as is practicable after compliance with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, and without further notice to any person or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on Salomon Brothers Inc and by filing that notice with the Court.

2. Salomon Brothers Inc has agreed to certain forfeitures under 15 U.S.C. 6 to plaintiff pursuant to a certain Civil Settlement Agreement Between Salomon Inc, Salomon Brothers Inc and the United States Department of Justice dated May 20, 1992.

3. Salomon Brothers Inc further agrees to waive forever any present or future right to bring any suit against the United States and any of its agencies, officers, employees, and agents for any cause of action related to the forfeiture action based upon the underlying facts of this claim.

4. Plaintiff and Salomon Brothers Inc agree that, upon entry of the Final Judgment, the forfeiture action under 15 U.S.C. 6 shall be dismissed with prejudice.

5. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation will be of no effect whatever, and the making of this Stipulation shall be without prejudice to any person in this or any other proceeding.

Dated: May 20, 1992.

For the United States:

Hays Gorey, Jr.

Attorney, U.S. Department of Justice, Antitrust Division, Judiciary Center Building, 555 Fourth Street, NW., Washington, DC 20001, (202) 514–9602.

For Salomon Brothers Inc:

Frederick A.O. Schwarz, Jr.,

Cravath, Swaine & Moore, 825 Eighth Avenue, New York, New York 10019, (212) 474–1444.

So Ordered: 5/20/92

United States District Court

Southern District of New York

United States of America, Plaintiff, against Certain Property Owned By Salomon Brothers Inc. Defendant, Salomon Brothers Inc, Real Party in Interest.

Filed: May 20, 1992,

Civil Action No. 92 CIV. 3700.

Final Judgment

Plaintiff, United States of America, filed its Complaint on May 20, 1992, Plaintiff and Salomon Brothers Inc, by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law. This Final Judgment shall not be evidence or admission by any person with respect to any issue of fact or law. Before any testimony is taken, and without trial or adjudication of any issue of fact or law, and upon the consent of the United States and Salomon Brothers Inc, it is hereby,

Ordered, Adjudged, and Decreed:

1. This Court has jurisdiction over the defendent property by virtue of 28 U.S.C. 1345 and 1355. Venue exists in this Court pursuant to 28 U.S.C. 1395(b). The complaint states a claim upon which relief may be granted under sections 1 and 6 of the Sherman Act, 15 U.S.C. 1, 6.

2. The defendent property is hereby forfeited to the United States. Salomon Brothers Inc shall pay $27,500,000.00 plus the Additional Amount defined in the Civil Settlement Agreement between Salomon Inc, Salomon Brothers Inc and the United States Department of Justice dated May 20, 1992, within three (3) business days. Such amount is that portion of the $55,000,000.00 payment forfeited to the Department of Justice Asset Forfeiture Fund which represents the amount of the forfeiture pursuant to 15 U.S.C. 6.

3. This civil forfeiture action is hereby dismissed with prejudice.

4. Entry of this Final Judgment is in the public interest.

DATED: ____.

United States District Judge

United States District Court

Southern District of New York

United States of America, Plaintiff,-against-Certain Property Owned by Salomon Brothers Inc, Defendant, Salomon Brothers Inc, Real Party in Interest.

92 Civ. 3700.

Filed June 18, 1992.

Competitive Impact Statement

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)-(h), the United States submits this Competitive Impact Statement relating to the proposed Final Judgement submitted for entry in this civil antitrust forfeiture proceeding.

I.

Nature and Purpose of the Proceeding

On May 20, 1992, the United States filed a civil antitrust forfeiture complaint alleging that Salomon Brothers Inc ("Salomon") and others had conspired to restrain competition in markets for United States Treasury securities, in violation of Section 1 of the Sherman Act, 15 U.S.C. 1. The complaint seeks forfeiture of property owned by Salomon pursuant to the alleged conspiracy under section 6 of the Sherman Act, 15 U.S.C. 6.

The complaint alleges that, beginning in or about June 1991 and continuing at least into July 1991, Salomon and its co-conspirators violated section 1 of the Sherman Act by agreeing to coordinate their actions in trading their positions in the two-year Treasury notes issued by the Treasury of the United States on May 31, 1991 ("May two-year notes"). The alleged conspiracy affected the price of the notes in the secondary market (the post-auction market for purchase and sale of the securities), and the interest rate paid by persons, such as Salomon, that lent the notes in exchange for cash.

The United States and Salomon have stipulated to the entry of a proposed Final Judgement, which will grant the relief sought in the complaint and terminate action.

II.

Description of the Practices Involved in the Alleged Violation

The Treasury finances the debt of the United States by issuing Treasury securities in the form of bonds, notes and bills. Purchasers of Treasury bonds (with maturities in excess of ten years) and notes (with maturities of two to ten years) receive the right to semi-annual payments of interest at a specific rate (the "coupon rate") and repayment of the principal at maturity. Purchasers of Treasury bills (with maturities of less than two years) buy them at a discount off the principal, and receive the principal at maturity.

Treasury bonds, notes and bills ("Treasury securities") are sold by the Treasury through periodic auctions conducted mainly by and through the Federal Reserve System, especially the Federal Reserve bank of New York ("New York Fed"). At each such auction, the Treasury awards securities to the bidders willing to accept the lowest yield levels (effectively, interest rates) on their cash.

Several days before an auction, the Treasury announces the size of the issue to be auctioned. Trading in the when-issued market for that issue begins immediately thereafter, and continues until the day, generally one week after the action, when the Treasury settles with successful bidders, transmitting to them the new issue in exchange for payment. After settlement, trading in the issued Treasury security continues in the secondary market until the maturity date, when the issue is redeemed.

In every when-issued trade, there is a seller and a buyer. The seller agrees to deliver a specified quantity of Treasury securities of a particular issue to the buyer on settlement day (in this case May 31, 1991). The seller is said to be "short" the issue, and the buyer "long." On settlement day, the buyer must pay for its purchase and the seller must deliver the securities it is short. The seller may obtain the securities it is required to deliver either by purchasing them (at the Treasury auction or in a when-issued trade) or by borrowing them in the financing market, generally through a "repo" transaction, and delivering the borrowed securities to the buyer.[1]

Buyers of Treasury securities frequently engage in repo transactions to finance their purchases, in effect, borrowing cash and using the Treasury securities as collateral. When there is no "specific" demand for the issue a buyer owns, the buyer will borrow the cash it needs to finance its position at the "general collateral rate." When there is a specific demand for an issue because short sellers need to borrow the issue in order to deliver it to persons who have bought the security, owners can lend the issue in exchange for cash at a "special rate." The issue generally is said to be "on special" when the interest rate that owners (such as Salomon, in the case of the May two-year notes) are required to pay to borrow cash against the issue is significantly lower than the general collateral rate.[2] The lower the rate at which an owner finances its position in an issue, the greater its daily "positive carry." [3]

Each Treasury security of a particular issue is unique and bears an identification number (known as a "CUSIP number") which distinguishes it from all other securities. In this case, all May 1993 two-year notes (all of which were issued on the same date, May 31, 1991) bore the same CUSIP number. Persons who sell short an issue in the when-issued market must deliver that issue to the purchaser at settlement; they cannot substitute another Treasury issue. As a result, when short sellers do not purchase sufficient securities at the Treasury auction to cover their short sales, there can be an unusually heavy demand for a particular issue at and after the time of settlement, causing the price of the issue, relative to Treasury securities of comparable maturities, to increase in the secondary market. In this case, there was a substantial short position in the issue that short sellers did not cover at the auction.

Likewise, if the supply of an issue is artificially constricted by agreement among the holders of the issue, or among firms holding long positions, the cost of borrowing the security to make delivery increases.[4] When the cost of

[1] Repurchase agreements ("repos") are used to finance positions in Treasury securities. Under these standard-form agreements, the holder, or owner, of a security agrees to sell the security to the buyer, or borrower, and to buy it back the next day or within a short time. In a repo transaction, possession of Treasury securities is transferred by one party to another with a simultaneous agreement that the second party will later return the securities to the first party. The following are types of repo transactions: (a) a repurchase agreement ("repo"); (b) a reverse repurchase agreement ("reverse repo"); and (c) a borrow vs. pledge.

[2] A Treasury security may trade "on special" in the collateral markets for various reasons. Special rates could be the result of ordinary market forces, but could also be induced by persons acting together to distort normal market forces. A technique well known to Salomon at the time was for a trader to withhold a portion of its position in the security from the "specials" market in order to constrict supply and to drive up the price of the security in that market. When this is done, the remainder of the position is financed at "general" collateral rates. Potentially, if the holders of an issue withhold enough of it from the "special" market, some percentage of the issue might be financed at interest rates approaching zero.

[3] "Positive carry" is the difference between the coupon on the security and cost of financing the security. For example, an owner of a 7% Treasury bond who borrows money at 6% to pay for it is enjoying positive carry of 1%, or 100 basis points. This phenomenon is due to the existence of the repo market, which enables buyers to string together a series of low-interest overnight loans, rather than to take out a loan for the entire anticipated term of the investment at a higher interest rate.

[4] Due to the manner in which this market works, the increased cost of borrowing the security occurs when short sellers earn *lower* interest rates on money they lend to holders in order to borrow the

Continued

purchasing an issue in the secondary market or the cost of borrowing it through a financing transaction is significantly different than the cost of buying or borrowing securities of comparable maturities, a "squeeze" is said to occur.

Absent the conspiracy alleged in the complaint, Salomon would have had to compete with its co-conspirators in the financing market to finance its long position in the May two-year notes. Likewise, absent the conspiracy alleged, Salomon would have been required to compete against them in the when-issued and secondary markets to sell the issue. Instead, as a result of the conspiracy, competition between and among Salomon and its co-conspirators was reduced or eliminated.

As charged in the complaint, in or about June 1991, Salomon and its co-conspirators agreed on a scheme to coordinate their transactions in the May 1991 notes. This scheme had the effect of limiting the supply of May two-year notes available in the secondary and financing markets, thereby ensuring that persons who had sold May two-year notes short in the when-issued market could obtain such notes only by purchasing them at artificially high and non-competitive prices in the secondary market or by borrowing them in exchange for cash at artificially low and non-competitive special rates in the financing market. This course of conduct continued for a period of time during which Salomon and its co-conspirators earned supracompetitive rates on transactions in the notes that are the subject of this action.

Through purchases at the auction and in the when-issued market, Salomon and its co-conspirators obtained substantial positions in the May two-year notes. Indeed, during June and part of July, 1991, Salomon and its co-conspirators controlled essentially 100% of the lendable securities of the May two-year notes potentially available to satisfy the security-specific delivery obligations of the short sellers.

As part of the alleged scheme, Salomon and its co-conspirators agreed to coordinate their financing efforts by limiting the supply of May two-year notes made available for financing. The effect of this agreement, as noted earlier, was substantially to reduce or eliminate competition among the co-conspirators to lend May two-year notes in financing transactions.

As part of the alleged scheme, Salomon and its co-conspirators communicated frequently on the subject of their activities or planned activities with respect to May two-year notes. The co-conspirators assured each other that they: (a) Would continue to maintain substantial long positions in the May two-year notes and (b) would limit the supply of May two-year notes they would make available to the secondary and financing markets from the positions they controlled.

In addition to causing substantial monetary injury to short sellers, it is likely that the conspiracy harmed the United States. As noted in the Joint Report on the Government Securities Market issued by the Treasury, the SEC and the Federal Reserve Board, an acute, protracted squeeze resulting from illegal coordinated conduct, such as the one alleged here, "can cause lasting damage to the marketplace, especially if market participants attribute the shortage to market manipulation. Dealers may be more reluctant to establish short positions in the future, which could reduce liquidity and make it marginally more difficult for the Treasury to distribute its securities without disruption." [5]

III.

Explanation of the Proposed Final Judgment

The United States and Salomon have stipulated that the Court may enter the proposed Final Judgment after compliance with the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h). The proposed Final Judgment provides that its entry does not constitute any evidence or admission by any party with respect to any issue of fact or law. Under the provisions of section 2(e) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(e), the proposed Final Judgment may not be entered unless the Court finds that entry is in the public interest. Paragraph 4 of the proposed Final Judgment sets forth such a finding. The Proposed Final Judgment also provides for dismissal of the action with prejudice.

The Department believes that the proposed Final Judgment is in the public interest. The proposed Final Judgment provides an adequate remedy for the alleged violation. It provides for asset forfeiture in an amount tied to the profits from the alleged conspiracy and will provide appropriate deterrence for future illegal conduct.

Pursuant to the proposed Final Judgment, Salomon will pay $27.5 million (plus interest accruing at a rate of 3.875% from May 20, 1992 to the date of payment) to the United States within three business days of the entry of the Final Judgment. This payment reflects a cash settlement in lieu of forfeiture of the actual securities held pursuant to the alleged conspiracy.

On the same date that this action was filed, the Department of Justice and the Securities and Exchange Commission ("SEC") reached a global settlement with Salomon to resolves the firm's liability under the securities laws, the False Claims Act, the antitrust laws (with one exception), and the common law for certain specified conduct. The terms of that settlement provide that Salomon pay $290 million—$190 million in fines and forfeitures (including the forfeiture in this action) and establish a $100 million fund to be used to compensate victims of its misconduct. In addition, Salomon and the SEC agreed to a Final Judgment providing equitable relief under the securities laws. The settlement with the Department is attached as Exhibit A.

The Department believes that the proposed Final Judgment serves the cause of deterrence. The asset forfeiture proposed is itself substantial in amount and should serve as a warning of the possible consequences to others who might be inclined to emulate the behavior. Moreover, potential antitrust violators will be deterred from engaging in the kind of anticompetitive conduct charged here because the complaint describes with particularity the unlawful activity subject to the enforcement action.

IV.

Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages suffered, as well as costs and reasonable attorney's fees. Pursuant to the Settlement Agreement between Salomon and the United States, Salomon will pay $100 million into a fund to be available for damages claims from private parties that have been injured by its conduct. Entry of the proposed Final Judgment itself will neither impair nor assist the

security overnight or for a short term. The cost of borrowing the securities increases when short sellers—who must borrow the security to avoid a default (failure to deliver or "fail") on their contractual obligations—receive, say, only 4.25% on the money they lend when, if the issue were not "on special," they would have been able to borrow the securities in the repo market and earn a higher interest rate, say, 5.75%.

[5] *See* Department of the Treasury, Securities and Exchange Commission, Board of Governors of the Federal Reserve System; *Joint Report on the Government Securities Market* at 10 (January 1992).

bringing of such actions. Under the provisions of section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the Judgment has no *prima facie* effect in any subsequent lawsuits that may be brought against Salomon in this matter.

V.

Procedures Available for Modification of the Proposed Final Judgment

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed Final Judgment should be modified may submit written comments to Constance K. Robinson, Chief, Communications and Finance Section, U.S. Department of Justice, Antitrust Division, 555 Fourth Street, NW., room 8104, Washington, DC 20001, within the 60-day period provided by the Act. These comments, and the Department's responses, will be filed with the Court and published in the Federal Register. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Judgment at any time prior to entry. The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation or enforcement of the Final Judgment.

VI.

Alternatives to the Proposed Final Judgment

The proposed Final Judgment provides the relief that the United States sought in its complaint and, thus, there is no need for litigation on the basis of this complaint.

The Department has authority to seek equitable relief under section 4 of the Sherman Act, 15 U.S.C. 4. The Department, however, concluded that the public interest would not be served by injunctive relief in this particular case. The Department considered injunctive relief which would have prohibited Salomon from agreeing with, requesting, or directing another person to withhold securities from either the financing or secondary markets or disclosing to any other person its plan, or that of anyone else, to do so, and from entering into certain relationships with other holders of an issue in circumstances in which the quantity of the issue available for repo transactions could be limited by agreement between Salomon and other holders.

Given the fact that Salomon and other similarly situated firms serve not only as primary dealers, but also as market-makers, traders and brokers, it would have been extremely difficult to specify prohibited conduct without interposing a long list of caveats, exceptions and provisos to avoid undue inhibition of legitimate transactions. Such an injunction could very well have taken on an excessively regulatory character, placing the Court and the Department in the role of regulators of the Government Securities Market. Because participants in the Government Securities Market are subject to extensive regulation by other expert agencies, the Department determined that interposing an additional form of regulation in the context of an antitrust injunction could have had unintended consequences. Moreover, after considering the circumstances—including Salomon's extensive cooperation in the investigation and the extraordinary steps it has taken to prevent recurrence of the violation—the Department concluded that injunctive relief would not have served any important purpose. Salomon undertook significant changes in its business operations, including dismissing government traders and personnel and replacing the Chairman and Vice Chairman.

In making this determination, the Department consulted with and considered the views of experts in the Government securities field, including the United States Department of the Treasury, the United States Securities and Exchange Commission, the Board of Governors of the Federal Reserve System and the New York Fed. These agencies exercise to varying degrees authority over the critical function of marketing debt obligations of the United States government.

The Department believes that the $27.5 million, plus interest, in Section 6 relief it obtained in this case is a satisfactory resolution. If approved, this amount would represent the largest forfeiture or other penalty ever paid to the government by a defendant in an antitrust case. In addition, the Department decided that the substantial asset forfeiture provided for in the Final Judgment would provide a substantial deterrent to future anticompetitive conduct in the Treasury securities market.

VII.

Determinative Materials and Documents

Although it was not determinative in the Department's deliberations in the sense specified in section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b), the Department is attaching as Exhibit B a letter to Attorney General William P. Barr from Secretary of the Treasury Nicholas F. Brady, Federal Reserve Board Chairman Alan Greenspan, Securities and Exchange Commission Chairman Richard C. Breeden and New York Fed President E. Gerald Corrigan.

Respectfully submitted,

Geoffrey Swaebe, Jr., Attorney.
U.S. Department of Justice, Antitrust Division, room 3630, 26 Federal Plaza, New York, NY 10278–0140, (212) 264–0652.

Certificate of Service

I, Geoffrey Swaebe, Jr., an attorney in the Department of Justice Antitrust Division, certify that on this date I have caused to be served by hand the attached Competitive Impact Statement upon the following counsel for Salomon Brothers Inc. listed below, in the matter of *United States* v. *Certain Property Owned by Salomon Brothers Inc.* (92 Civ. 3700).

Frederick A.O. Schwartz, Esq.,
Cravath, Swaine & Moore, Worldwide Plaza, 835 Eighth Avenue, New York, NY 10019–7415.

Geoffrey Swaebe, Jr.

June 18, 1992.

Exhibit A—Civil Settlement Agreement Between Salomon Inc., Salomon Brothers Inc., and the United States Department of Justice

This Settlement Agreement ("Agreement"), dated May 20, 1992, is entered into between the United States Department of Justice (the "Department of Justice"), Salomon Inc and Salomon Brothers Inc ("SBA"). The terms of this Agreement are as follows:

1. Contemporaneously with the effective date of this Agreement, the Department of Justice and the United States Securities and Exchange Commission (the "SEC") are filing against one or both of Salomon Inc and SBI civil complaints seeking penalties, fines, forfeitures, damages and injunctive relief.

2. Salomon Inc or SBI shall, at the time specified in paragraph 10, pay the sum of $290 million as follows:

$190 million shall be paid to the United States of America. Of this amount, $55 million shall be forfeited to the Department of Justice Asset Forfeiture Fund pursuant to 15 U.S.C. § 6 and 18 U.S.C. § 981(a)(1)(c) and $135 million shall be paid to the United States in respect of claims of the Department of Justice under 31 U.S.C. § 3729 and under common law and claims of the SEC set forth in the complaint filed by it referred to above. Payment of such $135 million shall be made as directed by the Department of Justice and the SEC.

$100 million shall be paid into an escrow account established by court order pursuant to *Securities and Exchange Commission* v. *Salomon Inc and Salomon Brothers Inc*, upon

terms designated by and with an Administrator designated by the SEC, and approved by the Court. This escrow amount shall be administered and used as set forth in Final Judgment of Permanent Injunction and Other Relief as To Salomon Inc and Salomon Brothers Inc in *Securities and Exchange Commission* v. *Salomon Inc and Salomon Brothers Inc.*

Any portion of such $190 million not imposed by the Court in *United States of America* v. *Salomon Brothers Inc* and *Securities and Exchange Commission* v. *Salomon Inc and Salomon Brothers Inc* shall be paid to the United States pursuant to the foregoing terms of this Agreement. It is further understood that under no circumstances shall Salomon be entitled to any refund of any monies paid pursuant to the terms of this Agreement; provided that the foregoing shall not preclude reimbursement of Salomon from the escrow fund, in accordance with the procedures governing such fund, in respect of third-party claims paid directly by Salomon.

3. Except as set forth in paragraph 4, (i) the payments described in paragraph 2 above shall be in full and complete settlement of all civil claims, charges, demands, causes of action, obligations, fines, forfeitures, damages, and liabilities against Salomon based upon or arising out of any matters set forth in Annex A and (ii) upon the initial payment pursuant to paragraph 10 of amounts set forth in paragraph 2, the Department of Justice, on its own behalf and on behalf of the Department of the Treasury of the United States, fully releases Salomon from all such civil claims, charges, demands, causes of action, obligations, fines, forfeitures, damages, and liabilities, including, without limitation, such of the foregoing as may rise under the antitrust laws, the False Claims Act, 31 U.S.C. § 3729, *et seq.*, or common law.

4. (a) Salomon understands that there is an on-going, industry-wide Antitrust Division investigation of whether there have been pre-auction conversations and related conduct among primary dealers and others ("Pre-Auction Conduct") that violated the antitrust laws of the United States. The parties agree that the conduct described in the Antitrust Complaint and, to the extent not so described, the communications referred to in paragraph A(1)(b) of Annex A (collectively, the "Covered Conduct") is included within the scope of this Agreement and the releases herein of claims under the federal antitrust laws for damages, fines, penalties, forfeitures or other remedies. Except to the extent that claims contemplated by paragraph 4(b) are possible, the Department of Justice may not make additional claims for damages, fines, penalties, forfeitures or other remedies that arise from the Covered Conduct; said claims have been settled by this Agreement. Nothing herein is, however, intended to prevent reference by the Department of Justice to the Covered Conduct in a subsequent proceeding, if any, relating to Pre-Auction Conduct, insofar as the Covered Conduct may be relevant to such a proceeding.

(b) The parties further agree that specifically excluded from the terms of this Agreement and the releases herein are all disputes and claims, if any, arising under the Internal Revenue Code, Title 26 U.S.C.

(c) The parties agree that the release pursuant to paragraph 3 of "REFCO Claims", as defined below, shall become effective only at such time, if any, as there shall have been obtained any consent or authorization from Resolution Funding Corporation necessary to effect such release, and the parties hereto (other than Salomon Inc and SBI) will use their good offices to obtain any such required consent or authorization. For purposes hereof, "REFCO Claims" shall mean claims, if any, of Resolution Funding Corporation for damages, fines penalties, forfeitures or other remedies arising under federal statutes or common law which may be asserted by Resolution Funding Corporation, or on behalf of Resolution Funding Corporation by the Department of Justice, and which are based upon or arise out of matters specified in Annex A relating to auctions of bonds issued by Resolution Funding Corporation. REFCO Claims shall not in any event include claims of the Department of the Treasury relating to such auctions, all of which are included in the release set forth in paragraph 3 hereof.

5. It is further understood that this Agreement is being entered into only with the Department of Justice and, except as specifically set forth in paragraph 3, the Department of Justice makes no agreements herein on behalf of any other federal, state, or local governmental authorities, although the Antitrust Division of the Department of Justice and the Office of the United States Attorney for the Southern District of New York agree, however, to bring the terms of this Agreement and the cooperation of Salomon to the attention of other federal, state or local governmental or other authorities, if requested by Salomon.

6. Simultaneously with the filing of the complaints referred to in paragraph 1 above, the Department of Justice and Salomon Inc and SBI will stipulate to the entry of an order of dismissal (the "Annex B Order") in the form set forth in Annex, B and the SEC and Salomon Inc and SBI will enter into a stipulated order (the "Annex C Order") in the form set forth in Annex C. By entering into this Agreement and the Annex B Order and the Annex C Order (the "Orders"), Salomon does not admit or deny any of the factual allegations pertaining to the matters described in Annex A, whether or not those allegations are described in any complaints filed by the Department of Justice or the SEC, nor does Salomon admit or deny any legal liability arising therefrom. Nothing in this Agreement or the Orders will constitute a finding of fact or conclusion of law or otherwise provide any basis for establishing such liability.

7. SBI undertakes and agrees for a period of 36 months from the date of this Agreement, subject to the attorney-client and attorney work product privileges, to continue to cooperate with the Department of Justice and to make available to the Department of Justice truthful and accurate information with respect to its activities, the activities of its present and former officers, agents and employees and the activities of others about which the Department of Justice may inquire in connection with the Department of Justice's current inquiries and investigations and such inquiries or investigations as arise therefrom or relate thereto. This cooperation will include, but not be limited to, production of documents as are reasonably requested by the Department of Justice, the use of SBI's best efforts to make available its employees to the Department of Justice for interviews and non-expert testimony requested by the Department of Justice, the use of its best efforts to encourage and facilitate such interviews and non-expert testimony of employees and SBI's preparation of analyses and reports reasonably requested by the Department of Justice relating to SBI's operations or information (including transactional data) in its possession. In entering into and performing these undertakings, SBI reserves all its rights and privileges concerning third parties in connection with discovery, evidentiary proceedings or related matters.

8. Nothing in this Agreement or the Orders will constitute a pretrial diversion or a similar program.

9. The term "Salomon" as used in this Agreement shall include Salomon Inc, SBI and any and all subsidiaries that are directly or indirectly more than 50 percent owned by, and are directly or indirectly controlled by, SBI or Salomon Inc on the date hereof.

10. This Agreement shall be effective upon the filing of the civil complaints described in paragraph 1 above. Salomon Inc and SBI will endeavor with the SEC to have the Annex C Order entered by the Court within two business days after the date of such filing. SBI or Salomon Inc will make the payment described in paragraph 2 above within three business days of the Court's entry of the Annex C Order; provided, however, that payment of that portion of the $55 million payment to be forfeited to the Department of Justice Asset Forfeiture Fund which represents the amount of the forfeiture pursuant to 15 U.S.C. § 6 (the "Deferred Payment") shall be deferred and made by Salomon Inc or SBI at the time specified below. The Department of Justice and Salomon recognize that the Court may enter the Annex B Order only after complying with the procedures set forth in 15 U.S.C. § 16(b) through (g). The Department of Justice and Salomon will each use best efforts to comply with such procedures so that the Annex B Order is entered by the Court at the earliest practicable date. Salomon Inc or SBI shall make payment of the Deferred Payment plus the "Additional Amount," as defined below, within three business days of the Court's entry of the Annex B Order or such other order as represents a final disposition of the antitrust action. The "Additional Amount" shall mean an amount representing interest on the Deferred Payment, computed on the basis of a 365 day year, at a rate per annum of 3.875%, from and including the date of the initial payment under paragraph 2 to but excluding the date on which the Deferred Payment is made. To the extent the Court does not impose any portion of the Deferred Payment or the Additional Amount, such portion shall nonetheless be paid at such time to the United States pursuant to paragraph 2.

11. Salomon Inc and SBI hereby waive any rights they might have as a result of this Agreement or the settlement arrangements contemplated hereby under the United States Supreme Court's decision in *United States* v. *Halper*, 490 U.S. 435, 109 S.Ct. 1892 (1989), or in respect of the subject matter of that case or under any other existing or future decision relating to that subject matter.

12. This Agreement, and all the terms and provisions hereof, will be binding on the parties hereto and their respective successors and assigns, and will inure only to the benefit of the parties hereto, and other entities specifically released pursuant to paragraph 3, and their respective successors and assigns, and no other person shall be entitled to any benefits hereunder.

13. No additional understandings, promises, agreements and/or conditions have been entered into by the parties hereto with respect to the matters set forth in this Agreement other than those set forth herein and none will be entered into unless in writing and signed by all parties.

14. This Agreement may be executed in multiple counterparts, each of which shall constitute an original but all of which when taken together shall constitute but one agreement.

15. This Agreement shall be deemed to have been fully executed and delivered when both the Department of Justice, on the one hand, and Salomon Inc and SBI, on the other hand, have received counterparts hereof executed on behalf of the other party or parties, as the case may be, by each of the signatories for such other party or parties set forth on the signature pages hereof.

Agreed to:
UNITED STATES DEPARTMENT OF JUSTICE
Date: May 20, 1992
Otto G. Obermaier
United States Attorney
Southern District of New York
Date: May 20, 1992
Stuart M. Gerson
Assistant Attorney General
Civil Division
Date: May 20, 1992
Charles A. James
Acting Assistant Attorney General
Antitrust Division
SALOMON INC
by
Date: May 20, 1992
Robert E. Denham by RLO
General Counsel
SALOMON BROTHERS INC
by
Date: May 20, 1992
Robert E. Denham by FAOS
Managing Director & Secretary

This Annex A is the "Annex A" referred to in paragraphs 3, 4 and 6 of the Civil Settlement Agreement dated May 20, 1992 (the "Agreement") among the United States Department of Justice, Salomon Inc and Salomon Brothers Inc. It is understood that (i) this Annex simply sets forth certain matters to which the settlement and releases set forth in paragraph 3 of the Agreement relate and shall not itself operate as a release or settlement separate from that granted by paragraph 3 and (ii) neither paragraph 3 nor the description of matters set forth in this Annex shall effect any release or settlement to the extent such lease or settlement is excluded from the Agreement pursuant to paragraph 4 thereof.

A. Treasury Auction Related Matters

1. (a) Salomon Brothers Inc's ("SBI's") conduct or communications from January 1, 1989, through August 9, 1991, related to (i) bidding for itself and others in all auctions for United States Treasury bills, notes and bonds (and Resolution Funding Corporation ("REFCORP") bonds), from January 1, 1989 through August 9, 1991, (ii) trading and financing on its own behalf or on behalf of others of all such United States Treasury and REFCORP securities and (iii) post-auction communications concerning the bidding, trading and financing of all such Treasury and REFCORP securities. (b) SBI's communications with others prior to the August 10, 1989, auction of the United States Treasury cash management bill maturing on April 17, 1990, and prior to the May 22, 1991 auction of United States Treasury 2-year notes, to the extent such communications relate to those two Treasury securities.

2. Salomon Inc's ("Salomon's") (i) registration statements filed pursuant to the Securities Act of 1933 and the offer, distribution and sale of Salomon securities offered pursuant thereto by Salomon and SBI, and (ii) periodic reports filed pursuant to the Securities Exchange Act of 1934, in each case from January 1, 1989 through August 14, 1991 (hereinafter collectively referred to as the "SEC Filings"). Salomon's public statements, other than the SEC Filings, from January 1, 1989, through August 14, 1991, including the Salomon press releases dated August 9, 1991, and August 14, 1991.

3. SBI's and Salomon's supervision of, and compliance procedures governing, their employees' activities relating to SBI's bidding activities on SBI's behalf or on behalf of others at auctions for United States Treasury bills, notes and bonds (and REFCORP bonds), and SBI's trading and financing activities in all such United States Treasury and REFCORP securities from January 1, 1989, through August 9, 1991.

4. SBI's and Salomon's books and records reflecting the activities set forth in paragraph 1.

B. Tax Trades

5. SBI's conduct and activities, if any, relating to prearranged tax trades, if any, in United States Treasury securities from the 1980 through 1991 tax years; Salomon's and SBI's payments of taxes to the United States in respect of those tax years; and Salomon's and SBI's

books and records reflecting any such conduct, activities or payments.

C. Corporate Medium Term Notes

6. SBI's activities, prior to the date of this Agreement, relating to the initial distribution of corporate medium term notes, and SBI's books and records reflecting those activities.

Annex B

United States District Court Southern District of New York

United States of America, Plaintiff, — against—Certain Property Owned by Salomon Brothers Inc., Defendant, Salomon Brothers Inc., Real Party in Interest. Civil Action No. 92 CIV. 3700.

Final Judgment

Plaintiff, United States of America, filed its Complaint on May 20, 1992. Plaintiff and Salomon Brothers Inc, by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law. This Final Judgment shall not be evidence or admission by any person with respect to any issue of fact or law. Before any testimony is taken, and without trial or adjudication of any issue of fact or law, and upon the consent of the United States and Salomon Brothers Inc, it is hereby,

Ordered, Adjudged, and Decreed:

1. This Court has jurisdiction over the defendent property by virtue of 28 U.S.C. 1345 and 1355. Venue exists in this Court pursuant to 28 U.S.C. 1395(b). The complaint states a claim upon which relief may be granted under sections 1 and 6 of the Sherman Act, 15 U.S.C. 1, 6.

2. The defendent property is hereby forfeited to the United States. Salomon Brothers Inc shall pay $27,500,000.00 plus the Additional Amount defined in the Civil Settlement Agreement between Salomon Inc, Salomon Brothers Inc and the United States Department of Justice dated May 20, 1992, within three (3) business days. Such amount is that portion of the $55,000,000.00 payment forfeited to the Department of Justice Asset Forfeiture Fund which represents the amount of the forfeiture pursuant to 15 U.S.C. 6.

3. This civil forfeiture action is hereby dismissed with prejudice.

4. Entry of this Final Judgment is in the public interest.

Dated: _____.

_____

United States District Judge

Annex C

United States District Court, Southern District of New York

Securities and Exchange Commission, Plaintiff, v. Salomon Inc. and Salomon Brothers Inc. Defendants. 92 Civ. No. 3691 (RPP).

Final Judgment of Permanent Injunction and Other Relief as to Salomon Inc. and Salomon Brothers Inc

Plaintiff Securities and Exchange Commission ("Commission") having filed a complaint for permanent injunction and other relief ("Complaint"), and Defendants Salomon Inc, Salomon Brothers Inc, and their successors and assigns, if any (collectively referred to as "Salomon"), in the attached Consent and Undertakings of Salomon Inc and Salomon Brothers Inc ("Consent"), the terms of which are expressly incorporated herein, having entered a general appearance, having admitted the jurisdiction of the Court over each of them and over the subject matter of this action, having waived the filing of an answer to the Complaint, having waived the entry of findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure, and, without admitting or denying any of the allegations of the Complaint, and prior to trial, presentation of evidence, argument or adjudication of any issue of law or fact, having consented to the entry of this Final Judgment of Permanent Injunction and Other Relief as to Salomon Inc and Salomon Brothers Inc ("Final Judgment"), and it further appearing that this Court has jurisdiction over the parties and the subject matter hereof, and the Court being fully advised in the premises:

I.

It is Hereby Ordered, Adjudged and Decreed that Salomon, its officers, agents, servants, employees and attorneys-in-fact, and those persons in active concert or participation with them who receive actual notice of this FINAL JUDGMENT by personal service or otherwise, and each of them, be and hereby are permanently restrained and enjoined from directly or indirectly violating, or aiding and abetting a violation of section 17(a) of the Securities Act of 1933 (the "Securities Act") (15 U.S.C. 77q(a)) by, in the offer or sale of any securities, using any means or instruments of transportation or communication in interstate commerce, or using the mails, directly or indirectly;

(a) To employ any device, scheme, or artifice to defraud;

(b) To obtain money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or

(c) To engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

II.

It is Further Ordered, Adjudged and Decreed that SALOMON, its officers, agents, servants, employees and attorneys-in-fact, and those persons in active concert or participation with them who receive actual notice of this FINAL JUDGMENT by personal service or otherwise, and each of them, be and hereby are permanently restrained and enjoined from, directly or indirectly, violating or aiding and abetting a violation of section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act") (15 U.S.C. 78j(b)) or Rule 10b–5 promulgated thereunder (17 CFR 240.10b–5) by, directly or indirectly, using any means or instrumentality of interstate commerce, or of the mails, or of any facility of a national securities exchange:

(a) To employ any device, scheme, or artifice to defraud;

(b) To make any untrue statement of a material fact or to omit to state any material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or

(c) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person,

in connection with the purchase or sale of any security.

III.

It is Further Ordered, Adjudged and Decreed that Salomon Brothers Inc, its officers, agents, servants, employees and attorneys-in-fact, and those persons in active concert or participation with them who receive actual notice of this FINAL JUDGMENT by personal service or otherwise, and each of them, be and hereby are permanently restrained and enjoined from directly or indirectly violating, or aiding and abetting a violation of section 15(c)(1) of the Exchange Act (15 U.S.C. 78o(c)(1)) or Rule 15cl–2 promulgated thereunder (17 CFR § 240.15cl–2) by making use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any

security (other than commercial paper, bankers' acceptances, or commercial bills) otherwise than on a national securities exchange of which SALOMON BROTHERS INC is a member, by means of any manipulative, deceptive, or other fraudulent device or contrivance, including any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person, or any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements, made, in the light of the circumstances under which they are made, not misleading, which statement or omission is made with knowledge or reasonable grounds to believe that it is untrue or misleading.

IV.

It is Further Ordered, Adjudged and Decreed that Salomon Brothers Inc, its officers, agents, servants, employees and attorneys-in-fact, and those persons in active concert or participation with them who receive actual notice of this FINAL JUDGMENT by personal service or otherwise, and each of them, be and hereby are permanently restrained and enjoined from, directly or indirectly, violating or aiding and abetting a violation of section 17(a)(1) of the Exchange Act (15 U.S.C. 78q(a)(1)) or Rules 17a–3 and 17a–4 promulgated thereunder (17 CFR 240.17a–3 and 240.17a–4) by failing or causing a failure to make and keep the records required by such section and the rules thereunder for the prescribed periods, to furnish such copies thereof, and to make, disseminate and file the reports required by such section and the rules thereunder, which set forth requirements concerning records and reports required to be made and preserved by certain exchange members, brokers and dealers.

V.

Definition of "Salmon-Related Activities"

For purposes of this Final Judgment, the term "Salomon-Related Activities" shall mean (i) the activities of SALOMON in connection with the allegations of the Complaint or (ii) the activities of Salomon relating to U.S. Treasury or government securities sold at auction during the period January 1, 1989 through August 9, 1991, including without limitation, auction, financing and trading activities, or relating to disclosure or nondisclosure by SALOMON of matters referred to in clauses (i) and (ii) above.

VI.

Payments by Salomon

It Is Further Ordered, Adjudged and Decreed that Salomon shall pay within three (3) business days of the entry of this Final Judgment the aggregate sum of $290,000,000 ("the Aggregate Payment"). The Aggregate Payment shall be allocated and paid as set forth in paragraphs A and B below.

A. Payment to the United States

It Is Further Ordered, Adjudged and Decreed that $122,000,000 of the Aggregate Payment shall represent payment of civil penalties under the Securities Enforcement Remedies and Penny Stock Reform Act of 1990. Public Law 101–429. In addition, $50,000,000 of the Aggregate Payment shall represent a forfeiture to the Department of Justice Asset Forfeiture Fund pursuant to 15 U.S.C. 6 and 18 U.S.C. 981(a)(1)(c) and $18,000,000 represents a payment to the United States in respect of potential claims of the Department of Justice under 31 U.S.C. 3729 and under common law, in each case pursuant to the Settlement Agreement with the Untied States Department of Justice. The amounts required to be paid pursuant to this paragraph shall be paid by wire transfer to the Untied States Treasury.

B. The Civil Claims Fund

It Is Further Ordered, Adjudged and Decreed that $100,000,000 of the Aggregate Payment, which represents a fund for civil claims against SALOMON, shall be paid into the Court's registry through the Court Registry Investment System ("C.R.I.S."), to be administered by the Fund Administrator appointed by the Court pursuant to paragraph 4.a below. The monies required to be paid pursuant to this paragraph, together with income generated through the investment of such monies, is hereinafter referred to as the "Fund."

1. Uses of the Fund

It Is Further Ordered, Adjudged and Decreed that the Fund is to be utilized for payment as follows:

a. *First,* to pay C.R.I.S. and court administrative fees, taxes on the income earned on the Fund, and the fees and expenses (including attorney's fees) of the Fund Administrator appointed pursuant to paragraph 4.a below incurred in connection with and incidental to the performance of the Fund Administrator's duties hereunder and under the Fund Administration Agreement (as defined in paragraph 4.a below), including amounts referred to in paragraph 9.b below;

b. *Second,* (i) in accordance with paragraphs 5 and 6 below, to pay "valid claims," as defined in paragraph 2 below or (ii) if Salomon has made, after the effective date of the Final Judgment, a payment in good faith to a person or persons to resolve a claim that the Fund Administrator determines to be a valid claim, then Salomon, solely for the purposes of receiving reimbursement from the Fund, shall be deemed to be subrogated to the rights of the person or persons who received such payment from Salomon and shall be entitled as a subrogee to reimbursement from the Fund; and

c. *Third,* six (6) years from the effective date of this Final Judgment, or at such other time as the parties may agree, the Fund (less appropriate reserves for the payments referred to in paragraph a.1 above) shall be closed out by paying to the Treasury of the United States any monies remaining in the Fund that are not to be distributed pursuant to a Commission plan of distribution.

2. Valid Claims

It Is Further Ordered, Adjudged and Decreed that a "valid claim," as that term is used herein, is each of the following: (a) Any claim for compensatory damages that Salomon is required to pay in good faith as a result of any non-appealable final judgment against it arising out of Salomon-Related Activities; (b) amounts that Salomon agrees in good faith to pay in *bona fide* settlement of any claim for compensatory damages arising out of Salomon-Related Activities; and (c) such other claims for compensatory damages against Salomon arising out of Salomon-Related Activities, as are identified by the Commission in its plan or plans of distribution described in paragraph 6 below. The order in which various classes of claims are described above shall not be construed as according or denying priority to any class of valid claim.

3. Restriction on Payment

It Is Further Ordered, Adjudged and Decreed that:

a. Payments shall not be made directly or indirectly from the Fund to:

(i) Salomon, except as expressly provided in paragraph 1.b above;

(ii) any person or entity who the Fund Administrator determines, after consultation with the Commission, has been: (A) Convicted of any crime substantially related to Salomon-Related Activities; (B) found by a court or a department or agency of the United States to have violated a federal statute or regulation for any conduct

substantially related to Salomon-Related Activities; (C) named as a defendant in a pending federal criminal proceeding or in a pending federal civil or administrative proceeding instituted by a department or agency of the United States, for any alleged conduct substantially related to Salomon-Related Activities if the Fund Administrator determines that such alleged conduct is substantially related to the conduct underlying the claim asserted on the Fund and that it would therefore be inappropriate to consider such claim for payment until the conclusion of the federal criminal, civil or administrative proceeding; or

(iii) Any person or entity who is, or whose immediate family member is, a current or former officer, managing director, employee or stockholder of Salomon, or a corporation, partnership, trust or other entity in which such officer, managing director, employee or stockholder is or was a stockholder, partner, trustee or beneficiary or otherwise holds or held an interest, where the Fund Administrator finds, after consultation with the Commission, that by reason of such person's participation in Salomon-Related Activities or such person's failure to supervise such activities, it would be inequitable or otherwise inconsistent with the purposes of this Final Judgment to permit such person or entity to receive payments from the Fund.

b. Except as expressly provided in paragraph 1.a above, no part of the Fund may be used to pay attorneys' fees, costs or disbursements.

4. Appointment of Fund Administrator

a. *It is Further Ordered, Adjudged and Decreed* that, after consultation with Salomon, the Commission shall recommend to the Court and the Court shall appoint a Fund Administrator. Within sixty (60) days of the entry of this Final Judgment, the Fund Administrator shall enter into an agreement (the "Fund Administration Agreement") with the Commission that is consistent with the terms of this Final Judgment and that has been approved by Salomon, whose approval shall not be unreasonably withheld. The Fund Administration Agreement shall govern the conservation, investment and disbursement of monies in the Fund. At the request of the Commission, the Fund Administrator shall also assist the Commission in the formulation and implementation of the plan or plans of distribution described in paragraph 6 below, and determine the validity of claims for payment from the Fund in accordance with this Section VI. The Fund Administration Agreement shall be submitted to this Court for approval and shall be set forth in a supplemental order in this matter.

b. At the request of the Commission, the Fund Administrator may at any time be removed by the Court and, after consultation with Salomon, replaced with a successor recommended to the Court by the Commission and approved by the Court. In the event the Fund Administrator decides to resign, the Fund Administrator shall first give sixty (60) days written notice to the Commission, Salomon and the Court of such intention to resign, and such resignation shall not become effective until the Fund Administrator has submitted its resignation in writing to the Commission, Salomon and the Court, and the Court has appointed a successor who has accepted such appointment in writing.

c. The Fund Administrator, or any law firm of which the Fund Administrator is a member, shall not, during the term of the Fund Administration Agreement and for a period of five (5) years thereafter, enter into any employment, consulting or attorney-client relationship with Salomon, or any of its present or former directors, officers, employees or agents acting in their capacity as such.

5. Application for Payment of Bona Fide Judgments and Settlements

It is Further Ordered, Adjudged and Decreed that Salomon may make written application to the Fund Administrator for the payment to claimants of valid claims as defined in clauses (a), (b) and (c) of paragraph 2 above and for reimbursement to Salomon pursuant to paragraph 1.b (ii) above. Copies of any such application shall be provided to the Court and to the Commission. Upon receipt of the application for payment to claimants or reimbursement to Salomon pursuant to paragraph 1.b (ii) above, the Fund Administrator, after consultation with the Commission, shall make a written determination as to whether the claim is eligible to be paid under paragraphs 1, 2 and 3 above.

Within thirty (30) days (ten (10) days in the case of a paragraph 2, clause (a) claim) of receipt of any such application, the Fund Administrator shall send a written notice to Salomon, the Commission and the Court setting forth its decision regarding the application for payment of the claim. In the event that the application is denied, the Fund Administrator shall set forth the reasons for the denial in the notice. Salomon or the Commission may appeal any such denial to the Court, which shall determine whether payment of all or part of the claim is consistent with the terms and purposes of this Final Judgment. In the event that the application is approved by the Fund Administrator, the Commission may object, in writing, within thirty (30) days thereafter (ten (10) days in the case of a paragraph 2, clause (a) claim), on the grounds that such approval is inconsistent with the terms or purposes of this Final Judgment. Copies of any such written objection shall be provided to the Fund Administrator, Salomon and the Court. In the event of such objection by the Commission, the Court shall determine whether payment of all or part of the claim is inconsistent with the terms or purposes of this Final Judgment. If the Commission does not object in writing within thirty (30) days (ten (10) days in the case of a paragraph 2, clause (a) claim), the Court shall order the Fund Administrator to pay the claims in the amount previously approved by the Fund Administrator.

6. Plan or Plans of Distribution of the Civil Claims Fund

It is Further Ordered, Adjudged and Decreed that, after five (5) years following the effective date of this Final Judgment, or at such other time as the parties may agree or the Court may order, the Commission shall file with the Court and serve upon counsel for Salomon a proposed plan for the distribution of all or a portion of the remaining monies in the Fund, consistent with the terms of this Final Judgment. Such plan may provide that any monies remaining in the Fund shall be distributed to the United States Treasury. If requested by the Commission, the Fund Administrator shall assist the Commission in the formulation of such plan of distribution and shall assist the Court in its determination whether particular claims are eligible for payment from the Fund pursuant to such plan. Within such time after the submission by the Commission of a proposed plan as the Court may determine, the Court may convene a hearing upon said plan and shall determine the appropriate disposition of that portion of the Fund encompassed within said plan. Salomon shall have the right to be heard with respect to the Court's consideration of any proposed plan of distribution.

7. Taxes

It is Further Ordered, Adjudged and Decreed that the parties and the Fund Administrator, on behalf of the Fund, shall take all necessary steps to enable the Fund to be a taxable "Settlement Fund" within the context of Internal Revenue Code § 468B and the

regulations, whether proposed, temporary or final or pronouncements thereunder. Such steps include the timely filing of elections and statements as set forth in Internal Revenue Code section 468B(d)(2)(D) and as expanded in applicable regulations or pronouncements providing guidance. The elections and statements to be filed include those required pursuant to proposed Treasury Regulations §§ 1.468B–0 through 1.468B–5 for all taxable years of the Fund beginning with the date of its establishment, including the election made pursuant to proposed Treasury Regulations § 1.468B–5(c)(2). The Fund Administrator, on behalf of the Fund, shall file on a timely basis all Federal, State and local tax returns. The Fund Administrator shall cause the Fund to pay taxes in a manner consistent with treatment of the Fund as a "qualified settlement fund" as provided in proposed Treasury Regulations § 1.468B–2. Any reference herein to Treasury Regulations shall mean Proposed Treasury Regulations § 1.468B issued on February 14, 1992, or any regulations or pronouncements which supersede them, whether in proposed, temporary or final form.

8. Stay of Proceedings Against the Civil Claims Fund

It is Further Ordered, Adjudged and Decreed that all creditors or claimants of SALOMON, and other persons and others acting on behalf of such creditors or claimants or other persons, including sheriffs, marshals, other officers, deputies, servants, agents, employees and attorneys, be and the same hereby are restrained and enjoined during the pendency of the existence of the Fund from:

a. Commencing, prosecuting, continuing or enforcing any suit or proceeding against the Fund Administrator or the Fund;

b. Using self-help or executing or issuing or causing the execution or issuance of any court attachment, subpoena, replevin, execution or other process for the purpose of impounding or taking possession of or interfering with or creating or enforcing a lien upon any property owned by or in the possession of or to be transferred to the Fund, or the Fund Administrator pursuant to this Final Judgment, wheresoever situated; and

c. Doing any act or thing whatsoever to interfere with the taking control, possession or management by the Fund Administrator appointed herein of the property and assets owned, controlled or in the possession of SALOMON that are or may be transferred to the Fund, or in any way to interfere with or harass said Fund Administrator, or to interfere in any manner with the exclusive jurisdiction of this Court over the Fund.

9. Duties of Salomon to the Fund Administrator

It is Further Ordered, Adjudged and Decreed that Salomon shall:

a. Take such actions, provide such non-privileged information and documents and execute and deliver such documents as the Fund Administrator may request, at any time and from time to time, to enable the Fund Administrator to perform its duties under this Final Judgment and the Fund Administrator Agreement;

b. Indemnify and hold harmless the Fund Administrator from and against any liabilities, if and to the extent the Fund is insufficient, including costs and expenses of defending claims, for which it may become liable or which it may incur by reason of any act or omission to act in the course of performing its duties, except upon a finding by this Court of gross negligence or willful failure of the Fund Administrator to comply with the terms of this Final Judgment, the Fund Administration Agreement or any other order of this Court. This provision for indemnity shall apply to claims based on conduct during the term of the Fund Administration Agreement, even if such claims are filed after the termination of the Fund Administration Agreement.

VII.

It is Further Ordered, Adjudged and Decreed that the annexed CONSENT be, and the same hereby is, incorporated herein with the same force and effect as if fully set forth herein and that SALOMON shall comply with all of the undertakings and agreements incorporated herein.

VIII.

It is Further Ordered, Adjudged and Decreed that all notices hereunder shall be in writing and be deemed to have been duly given when delivered personally or by facsimile transmission, confirmed by mail, to the parties at the following addresses (or at such other address for a party as shall be designated by like notice):

If to the Commission:

Securities and Exchange Commission, Attention: Director, Division of Enforcement, Mail Stop 4–1, 450 Fifth Street, NW., Washington, DC 20549

If to Salomon:

Salomon Inc., Seven World Trade Center, New York, New York 10048, Attention: General Counsel

It Is Further Ordered, Adjudged and Decreed that this Court shall retain jurisdiction of this action for all purposes, including implementation and enforcement of this Final Judgment.

X.

Except as explicitly provided in this Final Judgment and the Consent, nothing herein is intended to or shall be construed to have created, compromised, settled or adjudicated any claims, causes of action, or rights of any person or entity whomsoever, other than as between the Commission, Salomon Inc and Salomon Brothers Inc. This Final Judgment does not create any rights, either express or implied, with respect to any person other than the Fund Administrator and the parties hereto.

Robert P. Patterson, Jr.
United States District Judge.

Dated: May 20, 1992.

New York, New York
United States District Court
Southern District of New York
SECURITIES AND EXCHANGE COMMISSION, Plaintiff, v. *SALOMON INC and SALOMON BROTHERS INC,* Defendants. 92 Civ. No.

Consent and Undertakings of Salomon Inc and Salomon Brothers Inc

1. Defendants Salomon Inc, SALOMON BROTHERS INC and their successors and assigns, if any (collectively referred to as "Salomon"), having been served with the Complaint for Permanent Injunction and Other Relief ("Complaint") of Plaintiff Securities and Exchange Commission ("Commission") in this action, and having entered a general appearance, admit the service of the Complaint upon each of them and consent to the jurisdiction of this Court over each of them and over the subject matter of this action.

2. Salomon, without a hearing presentation of any evidence or findings of fact pursuant to Rule 52 of the Federal Rules of Civil Procedure and without admitting or denying any of the allegations of the Complaint, except as to jurisdiction which it admits, and consistent with the provisions of 17 CFR 202.5(e), hereby consents, solely for the purposes of this action, or any other proceeding brought by or on behalf of the Commission or to which the Commission is a party, and without adjudication of any issue of fact or law with respect to the Complaint, to the entry of a Final Judgment of Permanent Injunction and Other Relief as to Salomon Inc and Salomon Brothers Inc in the form annexed hereto ("Final Judgment"), among other things,

restraining and enjoining Salomon Inc or Salomon Brothers Inc, as applicable, from engaging in transactions, acts, practices and courses of business which constitute or would constitute violations of, or which aid or abet or would aid and abet violations of, section 17(a) of the Securities Act of 1933 (the "Securities Act") (15 U.S.C. 77q(a)), section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act") (15 U.S.C. 78j(b)) and Rule 10b–5 (17 CFR 240.10b–5) promulgated thereunder, section 15(c)(1) of the Exchange Act (15 U.S.C. 78o(c)(1)) and Rule 15cl–2 promulgated thereunder (17 CFR 240.15cl–2), and section 17(a) of the Exchange Act (15 U.S.C. 78q(a)) and Rules 17a–3 and 240.17a–4 promulgated thereunder (17 CFR 240.17a–3 and 240.17a–4).

3. Salomon waives the filing of an answer and waives the entry of findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure.

4. Salomon waives any right it may have to appear from the entry of the annexed Final Judgment.

5. Salomon enters this Consent and Undertakings ("CONSENT") voluntarily and of its own accord and represents that no promise or threat of any kind has been made by the Commission or any member, employee, officer, agent, or representative thereof to induce it to enter this Consent.

6. Salomon undertakes and agrees to cooperate with the Commission and truthfully disclose all information, other than information protected by the attorney-client privilege or the work product doctrine, with respect to its activities and the activities of others about which the Commission or its staff may inquire in connection with the Commission's current investigation giving rise to the Complaint in this matter and such inquires, investigations and litigation that arise therefrom or relate thereto.

7. Salomon undertakes and agrees not to employ any person: (i) convicted of any crime substantially related to Salomon-Related Activities, as that term is defined in the Final Judgment herein ("Salomon-Related Activities"); (ii) found by a court or a department or agency of the United States, in an action instituted by a department or agency of the United States, to have violated a federal statute or regulation for any conduct substantially related to Salomon-Related Activities; or (iii) named as a defendant in a pending federal criminal, civil or administrative proceeding instituted by a department or agency of the United States, until the conclusion of such proceeding, for any alleged conduct substantially related to Salomon-Related Activities.

8. Salomon agrees that the provisions of this Consent shall be incorporated by reference in the Final Judgment as if fully set forth therein.

9. Salomon agrees that this Court shall retain jurisdiction of this matter for the purpose of enforcing the terms and conditions of the Final Judgment and for all other purposes.

Salomon Inc

By: /s/ Robert E. Denham

Title: General Counsel

On this *20th* day of *May*, 1992, *Robert E. Denham*, being known to me and who executed the foregoing consent and undertakings of Salomon Inc and Salomon Brothers Inc personally appeared before me and did duly acknowledge to me that he was authorized to execute the same on behalf of Salomon Inc.

Linda Staiti

Notary Public

Approved as to form:

/s/ Ronald L. Olson

Attorney for SALOMON INC

Salomon Brothers Inc

By: Robert E. Denham

Title: Managing Director and Secretary

On this 20th day of May, 1992, Robert E. Denham, being known to me and who executed the foregoing Consent and Undertakings of Salomon Inc and Salomon Brothers Inc personally appeared before me and did duly acknowledge to me that he was authorized to execute the same on behalf of Salomon Brothers Inc.

Linda Staiti,

Notary Public.

Approved as to form:

Ronald L. Olson

Attorney for Salomon Brothers Inc

Exhibit B

May 20, 1992

The Honorable William P. Barr, Attorney General, U.S. Department of Justice, Washington, DC 20530.

Dear Attorney General Barr: You have asked for our views on the impact to the U.S. government securities market as a whole of an injunctive order proposed in settlement of an antitrust complaint against Salomon Brothers. Based upon our understanding of the facts in this case, we believe that an order of this type could create a less efficient, more costly market for U.S. Government securities.

It could also create unnecessary, duplicative regulation of the securities market, especially if extensive new types of private civil litigation result, without any counterbalancing benefit to the Government, the overall economy or the investing public.

We note that the amount to be paid by Salomon in settlement of the overall case will not be affected by the inclusion or exclusion of an antitrust complaint, and that in this case the Government is obtaining extensive injunctive relief and civil damages without the novel application of antitrust remedies to this extensively regulated market.

Sincerely,

Nicholas F. Brady,

Secretary of the Treasury.

Richard C. Breeden,

Chairman, Securities and Exchange Commission.

Alan Greenspan,

Chairman, Federal Reserve Board.

E. Gerald Corrigan,

President, Federal Reserve Bank of New York.

[FR Doc. 92–15654 Filed 7–2–92; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the

specified classes engaged on contract work of the character and in the localities described therein.Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., room S-3014, Washington, DC 20210.

New General Wage Determination Decisions

The numbers of the decisions added to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" are listed by Volume, State, and page number(s).

VOLUME II

INDIANA, *IN91-18 p.352a p.352b
KANSAS, KS91-15 p.ALL

*This new general wage determination is applicable to building construction in Pike County, previously in IN91-3.

Modifications to General Wage Determinations Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

VOLUME I

CONNECTICUT:
CT91-1 (Feb. 22, 1991)..... p.63 pp.64-69, 73-74
CT91-3 (Feb. 22, 1991)..... p.78a pp.78b-78d
CT91-4 (Feb. 22, 1991)..... p.78g pp.78h-78j
DISTRICT OF COLUMBIA:
DC91-1 (Feb. 22, 1991)..... p.79 pp.80-90
DC91-2 (Feb. 22, 1991)..... p.ALL
FLORIDA, FL91-1 (Feb. 22, 1991). p.ALL
GEORGIA, GA91-31 (Feb. 22, 1991). p.ALL
KENTUCKY, KY91-7 (Feb. 22, 1991). p.ALL
NEW JERSEY, NJ91-2 (Feb. 22, 1991). p.701 pp.705, 707-717
PENNSYLVANIA:
PA91-5 (Feb. 22, 1991)..... p.995 pp.996-998
PA91-6 (Feb. 22, 1991)..... p.1007 pp.1008-1010
PA91-7 (Feb. 22, 1991)..... p.1019 pp.1020-1022
PA91-8 (Feb. 22, 1991)..... p.1029 pp.1030-1032
PA91-9 (Feb. 22, 1991)..... p.1039 pp.1040-1042
PA91-10 (Feb. 22, 1991)..... p.1047 pp.1048-1049
PA91-12 (Feb. 22, 1991)..... p.1057 pp.1058-1060
PA91-19 (Feb. 22, 1991)..... p.1093 pp.1096-1097
PA91-21 (Feb. 22, 1991)..... p.1107 pp.1108-1109
PA91-23 (Feb. 22, 1991)..... p.1123 pp.1124-1126
PA91-24 (Feb. 22, 1991)..... p.1129 pp.1131-1132
PA91-26 (Feb. 22, 1991)..... p.1137 pp.1138-1139

VOLUME II

ILLINOIS:
IL91-1 (Feb. 22, 1991) p.69 pp.79-80
IL91-2 (Feb. 22, 1991) p.97 pp.103-104, 114a
IL91-6 (Feb. 22, 1991) p.133 p.135
IL91-9 (Feb. 22, 1991) p.153 pp.156-160
IL91-11 (Feb. 22, 1991) p.163 pp.166, 169
IL91-12 (Feb. 22, 1991) p.171 pp.172-182
IL91-13 (Feb. 22, 1991) p.183 p.186
INDIANA, IN91-2 (Feb. 22, 1991). p.259 pp.260-278b
KANSAS, KS91-10 (Feb. 22, 1991). p.ALL
MICHIGAN, MI91-17 (Feb. 22, 1991). p.ALL
MINNESOTA:
MN91-5 (Feb. 22, 1991)..... p.577 pp.578-581
MN91-7 (Feb. 22, 1991)..... p.587 pp.599-604
MN91-8 (Feb. 22, 1991)..... p.607 pp.617-618
MN91-12 (Feb. 22, 1991)... p.629 p.630
MISSOURI, MO91-2 (Feb. 22, 1991). p.673 p.676

VOLUME III

ARIZONA, AZ91-2 (Feb. 22, 1991). p.ALL
CALIFORNIA:
CA91-1 (Feb. 22, 1991)..... p.ALL
CA91-2 (Feb. 22, 1991)..... p.ALL
CA91-4 (Feb. 22, 1991)..... p.ALL
COLORADO, CO91-6 (Feb. 22, 1991). p.179 p.180

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 26th day of June 1992.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 92-15480 Filed 7-2-92; 8:45 am]

BILLING CODE 4510-27-M

Employment and Training Administration

[TA-W-26,827]

Amerada Hess Corp.; Houston, TX; Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance; Correction

This notice corrects the notice on petition TA-W-26,827 which was published in the **Federal Register** on April 20, 1992 (57 FR 14435) in FR Document 92-9093. A printing error appears on the 10th line in the first column under TA-W-26,837. The line should read "have not" instead of "have".

The sentence should read "Increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have not contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Signed in Washington, DC, this 26th day of June 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 92-15704 Filed 7-2-92; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 16, 1992.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 16, 1992.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 22nd day of June 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition number	Articles produced
Atlas Bradford (workers)	Houston, TX	06/22/92	06/11/92	27,398	Oilfield Equipment.
Spartus Corp. (workers)	Louisville, MS	06/22/92	06/10/92	27,399	Clocks.
Ballet Makers, Inc. (Co.)	Fairlawn, NJ	06/22/92	06/04/92	27,400	Soft Ballet and Point Shoes.
Mayville Metal Products (IAMAW)	Mayville, WI	06/22/92	06/04/92	27,401	Contract Metal Fabrication.
Kenney Shoe Corp. (workers)	Fairfield, PA	06/22/92	06/09/92	27,402	Shoes.
Pennzoil E & P Co. (workers)	Houston, TX	06/22/92	05/29/92	27,403	Oil and Natural Gas.
General Semiconductor Industries (Co.)	Tempe, AZ	06/22/92	06/10/92	27,404	Semiconductors.
Atlantic Pacific Marine Corp. (Co.)	Houma, LA	06/22/92	06/09/92	27,405	Oil, Gas Drilling.
Smith International, Inc. (workers)	Ponca City, OK	06/22/92	05/05/92	27,406	Oilfield Equipment.
Trojan Yacht Co. (IAMAW)	Lancaster, PA	06/22/92	06/10/92	27,407	Luxury Yachts.
Cluett, Peabody & Co., Inc. (Co.)	Atlanta, GA	06/22/92	06/09/92	27,408	Men's, Boys' Dress Shirts.
Ultramatic Embroidery Machine Co. (workers)	North Haven, CT	06/22/92	05/18/92	27,409	Portable Sewing Machines.
Mitchell Energy Corp. (Co.)	Denver, CO	06/22/92	06/09/92	27,410	Oil, Gas Exploration, Production.
Mitchell Energy Corp. (Co.)	Oklahoma City, OK	06/22/92	06/09/92	27,411	Oil, Gas Exploration, Production.
Mitchell Energy Corp. (Co.)	Woodlands, TX	06/22/92	06/09/92	27,412	Oil, Gas Exploration, Production.
Sun Pipe Line Co. (workers)	Longview, TX	06/22/92	06/15/92	27,413	Transports Crude Oil.
Di-Anne Manufacturing Co. (workers)	Lebanon, PA	06/22/92	06/08/92	27,414	Ladies' Lingerie & Sportswear.
GP/Sorensen (UAW)	Glasgow, KY	06/22/92	04/13/92	27,415	Distribute Auto Parts.
Rogge Forest Products, Inc. (workers)	Bandon, OR	06/22/92	06/10/92	27,416	Lumber.
Schwitzer US, Inc. (Co.)	Rolla, MO	06/22/92	06/01/92	27,417	Engine Cooling Fans.
Tobin-Hamilton (workers)	Mansfield, MO	06/22/92	06/11/92	27,418	Children's Athletic Shoes.
A.C. Lawrence Leather Co., Inc. (Co.)	Danvers, MA	06/22/92	06/15/92	27,419	Sole Leather.
Shepard Niles, Inc. (IAMAW)	Montour Falls, NY	06/22/92	06/09/92	27,420	Cranes and Hoists.
Marshall Exploration, Inc. (workers)	Marshall, TX	06/22/92	06/09/92	27,421	Oil, Gas Exploration.

[FR Doc. 92-15702 Filed 7-2-92; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-25, 538]

North Star Steel Co., Milton, PA; Negative Determination on Reconsideration

By order dated March 13, 1992, the United States Court of International Trade (USCIT) in *Former Employees of North Star Steel,* v. *Secretary of Labor* (USCIT) 91-09-00648 remanded this case to the Department for further investigation.

The workers at North Star in Milton, Pennsylvania produced rebars (concrete reinforcing bars) and round bars mainly for the northeast area of the U.S. The findings show that scrap was melted and hot rolled into rebars. Round bars accounted for only five percent of 1990 sales.

The initial investigation found that the Milton facility ceased operations in February 1991. However, the workers did not meet the increased import criterion of the Group Eligibility Requirements of the Trade Act of 1974. U.S. imports of rebars decreased absolutely and relative to domestic shipments in 1989 compared to 1988 and

in 1990 compared to 1989. U.S. imports of hot rolled steel bar declined absolutely and relative to domestic shipments in 1990 compared to 1989. This was further stressed in the Department's Notice of Negative Determination Regarding Application for Reconsideration issued on July 9, 1991 and published in the Federal Register on July 16, 1991 (56 FR 32448).

Reconsideration findings on remand show that the Milton facility had increased sales and production of rebars and rounds immediately before the facility ceased operations. Sales and production of rebars and rounds increased at Milton in 1990 compared to 1989. Other findings show that the transformer, needed for the three electric arc furnaces, became permanently disabled on February 21, 1991, causing the shutdown at Milton. Accordingly, the dominant cause for the Milton plant's closure was the transformer failure.

The union stated that the rebar markets are often regional and import statistics for the entire U.S. may not accurately reflect the situation at Milton.

Findings on remand show that U.S. imports of rebars (concrete reinforcing bars) declined in the Northeast in 1990 compared to 1989. Other findings on remand show that the eleven customers whose names were submitted by the union, and if taken as a group, had increased purchases from Milton in 1990 compared to 1989 and accounted for a substantial percent of Milton's 1989 and 1990 sales. Only four of the eleven customers had declining purchases from North Star in 1990 compared to 1989. The sales decline of these customers accounted for an inconsequential percentage of Milton's 1990 sales.

The Department conducted a survey of the four customers with declining purchases in 1990 from North Star Steel. None of the four imported rounds or rebars in 1989 or 1990. Comments by several of those surveyed indicated that they work mainly on State Highway and Federal projects which contain domestic clauses precluding the purchase of imported rebars.

Conclusion

After reconsideration, I affirm the original notice of negative determination to apply for adjustment assistance to former workers of North Star Steel Company in Milton, Pennsylvania.

Signed at Washington, DC, this 23rd day of June 1992.

Robert O. Deslongchamps,

Director, Office of Legislation & Actuarial Service, Unemployment Insurance Service.

[FR Doc. 92–15703 Filed 7–2–92; 8:45 am]

BILLING CODE 4510–30–M

Emergency Unemployment Compensation Program; Changes in Emergency Unemployment Compensation Periods

This notice announces recent changes in benefit period durations under the Emergency Unemployment Compensation Program.

Background

Under the Emergency Unemployment Compensation (EUC) Act of 1991 (Pub. L. 102–164), as amended by Public Law 102–244, for initial claims filed after June 13, 1992, and before July 5, 1992, the maximum number of EUC weeks payable will decrease to either 13 or 20 weeks, depending on the level of unemployment in the State. For claimants filing initial claims from February 9, 1992 through June 13, 1992, the maximum number of EUC weeks payable was 26 or 33 weeks. Exhaustees of regular State program benefits after July 4, 1992 are not eligible for EUC benefits.

Weeks of benefits were decreased from 33 weeks to 20 weeks for the week beginning June 14, 1992, in Alaska, California, Connecticut, Idaho, Maine, Massachusetts, Michigan, New Jersey, New York, Oregon, Pennsylvania, Puerto Rico, Rhode Island, Vermont, Washington, and West Virginia; and from 26 weeks to 13 weeks in Alabama, Arizona, Colorado, Delaware, District of Columbia, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, Virgin Islands, Virginia, Wisconsin, and Wyoming. Arkansas and Montana went from 33-week benefit periods to 13-week benefit periods beginning June 14, 1992 as a result of their triggers dropping below the threshold necessary to keep them at the higher number of weeks and the law providing 13-week benefit period durations for States below the threshold for those filing initial claims after June 13, 1992.

In addition, since publication of the last notice regarding States' EUC status, Nevada triggered to a 26 week benefit period on June 7, 1992.

Information for Claimants

The duration of benefits payable in the Emergency Unemployment Compensation Period, and the terms and conditions on which they are payable, are governed by the Act and the operating instructions issued to the States by the U.S. Department of Labor. The State employment security agency will furnish a written notice of potential entitlement to each individual who has exhausted all rights to regular benefits and is potentially eligible for EUC benefits (20 CFR 615.13(c)).

Persons who believe they may be entitled to EUC benefits, or who wish to inquire about their rights under the program, should contact the nearest State employment service office or unemployment compensation claims office in their locality.

Signed at Washington, DC, on June 25, 1992.

Roberts T. Jones,

Assistant Secretary of Labor.

[FR Doc. 92–15705 Filed 7–2–92; 8:45 am]

BILLING CODE 4510–30–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–334 and 50–412]

Duquesne Light Co.; Ohio Edison Co.; Pennsylvania Power Co.; The Cleveland Electric Illuminating Co.; The Toledo Edison Co.; Beaver Valley Power Station, Units Nos. 1 and 2; Environmental Assessment and Finding of no Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering approving the use of a certain type of respirator as an emergency device at the Beaver Valley Power Station, Units 1 and 2. The approval would be granted pursuant to the provisions of 10 CFR 20.103(e) and 10 CFR 20.103(f). The Beaver Valley Power Station is located in Beaver County, Pennsylvania.

Environmental Assessment

Identification of Proposed Action

The proposed action would approve the use of the BioPak 240P respirator for respiratory protection during fire fighting activities at the Beaver Valley Power Station, Units 1 and 2.

The Need for the Proposed Action

The BioPak 240P is a NIOSH approved, positive-pressure closed-

circuit self-contained breathing apparatus. The apparatus provides oxygen-enriched (greater than 30%) breathing gas to the user. NIOSH has not certified the BioPak 240P for use during fire fighting.

Duquesne Light Company uses the BioPak 240P for respiratory protection during containment entries when the building pressure is subatmospheric (normally 9.2 to 9.5 psia).

The Commission's regulations provide that "Where equipment of a particular type has not been tested and certified, or had certification extended, by NIOSH/MSHA * * * the license shall not make allowance [in estimating exposure of the individual] for this equipment without specific authorization by the Commission (cf. 10 CFR 20.103(e))". The Commission's regulations (10 CFR 20.103(f)) provide further that "Only equipment that has been specifically certified or had certification extended for emergency use by NIOSH/MSHA shall be used as emergency devices."

Thus, while the BioPak 240P is acceptable for use during normal activities, it may not be used during fire fighting without specific NRC authorization. Duquesne Light Company requested authorization for the use of the BioPak 240P during fire fighting related activities inside the containment buildings at Unit 1 and 2 in a letter dated December 13, 1991.

Environmental Impacts of the Proposed Action

The Commission has evaluated the environmental impact of the proposed action and has determined that the probability of accidents would not be increased by the authorization to use the BioPak 240P respirator during fire fighting activities at the Beaver Valley Power Station, and that post-accident radiological release would not be greater than previously determined. Further, the Commission has determined that the proposed approval would not affect routine radiological plant effluents and would not increase occupational radiological exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with this proposed exemption.

With regard to potential nonradiological impacts, the proposed approval would not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed approval of the BioPak 240P respirator.

Alternative to the Proposed Action

Since the Commission has concluded that the environmental effects of the proposed action are not significant, any alternative with equal or greater environmental impact need not be evaluated.

The principal alternative would be to deny the requested approval. This would not reduce the environmental impact attributable to this facility, and potentially could result in greater radiological exposure for fire fighting personnel because the currently authorized equipment provides lesser protection against airborne radioactive material.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in the Final Environmental Statement Related to Operation of the Beaver Valley Power Station, Unit 1, dated July 1973, and the Final Environmental Statement Related to Operation of the Beaver Valley Power Station, Unit 2, dated September 1985.

Agencies and Persons Consulted

The Commission's staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to this action, see the request for approval dated December 13, 1991, which is available for public inspection at the Commission's Public Document Room, Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the Local Public Document Room located at the B.F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Dated at Rockville, Maryland, this 25th day of June 1992.

For the Nuclear Regulatory Commission.

Jose A. Calvo,

Assistant Director for Region I Reactors, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 92-15719 Filed 7-2-92; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-286]

Power Authority of the State of New York; Denial of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) has denied a request by the Power Authority of the State of New York (the licensee) for an amendment to Facility Operating License No. DPR-64, issued to the licensee for operation of the Indian Point Nuclear Generating Unit No. 3, located in Westchester County, New York. The Notice of Consideration of Issuance of this amendment was published in the Federal Register on October 3, 1990 (55 FR 40471).

The purpose of the licensee's amendment request was to revise Technical Specification 3.7.B.1 to increase the emergency diesel generator allowed outage time from 72 hours to 7 days.

The NRC staff has concluded that the licensee's request cannot be granted. The licensee was notified of the Commission's denial of the proposed change by letter dated June 25, 1992.

By August 5, 1992, the licensee may demand a hearing with respect to the denial described above. Any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of any petitions should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019, attorney for the licensee.

For further details with respect to this action, see (1) the application for amendment dated July 10, 1990, as supplemented August 24, 1990, and (2) the Commission's letter to the licensee dated June 25, 1992.

These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610. A copy of Item (2) may be obtained upon request addressed to the U.S. Nuclear

Regulatory Commission, Washington, DC 20555, Attention: Document Control Desk.

Dated at Rockville, Maryland, this 25th day of June 1992.

For the Nuclear Regulatory Commission.

Robert A. Capra,

Director, Project Directorate I–1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 92–15718 Filed 7–2–92; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ended June 26, 1992

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: 48212.

Date filed: June 24, 1992.

Parties: Members of the International Air Transport Association.

Subject: Comp Meet/P 0195 dated June 23, 1992. Report—Resolution 015n Meeting. Comp Fares 0689 dated June 23, 1992—USA Add-On Amounts.

Proposed Effective Date: August 1, 1992.

Docket Number: 48213.

Date filed: June 24, 1992.

Parties: Members of the International Air Transport Association.

Subject: TC12 Reso/P 1429 dated June 16, 1992. Mid Atlantic Expedited Resos 002L (R–1) & 204C (R–2).

Proposed Effective Date: August 1, 1992.

Docket Number: 48214.

Date filed: June 24, 1992.

Parties: Members of the International Air Transport Association.

Subject: TC23 Reso/C 0208 dated May 22, 1992. Europe-South Asian Subcontinent Expedited Resos (r-1 to r-5) TC23 Meet/C 0048 dated June 12, 1992—Minutes.

Proposed Effective Date: August 1, 1992.

Docket Number: 48221.

Date filed: June 26, 1992.

Parties: Members of the International Air Transport Association.

Subject: TC31 Reso/P 0931 dated June 19, 1992. South Pacific Resos R-1—0155 & r-2—015v. TC31 Meet/P 0208 dated June 19, 1992—Minutes.

Proposed Effective Effective Date: October 1, 1992.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 92–15690 Filed 7–2–92; 8:45 am]

BILLING CODE 4910–62–M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q during the Week Ended June 26, 1992

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 48211.

Date filed: June 24, 1992.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: July 22, 1992.

Description: Application of Taino Air Lines, S.A., pursuant to section 402 of the Act and subpart Q of the Regulations, applies for a foreign air carrier permit, authorizing it to engage in scheduled foreign air transportation of property and mail between points in the Dominican Republic and New York, New York; Miami, Florida; San Juan, Puerto Rico; and Aquadilla, Puerto Rico, with all flights to the United States originating or terminating in the Dominican Republic.

Docket Number: 48217.

Date filed: June 25, 1992.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: July 23, 1992.

Description: Application of Morris Air Transport, Inc., pursuant to section 401(d)(1) of the Act and subpart Q of Regulations authorizing interstate and overseas scheduled air transportation of persons, property and mail: Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, and any other point in any State of the United States or the District of Columbia, or any territory or possession of the United States.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 92–15691 Filed 7–2–92; 8:45 am]

BILLING CODE 4910–62–M

Federal Aviation Administration

RTCA, Inc., Special Committee 176, Airborne Loran-C Area Navigation Equipment; Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix I), notice is hereby given for the first meeting of Special Committee 176 to be held July 23–24, 1992, in the RTCA conference room, 1140 Connecticut Avenue, NW., suite 1020, Washington, DC 20036, commencing at 9:30 a.m.

The agenda for this meeting is as follows: (1) Chairman's introductory remarks; (2) Approval of the summary of the third meeting of Ad Hoc Group 5: (3) FAA briefing on CDI test; (4) Review terms of reference, RTCA paper no. 417–92/SC176–1; (5) Review status of change no. 1 to RTCA/DO–194; (6) Manufacturers' report status of IFR approach certification; (7) Establish work program and schedule; (8) Assignment of tasks; (9) Other business; (10) Date and place of next meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., suite 1020, Washington, DC 20036; (202) 833–9339. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on June 26, 1992.

Joyce J. Gillen,

Designated Officer.

[FR Doc. 92–15682 Filed 7–2–92; 8:45 am]

BILLING CODE 4910–13–M

RTCA, Inc., Special Committee 175, Minimum General Specification For Ground-Based Electronic Equipment in the National Airspace System; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix I), notice is hereby given for the third meeting of Special Committee 175 to be held July 22–24, 1992, at the Federal Aviation Administration Technical Center, Atlantic City International Airport, Atlantic City, New Jersey 08405, commencing at 9 a.m.

The agenda for this meeting is as follows: (1) Tour of FAA Technical Center, July 22 at 9 a.m.; (2) Working Groups 1 and 2 work sessions, July 22 at 1 p.m.; (3) Chairman's introductory remarks July 23 at 9 a.m.; (4) Approval of

the summary from the second meeting; (5) Presentations/discussion by Working Groups 1 and 2; (6) Wrap up and discussion of action items for next meeting; (7) Other business; (8) Date and place of next meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., suite 1020, Washington, DC 20036; (202) 833-9339. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on June 26, 1992.

Joyce J. Gillen,

Designated Officer.

[FR Doc. 92-15683 Filed 7-2-92; 8:45 am]

BILLING CODE 4910-13-M

RTCA, Inc., Special Committee 170, Minimum Operational Performance Standards For Automatic Dependend Surveillance (ADS); Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., Appendix I), notice is hereby given for the fifth meeting of Special Committee 170 to be held July 20-22, 1992, in the RTCA conference room, 1140 Connecticut Avenue, NW., suite 1020, Washington, DC 20036, commencing at 9:30 a.m.

The agenda for this meeting is as follows: (1) Chairman's introductory remarks; (2) Approval of minutes of the fourth meeting held on January 22-24, 1992, RTCA paper no. 113-92/SC170-27; (3) Complete definition of test procedures; (4) Conduct final review of draft MOPS; (5) Action to recommend RTCA adoption of MOPS; (6) Other business; (7) Date and place of next meeting (no further meetings anticipated).

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., suite 1020, Washington, DC 20036; (202) 833-9339. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on June 26, 1992.

Joyce J. Gillen,

Designated Officer.

[FR Doc. 92-15684 Filed 7-2-92; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement, Morgan County, West Virginia

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway improvement project in Morgan County, West Virginia.

FOR FURTHER INFORMATION CONTACT: Billy R. Higginbotham, Division Administrator, Federal Highway Administration, 550 Eagan Street, Suite 300, Charleston, WV 25301, Telephone: (304) 347-5928 or Mr. Ben Hark, West Virginia Department of Transportation, Division of Highways, Building 5, room A839, 1900 Kanawha Boulevard, East Charleston, WV 25305-0341.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with the West Virginia Department of Transportation will prepare an environmental impact statement (EIS) on a proposal to improve U.S. Route 522 in Morgan County, West Virginia. The proposed improvement will provide a divided, four-lane highway with partial control of access on US 522, a distance of approximately 18 miles.

Improvements to the corridor are considered necessary to provide for the existing and projected traffic demand. Alternatives under consideration include (1) no action; (2) using alternate travel modes; (3) widening the existing two lane highway to four lanes on the present alignment; and (4) constructing a four lane, limited access highway on a new location. Incorporated into and studied with the various build alternatives will be design variations of grade and alignment.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. A public meeting will be held in Berkeley Springs after the draft EIS is available. In addition, a public hearing will be held. Public notice will be given of the time and place to the meeting and hearing. The draft EIS will be available for public and agency review and comment prior to the public meeting. A scoping meeting will be scheduled after this notice is published.

To ensure the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA or the WVDOT at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program).

Billy R. Higginbotham,

Division Administrator, Charleston, West Virginia.

[FR Doc. 92-15645 Filed 7-2-92; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: June 25, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0975

Form Number: IRS Form 1120-W

Type of Review: Extension

Title: Corporation Estimated Tax

Description: Form 1120-W is used by corporations to figure estimated income tax liability and the amount of each installment payment. Form 1120-W is a worksheet only. It is not to be filed with the Internal Revenue Service.

Respondents: Businesses or other for-profit, Small businesses or organizations

Estimated Number of Respondents/ Recordkeepers: 900,000

Estimated Burden Hours Per Respondent/Recordkeeper:

Form	Recordkeeping	Learning about the law or the form	Preparing the form
1120–W	6 hr., 56 min	1 hr., 12 min	1 hr., 21 min.
Sch. A (Pt. I)	11 hr., 43 min	6 min	17 min.
Sch. A (Pt. II)	24 hr., 23 min		24 min.
Sch. A (Pt. III)	5 hr., 16 min		5 min.

Frequency of Response: Annually
Estimated Total Reporting Burden: 8,594,108 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

Dale A. Morgan,
Departmental Reports Management Officer.

[FR Doc. 92–15693 Filed 7–2–92; 8:45 am]
BILLING CODE 4830–01–M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 129
Monday, July 6, 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).

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:30 a.m., Friday, July 10, 1992.

PLACE: 2033 K St., NW., Washington, DC, 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A Webb, 254–6314.

Jean A. Webb,
Secretary of the Commission.

[FR Doc. 92–15862 Filed 7–1–92; 2:42 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 2:00 p.m., Monday, July 27, 1992.

PLACE: 2033 K St., NW., Washington, DC, 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,
Secretary of the Commission.

[FR Doc. 92–15863 Filed 7–1–92; 2:42 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 2:30 p.m., Monday, July 27, 1992.

PLACE: 2033 K St., N.W., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Enforcement Review.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,
Secretary of the Commission.

[FR Doc. 92–15864 Filed 7–1–92; 2:42 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, July 30, 1992.

PLACE: 2033 K St., NW., Washington, DC., Lower Lobby Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Application of the Chicago Board of Trade for contract designation in Canadian Government Bond options.

Exemption for Commodity Pool Operators and Commodity Trading Advisors for Offerings to Qualified Eligible Participants, final rules (4.7).

Third Quarter Program Review.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,
Secretary of the Commission.

[FR 92–15865 Filed 7–1–92; 2:42 pm]

BILLING CODE 6351–01–M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, July 7, 1992.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *LJ's Coal Corporation,* Docket No. KENT 90–400 (Issues include whether the judge erred in concluding that LJ's violation of 30 C.F.R. § 75.220 was not of a significant and substantial nature.)

2. *Secretary of Labor for Price & Vacha and UMWA v. Jim Walter Resources, Inc.,* Docket No. SE 87–128–D (Issues include whether the judge erred in concluding that Jim Walter's discharge of Price & Vacha under its substance abuse program violated their rights under section 105 (c) of the Mine Act, 30 U.S.C. § 815(c).

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR § 2706.150(a)(3) and § 2706.160(e)

CONTACT PERSON FOR MORE INFO: Jean Ellen (202) 653–5629/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Dated: June 30, 1992.

Jean H. Ellen,
Agenda Clerk.

[FR Doc. 92–15874 Filed 7–1–92; 3:33 pm]

BILLING CODE 6735–01–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10:00 a.m., Wednesday, July 8, 1992.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Publication for comment of proposals to implement section 308 of the Federal Deposit Insurance Corporation Improvement Act of 1991 regarding the interbank liability provisions.

2. Any items carried forward from a previously announced meeting.

Note: This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to:

Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: July 1, 1992.

Jennifer J. Johnson,
Associate Secretary of the Board.

[FR Doc. 92–15801 Filed 7–1–92; 11:03 am]

BILLING CODE 6210–01–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: Approximately 11:00 a.m., Wednesday, July 8, 1992, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded

announcement of bank and bank holding company applications scheduled for the meeting.

Dated: July 1, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92–15802 Filed 7–1–92; 11:03 am]

BILLING CODE 6210–01–M

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

TIME AND DATE: 10:00 a.m.–July 20, 1992.

PLACE: 5th Floor, Conference Room, 805 Fifteenth Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of the minutes of the June 15, 1992, Board meeting.
2. Thrift Savings Plan activity report by the Executive Director.
3. Review of Peat Marwick audit report, "Pension and Welfare Benefits Administration Review of Backup, Recovery, and Contingency Planning of the Thrift Savings Plan at the United States Department of Agriculture, Office of Finance and Management, National Finance Center."

CONTACT PERSON FOR MORE INFORMATION: Tom Trabucco, Director, Office of External Affairs, (202) 523–5660.

Dated: July 1, 1992.

Francis X. Cavanaugh,

Executive Director, Federal Retirement Thrift Investment Board.

[FR Doc. 92–15875 Filed 7–1–92; 3:34 pm]

BILLING CODE 6760–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of July 6, 1992.

A closed meeting will be held on Thursday, July 9, 1992, at 3:00 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Schapiro, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Thursday, July 9, 1992, at 3:00 p.m., will be:

Institution of injunctive actions.

Institution of administrative proceedings of an enforcement nature.

Settlement of injunctive actions.

Settlement of administrative proceedings of an enforcement nature.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Bian Lane at (202) 727–2400.

Dated: June 30, 1992.

Jonathan G. Katz,

Secretary.

[FR Doc. 92–15855 Filed 7–1–92; 2:36 pm]

BILLING CODE 8010–01–M

UNITED STATES INSTITUTE OF PEACE

DATE/TIME: Thursday, July 9, 1992; 9:00 a.m. to 5:30 p.m.

LOCATION: 1550 M street, NW. (conference room, first floor), Washington, D.C.

STATUS: (Open Session)—portions may be closed pursuant to Subsection (c) of Section 552(B) of Title 5, United States Code, as provided in subsection 1706(h)(3) of the United States Institute of Peace Act, Pub Law. 98–525).

AGENDA: Approval of minutes of the Forty-third meeting of the Board of Directors; Chairmans Report: Presidents Report; Program reports; Review of Spring Cycle of un-Solicited Grants.

CONTACT: Mr. Gregory McCarthy, Director, Public Affairs and Information, Telephone: 202/457–1700.

Dated: June 30, 1992.

Ms. Bernice J. Carney,

Director, Office the of Administration, United States Institute of Peace.

[FR Doc. 92–15784 Filed 7–1–92; 10:26 am]

BILLING CODE 3155–01–M

Corrections

Federal Register
Vol. 57, No. 129
Monday, July 6, 1992

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Child Support Enforcement

45 CFR Part 303

RIN 0970-AA78

Child Support Enforcement Program; Federal Parent Locator Service Fees

Correction

In rule document 92-14780 beginning on page 28103 in the issue of Wednesday, June 24, 1992, make the following correction:

§ 303.3 [Corrected]

On page 28110, in the third column, in amendatory instruction 2., second line, "receiving" should read "removing".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA-060-02-4212-13; CA-29832]

Exchange of Public and Private Lands Riverside and San Diego Counties, CA

Correction

In notice document 92-14533 appearing on page 27789 in the issue of Monday, June 22, 1992, make the following correction:

In the first column, in the third paragraph, "for Tom Maxwell" should read "from Tom Maxwell".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco, and Firearms

27 CFR Part 20

[No. P8-15; Notice No. 743]

Specially Denatured Spirits; Miscellaneous Amendments

Correction

In proposed rule document 92-14441 beginning on page 27956 in the issue of June 23, 1992, make the following corrections:

1. On page 27956:

a. In the second column, in the **SUMMARY**, in the sixth line, "persons" should read "person".

b. In the third column, in the eighth line, "file" should read "filed".

c. In the third column, in the last paragraph, "AFT" should read "ATF" each time it appears.

2. On page 27957:

a. In the first column, in the first paragraph, in the first line, "AFT" should read "ATF".

b. In the 1st column, in the 1st paragraph, in the 14th line, "and 20." should read "and/or 20."

c. In the third column, in the last paragraph, in the second line, "§ § 20.63, 20.63," should read "§ § 20.63,".

§ 20.11 [Corrected]

3. In the second column, in § 20.11, in the fifth line, after "spirits" insert "in accordance with this part. The term does not include a person who only buys and sells specially denatured spirits".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Customs Service

Current IRS Interest Rate Used in Calculating Interest on Overdue Accounts and Refunds

Correction

In notice document 92-14925 beginning on page 28547 in the issue of Thursday, June 25, 1992, make the following correction:

On page 28548, in the first column, in the last full paragraph, in the third line, "payments" should read "overpayments".

BILLING CODE 1505-01-D

federal register

Monday
July 6, 1992

Part II

Department of Education

National Institute on Disability and Rehabilitation Research; Proposed Funding Priorities for Fiscal Years 1993 and 1994 for Certain Rehabilitation Research and Training Centers; Notice

DEPARTMENT OF EDUCATION

National Institute on Disability and Rehabilitation Research; Proposed Funding Priorities

AGENCY: Department of Education.

ACTION: Notice of proposed funding priorities for Fiscal Years 1993 and 1994 for certain Rehabilitation Research and Training Centers.

SUMMARY: The Secretary proposes funding priorities for several Rehabilitation Research and Training Centers (RRTC) under the National Institute on Disability and Rehabilitation Research (NIDRR) for fiscal years 1993–1994. The Secretary takes this action to focus research attention on areas of national need identified through NIDRR's long-range planning process. These priorities are intended to improve rehabilitation services and outcomes for individuals with disabilities.

DATES: Comments must be received on or before August 5, 1992.

ADDRESSES: All comments concerning these proposed priorities should be addressed to Betty Jo Berland, U.S. Department of Education, 400 Maryland Avenue, SW., room 3422, Switzer Building, Washington, DC 20202–2601.

FOR FURTHER INFORMATION CONTACT: Betty Jo Berland. Telephone: (202) 205–9739. Deaf and hearing-impaired individuals may call (202) 205–5516 for TDD services.

SUPPLEMENTARY INFORMATION: This notice contains 12 proposed priorities under the RRTC program. Four of the priorities are in various aspects of spinal cord injury; three cover aspects of traumatic brain injury; and there is one priority each in the areas of stroke, neuromuscular diseases, multiple sclerosis, arthritis, and functional assessment. NIDRR intends to propose additional priorities for other RRTCs and other programs for fiscal years 1993–1994 at a later date. Authority for the RRTC program of NIDRR is contained in section 204(b) of the Rehabilitation Act of 1973, as amended (29 U.S.C. 760–762).

Under this program, the Secretary makes awards to public agencies and to nonprofit and for-profit private agencies and organizations, including institutions of higher education, Indian tribes, and tribal organizations. The statute provides that RRTCs must be operated in collaboration with institutions of higher education.

The Secretary may make awards for up to 60 months through grants or cooperative agreements. The purpose of the awards is for planning and conducting research, training, demonstrations, and related activities leading to the development of methods, procedures, and devices that will benefit individuals with disabilities, especially those with the most severe disabilities.

Under the regulations for this program (see 34 CFR 352.32) the Secretary may establish research priorities by reserving funds to support particular research activities.

Description of the Rehabilitation Research and Training Center Program

RRTCs are established to conduct coordinated and advanced programs of rehabilitation research on designated rehabilitation problem areas and to provide training to researchers, service providers, and consumers. Each Center must disseminate and encourage the use of new rehabilitation knowledge and publish all materials for dissemination or training in alternate formats to make them accessible to individuals with a range of disabling conditions.

The statute requires that each Center conduct training for providers of rehabilitation services at various levels, which may include undergraduate, in-service, and postgraduate education. Each RRTC also must conduct an interdisciplinary program of training in rehabilitation research, including training in research methodology and applied research experience, that will contribute to the number of qualified researchers working in the area of rehabilitation research. NIDRR encourages all Centers to involve individuals with disabilities and minorities in clinical and research training.

Each Center must involve individuals with disabilities and, if appropriate, their family members, as well as rehabilitation service providers—including vocational rehabilitation service providers—in planning and implementing the research and training programs, in interpreting and disseminating the research findings, and in evaluating the Center.

The Secretary expects each RRTC to conduct a multifaceted program of research to develop solutions to problems confronting individuals with disabilities in order to achieve the goals specified in the priority. Applicants have considerable latitude in proposing the specific research and related projects they will undertake to achieve the designated outcomes; however, the regulatory selection criteria for the program (34 CFR 352.31) require that applicants justify their choice of research projects in terms of the relevance to the priority and to the needs of individuals with disabilities. The regulations also require applicants to present a scientific methodology that includes reasonable hypotheses, methods of data collection and analysis, and a means to evaluate the extent to which project objectives have been achieved.

The Department of Education is particularly interested in assuring that the expenditure of public funds is justified by the execution of intended activities and the advancement of knowledge and, thus, has built this accountability into the selection criteria. Not later than three years after the establishment of any RRTC, NIDRR will conduct one or more reviews of the activities and achievements of the Center. In accordance with the provisions of 34 CFR 75.253(a), continued funding depends at all times on satisfactory performance and accomplishment.

NIDRR is in the process of developing a revised long-range plan focused on achieving six goals for individuals with disabilities: (1) Full integration into the community, (2) full employment, (3) independence and empowerment, (4) maximum human functioning and health, (5) improved vocational rehabilitation services, and (6) the translation of new knowledge and technology into practice. The priorities proposed in this notice are derived from the long-range planning process and are intended to achieve one or more of these six outcomes.

The Secretary will announce the final funding priorities in a notice in the **Federal Register**. The final priorities will be determined by responses to this notice, available funds, and other considerations of the Department. Funding of particular projects depends on the final priorities, the availability of funds, and the quality of the applications received. The publication of these proposed priorities does not preclude the Secretary from proposing additional priorities, nor does it limit the Secretary to funding only these priorities, subject to meeting applicable rulemaking requirements.

Note: This notice of proposed priorities does *not* solicit applications, and application materials are not available. A notice inviting applications under this competition will be published in the **Federal Register** concurrent with or following publication of the notice of final priorities.

Priorities: Under 34 CFR 75.105(c)(3) the Secretary proposes to give an absolute preference to applications that meet one of the following priorities. The Secretary proposes to fund under this

competition only applications that meet one of these absolute priorities:

Proposed Priority 1—Rehabilitation in Neuromuscular Diseases

Background

Neuromuscular diseases (NMDs) of all types affect approximately 500,000 children and adults in the United States. NMDs affect all the components of the neuromuscular organ system, and most of the NMDs are slowly progressive or even static over a relatively normal lifespan. However, some NMDs can produce severe physical disabilities in young children, result in wheelchair use by age 10, and even (as in the case of Duchenne muscular dystrophy) lead to early mortality (REHAB BRIEF, Vol. XI, No. 9, 1988).

NMDs can also strike productive adults without warning in mid-life, cause physical incapacities and seriously impair health, physical and cognitive functioning, ability to work, and family life. Individuals with NMD incur muscular weakness and atrophy, limb contractures, spinal deformity, restrictive lung disease, cardiovascular complications, and cognitive and psychosocial impairments in various degrees and combinations. The rates of progression may vary among diseases and among individuals.

Rehabilitation is necessary to inhibit deformity, prolong locomotive functions, preserve and enhance manipulation skills, maximize independent functional skills, and assist the individual to maintain and enhance a normal social, behavioral, and vocational profile (Goodgold, General Principles of Management and Evaluation of Neuromuscular Disease, PM&R: State of the Art Reviews, Vol. 2, No. 4, 1998). Rehabilitation should consider the individual's total needs, and include attention to pulmonary, cardiovascular, and other complications, as well as musculoskeletal and psychosocial care. The relatively high incidence of cognitive impairment in certain neuromuscular diseases has important implications for educational and vocational planning (Fowler, Johnson, Yang, 1988).

Individuals with NMDs have significant needs for vocational rehabilitation services to enable them to maintain or regain appropriate employment. Research at the University of California at Davis indicates that many service providers underestimate the vocational potential of individuals with NMDs, focusing instead on the life-threatening implications of some NMDs. As a result, the vocational rehabilitation service system needs additional strategies and training to optimize services to this population.

Priority

An RRTC in NMD rehabilitation shall focus on developing interventions to improve the lives of individuals with NMDs, and, to accomplish this, shall—

- Develop and validate quantitative measures and techniques to assess functioning, including measures of endurance, mobility, strength, and cognitive performance, and use these measures to both document the natural course of NMDs and to evaluate rehabilitation interventions;
- Develop and evaluate rehabilitation interventions, including technological aids and devices and exercise training, among others, to preserve maximum physical functioning, longevity, and independence, and assist individuals with NMDs to attain and maintain employment;
- Develop and evaluate techniques to restore and enhance psychosocial and cognitive functioning;
- Develop and evaluate strategies to improve vocational rehabilitation services and vocational outcomes for this population;
- Develop and evaluate strategies to assist individuals and their families to adjust to the impact of NMDs and to maintain quality of life; and
- Develop and evaluate new strategies to address life-long needs for health care, rehabilitation, psychosocial well-being, employment, and independent living for individuals with NMDs and their families.

Proposed Priority 2—Rehabilitation and Multiple Sclerosis Background

Multiple Sclerosis (MS) is an adult-onset neurological disease that affects the message-carrying nerve fibers of the central nervous system. Some of the common symptoms include fatigue, loss of coordination, numbness, vision problems, muscle weakness, difficulty walking, spasticity, and urinary and bowel problems. There are widely varying combinations of symptoms and rates of exacerbation among individuals. Some have few symptoms, which remain fairly consistent over time, while a small number rapidly develop severe disabilities. Most cases fall between the extremes, and are characterized by exacerbations followed by periods of remission.

Multiple sclerosis is a frequent cause of disability in the young adult population. The total population of individuals with MS in the United States is probably 250,000–500,000 (Baum and Rothschild, Annals of Neurology, 1981, v. 10), and, since a substantial number may incur severe disability over several decades, MS is a disease that has considerable social and economic impact. The age of onset is usually between 20 and 45 years—with a mean age of onset of 33—and most of those affected are women. Because MS strikes individuals in their most productive years, just when they are assuming major family and career responsibilities, its impact is often significant (Scheinberg, Multiple Sclerosis: A Guide for Patients and Their Families, 1983). And because MS has only a slight impact on longevity, an individual can expect to live approximately 30 years after the onset of MS.

The aim of MS rehabilitation is to optimize independent functioning and quality of life for people with the disease and for their families. Rehabilitation has been associated with the diagnosis and treatment of functional limitations, with emphasis on the functional assessment of motor, sensory, and cognitive problems and treatment aimed at enhancing function and altering behavior (Halstead, L.S., Grabois, M., Medical Rehabilitation, 1985). Because there is no available cure, individuals with MS must have "a coordinated continuum of preventive, diagnostic, therapeutic, rehabilitative, supportive, and maintenance services that address the health, social and personal needs of individuals with multiple sclerosis and their families" (National MS Society, Long-term Care Issues in Multiple Sclerosis, 1990).

Priority

An RRTC in the rehabilitation of individuals with multiple sclerosis shall—

- Develop and evaluate new clinical interventions to improve human functioning, which may include early intervention, as well as techniques to improve motor, sensory, cognitive, alimentary, and sexual functioning of individuals with MS;
- Develop and evaluate new rehabilitation strategies, including technology and assistive devices, to assist individuals with MS to attain or maintain employment;
- Develop and evaluate new rehabilitation strategies to promote the maintenance of effective psychosocial and family functioning; and
- Develop and evaluate new models for long-term care in the community.

Proposed Priority 3—Functional Assessment and Evaluation of Rehabilitation Outcomes

Background

Improving rehabilitation practices and outcomes requires an ability to assess functional status and changes in status in many areas, including motor function, cognitive function, emotional and interpersonal function, and sensory function, among others. Both rehabilitation practitioners and researchers need better methods and protocols to measure and assess the various elements of impairment, disability, and handicap.

Functional assessment data are useful to the clinician in selecting and monitoring treatments and in determining whether or not treatment goals have been achieved (Fuhrer and Halpern, 1984). Accurate functional assessment data are important to researchers in studies of the incidence and prevalence of specific physical impairments and their associated limitations and disabilities (Kaufert, 1983) and in studies predicting post-rehabilitation functioning. Functional assessment is also a basic component of the evaluation of rehabilitation interventions and services.

A common classification scheme of impairment, disability, and handicap, comparable to the World Health Organization's (WHO's) International Classification of Diseases, 9th edition, is fundamental to the development of an assessment system. The WHO trial International Classification of Impairments, Disabilities, and Handicaps may be a useful starting point in developing a common language for describing rehabilitation outcomes. The Functional Independence Measure (FIM) (Granger and Hamilton, 1987), a descriptive, criterion-referenced scale, has gained some acceptance as a measurement system and is another useful starting point to be considered in the development of an assessment system.

There are numerous tools to measure specific components of human performance; e.g., strength, endurance, energy expenditure, range of motion, muscle activity, and sensory function. However, these assessments often are based on subjective observation or on locally unique applications of assessment technology, so that it is difficult to make comparisons of clinical data between rehabilitation settings. Furthermore, most assessment tools are based on single body systems and have not been incorporated into an integrated, multidimensional analysis that would provide meaningful measures of outcomes after rehabilitation. A common measurement system would permit meaningful comparisons of the effects of the same intervention administered in different amounts or levels of intensity, as well as comparisons across various types of interventions and rehabilitation settings.

There has been less research in developing measures of handicap. Handicap refers to limitations in social role performance and work productivity. While measures of remunerative activity are available, tools for assessing social role performance (e.g., parenting or spousal relationships) are lacking, as are tools to measure the individual's integration into the community. There is also a dearth of measures to examine the effect of environmental factors—such as physical barriers, communication barriers, and policy or attitudinal barriers—in creating handicaps. Because ultimate outcomes of rehabilitation should be holistic, researchers and clinicians need common measures of the extent of handicap and the effect of rehabilitation in ameliorating handicap.

Rehabilitation practice uses a diverse array of therapeutic techniques, devices, and modalities. While precise measurement of a specific intervention and its outcome is often difficult, it is a prerequisite to determining efficacy and cost benefit. Standardized measures of such interventions as physical, vocational, and psychosocial rehabilitation, family involvement, and community integration are also needed, as is a system to characterize and evaluate the different rehabilitation programs and service delivery settings in which interventions are applied.

Priority:

An RRTC in functional assessment and evaluation of rehabilitation outcomes shall enhance the capacity of the rehabilitation field to apply appropriate rehabilitation interventions and assess their outcomes. To achieve these objectives, the Center shall—

- Develop and evaluate quantitative measurement systems for assessing functional abilities, clinical interventions, and rehabilitation outcomes resulting from changes in functional status;
- Develop and evaluate measures of handicap and well-being—including such areas as quality of life, employment, and community integration—and evaluate the utility of these measures for assessing the effect of various rehabilitation interventions on level of handicap; and
- Identify valid and reliable measures of social and environmental factors that affect rehabilitation success and test the usefulness of these measures.

In addition, the Center shall—

- Work with a broad spectrum of rehabilitation researchers and clinicians throughout the Nation to apprise them of the ongoing work, obtain their inputs, and provide professional education on the issues and methods of functional assessment and evaluation of rehabilitation outcomes;
- Work closely with other relevant RRTCs and Rehabilitation Engineering Centers to assure the broadest utility and acceptability for the assessment systems and the appropriate use of new measurement devices and technologies;
- Coordinate with any efforts in functional assessment and evaluation of rehabilitation outcomes by the new National Center for Medical Rehabilitation Research of the National Institutes of Health and other relevant research entities; and
- Involve individuals with disabilities in the selection and definition of outcome measures.

Proposed Priority 4—Arthritis Rehabilitation

Background

The term "arthritis" encompasses a large group of rheumatic diseases that affect the joints and connective tissues that support the skeleton and the body—such as muscles, tendons, and ligaments—and that protect and cover internal organs. Although the overall prevalence of rheumatic diseases increases with age, many young adults and children also are affected. About one in seven Americans, or as many as 37 million, suffer from some form of rheumatic disease, and the annual economic impact of arthritis alone is estimated at $9 billion (1990 Annual Report, Arthritis and Musculoskeletal Diseases Interagency Coordinating Committee).

This priority focuses on three types of arthritis that account for the most disability:

(1) Degenerative joint disease or osteoarthritis (OA) is the most common form of arthritis and is most likely to cause disability through impairments in the knees, hips, and spine. Certain occupations that require frequent knee bending may lead to osteoarthritis.

(2) A chronic inflammatory disease of unknown cause, *rheumatoid arthritis (RA)* afflicts more than two million Americans, and it affects at least twice as many women as men. This disorder causes inflammation, pain, and swelling in the linings of the joints, and also can produce such general symptoms as

weakness, fatigue, and loss of appetite. The disease tends to be both chronic and irregular and is frequently disabling.

(3) More than 200,000 American children are afflicted with some form of arthritis. One of these diseases, *juvenile rheumatoid arthritis* (JRA), accounts for about 5,000 new cases each year and resembles adult RA in that it is a chronic inflammatory disease of unknown cause that is characterized by joint pain and related symptoms and apparent defects in regulation of the immune system (1990 Annual Report, Arthritis and Musculoskeletal Diseases Interagency Coordinating Committee).

Arthritis is a degenerative condition in that exacerbations lead to further impairments and limitations. Individuals who have arthritis often exhibit symptoms of fatigue, depression, sleeplessness, and intense chronic pain. Their lives may be marked by inactivity, unemployment, and psychosocial withdrawal.

Researchers and clinicians have begun to investigate rehabilitation solutions such as pain management techniques, exercise regimens, endurance training, job modifications, and new approaches to social and community participation. Service delivery methods, such as team care, care in the local community, family involvement, and the use of assistive technology, appear to lead to more favorable rehabilitation outcomes. However, major modifications in rehabilitation await conclusive evidence of the efficacy of these promising interventions.

Priority:

An RRTC in rehabilitation of individuals with arthritis shall—

- Develop and evaluate improved rehabilitation treatment techniques that maintain and restore physical, psychological, and vocational functioning and reduce chronic pain;
- Develop and evaluate new rehabilitation strategies, including technology and assistive devices, that will aid individuals with arthritis to attain or maintain employment;
- Develop early interventions, including family strategies, that will prevent or ameliorate psychosocial and educational problems often associated with JRA; and
- Develop acceptable measures to assess function, quantify rehabilitation interventions, and assess outcomes in human functioning, employment, and community integration.

Proposed Priority 5—Stroke Rehabilitation

Background

Stroke is a major cause of disability leading to institutionalization for elderly persons. In 1986 the American Heart Association estimated that approximately 350,000 Americans survived strokes, adding to the total of over two million stroke survivors, many of whom required chronic care (Wolf, 1989). About two thirds of stroke survivors have permanent disabilities. An estimated 40 percent of all medical rehabilitation patients are stroke survivors, presenting a major challenge to the rehabilitation field. The recommendations of a 1989 NIDRR-funded conference on Methodologic Issues in Stroke Outcome Research, were published by the American Heart Association in the September, 1990 Supplement to Stroke: A Journal of Cerebral Circulation and are one foundation for this priority.

The impact of residual impairments of stroke is profound, requiring prolonged therapy and adjustment to the likelihood of long-term significant disability. Many stroke survivors are dependent on others for assistance with self-care and mobility, and survivors are often limited in their options for social interaction and community participation. The physical, social, and vocational functioning of stroke survivors in the community is significantly poorer than that of age-matched persons in control groups. While the incidence of stroke is lower in the working age population, strokes can have devastating consequences for return to work or other employment outcomes.

Approximately half of all individuals who survive a stroke are disabled by neurological impairments such as muscular weakness or paralysis, impaired cognition, communication disorders, visual field loss, perceptual deficits, incontinence, or depression. Yet, rehabilitation practitioners have demonstrated the potential to assist these individuals to function with a significant degree of independence.

Stroke rehabilitation research is specifically concerned with the large number of stroke survivors and their residual impairments and disabilities. Providers of rehabilitation services, payers, and individuals and their families need assurances that rehabilitation interventions are appropriate and cost-effective. This, in turn, requires validated knowledge of the basic determinants and parameters of disability and the efficacy of rehabilitation interventions (Gresham, 1986).

A key to both improved research and better care for individuals is a valid classification system based on clear descriptions of the variety of natural histories and prognoses (Basmajian, 1989). Stroke rehabilitation outcome research must be concerned with a range of issues, including prevention of recurrence and of secondary complications, restoration and maximization of remaining function, and psychosocial factors that facilitate living and working in the community.

Priority

An RRTC on stroke rehabilitation shall develop approaches that will improve the outcomes of rehabilitation for individuals who have had strokes, and shall—

- Document the natural course of stroke recovery;
- Develop valid classification schemes to measure and describe stroke and the concomitant impairments and disabilities;
- Develop and evaluate rehabilitation interventions to improve communication, cognition, neuromotor functioning, and emotional, family, vocational, or community adjustment;
- Develop valid measures to assess rehabilitation outcomes after stroke, including long-term outcomes in the community and the workplace; and
- Develop and assess rehabilitation and health care service delivery models, including self-contained stroke rehabilitation units, coordinated team care, and vocational rehabilitation services.

Proposed Priorities 6–8—Rehabilitation in Traumatic Brain Injury

Background

Traumatic brain injury (TBI) is defined as brain damage from externally inflicted trauma to the head that results in significant impairment to an individual's physical, psychosocial, or cognitive functional abilities. It is characterized by altered consciousness (coma or post-trauma amnesia) during the acute phase after injury, the duration of which varies greatly among individuals, usually depending on the severity of the injury.

The peak incidence of TBI is between the ages of 15 and 24, and it is two to three times more common in males than females. Most persons with TBI are single and are likely to have limited education and employment experience. A significant number have histories of alcohol or drug use, or have undergone psychiatric care prior to their head injuries (Kraus *et al.*, 1983).

The National Head Injury Foundation reports that every year 30,000 to 50,000 of the 400,000 to 600,000 people who sustain TBIs are left with noticeable physical, social, and cognitive deficits severe enough to prevent them from returning to their former levels of function. The number of survivors requiring comprehensive and extended periods of rehabilitation has also increased dramatically since the introduction of sophisticated emergency care and trauma centers.

The residual deficits that result from TBI may be grouped as follows: (1) *Physical impairments*—impairments of gait, limb spasticity, labored speech, vision difficulties, poor balance, and potential for seizure disorders; (2) *Cognitive impairments*—loss of alertness, attention, concentration, learning and memory, abstraction, conceptualization, and problem-solving; (3) *Executive impairments*—loss of ability to plan, organize, and carry out goal-directed activity; inability to modulate, monitor, evaluate, regulate, and self-correct on-going behavior; and (4) *Psychosocial impairments*—tendency toward social inappropriateness, inability to control emotions, and inability to form and maintain relationships.

Prevention and treatment of the many secondary medical, psychological, and cognitive complications will enable many survivors of TBI to progress purposefully through acute rehabilitation and, after discharge, to remain in the home and community without frequent return to the hospital or rehabilitation facility to remediate the problems. Because brain injury research and service programs are relatively recent developments, there have been to date few definitive solutions to the complex rehabilitation problems of TBI. Frequently, service delivery methods from developmental disabilities, correctional rehabilitation, and mental health models have been transferred or modified for rehabilitation purposes.

Individuals with TBIs frequently need interventions in the areas of education, vocational education, and vocational rehabilitation to enable them to obtain and retain appropriate employment. Because TBI may involve a lasting combination of cognitive and neurobehavioral impairments, and sometimes motor and communications impairments as well, these individuals require individualized rehabilitation strategies, often long-term.

The scope and severity of the disabilities and the opportunity to improve outcomes indicate a need for a substantial body of programmatic research to provide information and understanding of the many diagnostic, evaluative, therapeutic, and community reintegration issues related to TBI. Thus, the Secretary is proposing priorities for three Centers in various aspects of head trauma research.

Priority 6—Rehabilitation Interventions in TBI

An RRTC on the prevention of secondary complications and the development of interventions to improve functioning of individuals with TBI shall—

- Develop a valid methodology to measure and describe the course of brain injury recovery and clinical sequelae;
- Develop and test prognostic indicators of rehabilitation outcome including early predictors of functional outcomes for all age groups;
- Develop and evaluate new methods of prevention and treatment of the secondary medical, psychological, and neurobehavioral complications of TBI;
- Develop approaches to the special rehabilitative needs of individuals with concomitant brain and spinal cord injuries;
- Identify individual characteristics and environmental barriers that contribute to the development and exacerbation of secondary complications, and develop interventions to address them; and
- Develop and evaluate new rehabilitation interventions for community-based rehabilitation to improve the medical neurobehavioral, psychological, and social functioning of persons with moderate to severe TBI.

Priority 7—Community Integration and TBI

An RRTC to advance the outcomes of independent living and community integration for individuals with TBI shall—

- Develop and evaluate valid measures of community integration for the TBI population;
- Develop and evaluate effective models of community integration;
- Develop and evaluate successful models for optimizing support to and from families during rehabilitation and community integration;
- Develop and evaluate treatment strategies to enhance neurobehavioral functioning and cognition, especially as related to employment and community integration;
- Delineate the types of services needed in the community to meet the rehabilitation needs of persons with TBI and evaluate treatment programs;
- Develop and evaluate models for the prevention and treatment of substance abuse among individuals with TBI; and
- Develop and evaluate innovative approaches to enhance neurobehavioral function and psychological adjustment.

Priority 8—Vocational Rehabilitation and Employment in TBI

An RRTC to improve vocational rehabilitation services for individuals with TBI and enhance their long-term employment outcomes shall—

- Develop and evaluate new strategies of vocational rehabilitation, job placement, and work adjustment services, including models for competitive employment;
- Identify and demonstrate effective transition models from school to work for school-age TBI survivors;
- Develop and evaluate improved programs of vocational education and vocational training for this population;
- Identify types of job accommodations that will enable TBI survivors to work productively; and
- Develop community-based support services to provide ongoing supports needed to maintain employment for the long term.

Proposed Priorities 9–12—Rehabilitation of Spinal Cord Injury

Background

Spinal Cord Injury (SCI) results from trauma to the lower central nervous system that has a catastrophic effect on physical functioning and major effects on psychosocial and vocational functioning as well. The primary effects are loss of motor function and loss of sensation below the level of injury. Because of the nature of the injury, the survivor is vulnerable to a myriad of debilitating and costly medical and social complications. While SCIs are relatively uncommon, they are always costly in terms of hospitalization and rehabilitation expenditures, loss of income and assets, and effects on the quality of life.

Kraus, *et al.* (1983) estimated the annual incidence of acute SCI in the United States to be approximately 50 per million population. Vehicular accidents are the primary cause of these injuries. SCI often occurs in a young population that will incur major lifetime medical costs if rehabilitation is not successful. The SCI typically occurs to males between the ages of 15 and 24. They are likely to be single, have limited educational levels, and not be established in careers or even long-term employment. The recent scientific literature indicates that many of these young men have learning disabilities or

problems with alcohol and substance abuse which place them at high risk for trauma and interfere with rehabilitation success after injury.

The Secretary is proposing priorities for four RRTCs to develop solutions to problems in the rehabilitation of individuals with SCIs. Each of these RRTCs must coordinate with the Spinal Cord Injury Special Demonstration projects, also funded by NIDRR, to ensure the timely transfer of new rehabilitation knowledge to the demonstration projects.

Priority 9—Secondary Complications and Neural Recovery in SCI

Background

Preventing or treating costly secondary medical complications enhances the health status, employability, and potential for independent functioning of individuals with SCI. Many individuals with SCI remain in acute care hospitals or nursing facilities for extended lengths of stay because of decubitus ulcers, urinary tract infection, mass reflex spasticity, deep vein thromboses, and other secondary complications.

Significant progress has been made in the prevention and treatment of secondary complications of SCI such as urinary tract infections (Lloyd, 1989; Nanninga, 1980; Montgomery, 1985), deep vein thrombosis (Green, 1986, 1987, 1991; Merli, 1990), and other circulatory disorders and respiratory complications (Stover, *et al.*, 1984).

Another area of investigation with high potential cost benefit is the study of neural mechanisms of recovery, including natural recovery and that assisted by rehabilitation modalities and adaptive technology (Herbison, 1986; Waters, 1990). To date, these neurologic mechanisms, including the phenomenon of spinal shock after injury, are not well understood.

Priority

An RRTC on secondary complications and neural recovery must focus on improving the functioning of individuals with SCI by developing new clinical methods and service delivery techniques that will prevent or ameliorate secondary complications and enhance neural recovery of function. The Center shall—

- Define the clinical course of SCI and the development and exacerbation of debilitating complications;
- Develop and evaluate techniques to reduce the incidence of secondary complications and minimize the debilitating and costly consequences of both frequent hospitalization and lengthy medical treatment;
- Develop and evaluate interventions to optimize individual functioning and neural recovery in individuals with SCI; and
- Validate methods to involve family members in the rehabilitation process and to maximize consumer self-management of the rehabilitation process.

Proposed Priority 10—Community Integration for Individuals with Spinal Cord Injury

Background

The literature on spinal cord injury suggests that post-injury life expectancy is now as high as 30–40 years (REHAB BRIEF, Vol. IX, No. 12). These can be productive years of work, study, family life, independent living, leisure activities, and community participation. However, there are many obstacles that must be addressed if these objectives are to be realized. These include problems in maintaining health status; disincentives to work, marriage, and family life; high costs and unavailability of quality health care; and restrictions caused by mobility limitations and inaccessibility.

Priority

An RRTC in community integration for individuals with SCI shall develop and disseminate new knowledge and techniques to—

- Improve personal and psychosocial adjustment after SCI;
- Enhance family life, including involvement of family members in rehabilitation, and options for marriage, sexuality, reproduction, and parenting;
- Enhance participation in community life;
- Improve techniques for maintaining health status; and
- Improve systems for long-term care in the community.

Proposed Priority 11—Vocational Rehabilitation and Employment for Individuals with Spinal Cord Injury

Background:

Data indicate that at least 70 percent of individuals with SCI are unemployed at five years post-injury, and more than 60 percent are unemployed at ten years post-injury (Menter, R.R., in Apple, D.F. and L.M. Hudson, eds., *Spinal Cord Injury: The Model*, 1991). Individuals who have sustained SCI are capable of productive work in many fields and at many levels, but there appear to be a number of obstacles to realizing this employment potential.

While continuing health maintenance problems, limited functional capacities, and incomplete community integration may contribute to this problem, unacceptably high unemployment persists even among those in whom acute rehabilitation and physical restoration have been quite successful. Obstacles that have been identified include: financial disincentives in public policy, inadequate vocational rehabilitation services, disincentives in employee benefit plans, environmental and transportation barriers, barriers to personal assistance services at the job site, and concomitant disabilities such as learning disabilities or substance abuse.

Priority

An RRTC on vocational rehabilitation and employment for individuals with SCI shall develop techniques to—

- Increase the incidence and duration of employment and the level and quality of work life for individuals with SCIs;
- Improve the quantity and appropriateness of vocational rehabilitation services to individuals with SCI;
- Maximize the incentive to work at an optimum level with improved cost-benefit ratios to society;
- Improve educational and vocational training programs for individuals with SCI; and
- Reduce physical and attitudinal barriers to employment and provide work-related supports to enhance the likelihood of successful employment.

Proposed Priority 12—Aging with Spinal Cord Injury

Background

The increased post-injury life expectancy has resulted in a new phenomenon that is not well understood—a population aging with SCIs. Initial studies of this phenomenon indicate that significant changes in function, equipment needs, and costs of care occur as individuals get older (Menter, *op. cit.*).

Observers have noted that the patterns of problems related to aging differ along three major dimensions of injury: the type of neurological injury (e.g., high or low, complete or incomplete), age at onset of the injury, and the historical era in which the injury occurred. Most individuals experience declines in functional capacities as they age. However, normal declines in muscle strength, range of motion of the joints, or pulmonary or cardiovascular capacity may significantly interfere with the SCI individual's ability to function or

to compensate for other limitations, may lead to increased disability and hospitalization, and may even be life-threatening.

These physiological changes are often accompanied by changes in the social support systems, such as changes in family composition; diminished resources brought on by loss or aging of parents or spouse, or retirement; and changes in housing or community programs. There is also a major increase in costs of care when the individual requires more frequent hospitalization, more personal assistance, and more assistive technological devices.

Priority

An RRTC to address the problems of aging with SCI shall—

- Develop a better understanding of the natural course of SCI as persons age;
- Develop techniques for individuals aging with SCI to maintain functional capabilities and to cope with additional functional losses;
- Develop regimens for nutrition, exercise, stress management, health maintenance, and self-care to minimize the impacts of aging with SCI; and
- Develop methods to maintain community integration, employment, family life, and independent living for individuals aging with SCI.

Invitation To Comment: Interested persons are invited to submit comments and recommendations regarding these proposed priorities. All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in room 3423, Mary Switzer Building, 330 C Street SW., Washington, DC, between the hours of 8 a.m. and 3:30 p.m., Monday through Friday of each week except Federal holidays.

Applicable Program Regulations: 34 CFR Parts 350 and 352.

Program Authority: 29 U.S.C. 760–762

(Catalog of Federal Domestic Assistance Number 84.133B, Rehabilitation Research and Training Centers)

Dated: April 29, 1992.

Lamar Alexander,

Secretary of Education.

[FR Doc. 92–15668 Filed 7–2–92; 8:45 am]

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Part III

Department of Housing and Urban Development

Office of the Secretary—Office of Lead-Based Paint Abatement and Poisoning Prevention

Notice of Funding Availability for Lead-Based Paint Abatement in Low- and Moderate-Income Private Housing

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary—Office of Lead-Based Paint Abatement and Poisoning Prevention

[Docket No. N-92-3447; FR 363-N-01]

NOFA for Lead-Based Paint Abatement in Low- and Moderate-Income Private Housing

AGENCY: Office of the Secretary—Office of Lead-Based Paint Abatement and Poisoning Prevention, HUD.

ACTION: Notice of funding availability.

SUMMARY: This notice announces the availability of up to $47,700,000 for the grant program for lead-based paint abatement in low- and moderate-income private housing. Approximately 10–15 grants of $1 million–$6 million will be awarded. This document includes information concerning the following:

(a) The purpose of the NOFA, eligibility, available amounts, and selection criteria;

(b) Application processing, including how to apply and how selections will be made; and

(c) A checklist of steps and exhibits involved in the application process.

The appendix to the NOFA identifies relevant regulations and guidelines referenced throughout the NOFA.

DATES: A preapplication conference to answer any questions arising from this NOFA will be held on Monday, August 3, 1992, in Washington, DC. Persons interested in attending this conference should contact the Office of Lead-Based Paint Abatement and Poisoning Prevention after publication of this NOFA, at the telephone numbers listed below, for precise scheduling information. To be considered for funding, an original and two copies of the completed application must be received at the Office of Lead-Based Paint Abatement and Poisoning Prevention (OLBPAPP), at the address listed below, no later than 3:00 p.m. (Eastern Time), on Monday, September 21, 1992. The application deadline is firm as to date and hour. In the interest of fairness to all competing applicants, the Department will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems. Please see section III, Checklist of Application Submission Requirements, in this NOFA for further information on what constitutes proper submission of an application.

ADDRESSES: Application kits may be obtained from the Office of Lead-Based Paint Abatement and Poisoning Prevention, room B–133, 451 Seventh Street, SW., Washington, DC 20410, or by phoning (202) 755–1822 (not a toll-free number). Complete applications should be submitted to this same address.

FOR FURTHER INFORMATION CONTACT: Ellis G. Goldman, Director, Program Management Division, Office of Lead-Based Paint Abatement and Poisoning Prevention, room B–133, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 755–1822 (not a toll-free number); TDD numbers for the hearing-impaired are: (202) 708–9300 (not a toll-free number), or 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements contained in this notice have been approved by the Office of Management and Budget (OMB), under section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C 3501–3520), and assigned OMB control number 2539–0001.

I. Purpose and Substantive Description

A. Statutory Background and Authority

Lead is a powerful toxicant that attacks the central nervous system and is particularly damaging to the neurological development of young children. Pregnant women can transfer lead through the placenta to the fetus. Lead-based paint (LBP) is one of the major sources of lead in the environment. In addition to paint, lead may be found in dust, soil, drinking water, food, emissions from leaded gasoline combustion, and industrial emissions. Human exposure to lead is found by testing blood for the presence of lead.

HUD has been actively engaged in a number of activities relating to lead-based paint as a result of the Lead-Based Paint Poisoning Prevention Act (LBPPPA) and certain amendments to the LBPPPA in 1987 and 1988. (See the Appendix for a list identifying relevant Federal regulations and guidelines referred to in this NOFA.) These amendments required HUD to: (1) Develop comprehensive and workable plans for the inspection and abatement of lead-based paint in public and privately owned housing; (2) estimate the extent of lead-based paint hazards in the nation's housing stock; (3) carry out a major, multi-city demonstration to identify the most cost-efficient methods for LBP-hazard abatement; (4) examine lead-hazard testing technology; and (5) develop interim technical guidelines for testing and abating LBP hazards in public housing.

Based upon a national survey conducted in 1990, approximately 57 million privately owned and occupied housing units built before 1980 have some lead-based paint inside or outside the dwelling. An estimated 9.9 million of these units are occupied by families with children under the age of seven, who are most at risk. Of these, only about 3.8 million units have priority hazards, such as peeling lead-based paint, excessive amounts of lead dust, or both. Approximately half of these units are occupied by families with incomes higher than the national median. Lead-based paint is found most often in houses built before 1940.

The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (Pub. L. 102–139, approved October 28, 1991) (Appropriations Act), established an Office of Lead-Based Paint Abatement and Poisoning Prevention in the Office of the Secretary (105 Stat. 753). This Office is responsible for the Department's lead-based paint abatement and poisoning prevention activities.

B. Allocation Amounts

Included in the Department's FY 1992 appropriations for assisted housing is $50,000,000 for grants to States and units of general local government for the abatement of significant lead-based paint and lead dust hazards in low- and moderate-income owner-occupied units and privately owned low-income rental units. This amount has been reduced by a percentage applied across the board to programs in the same account because the Department has recaptured less money than anticipated in its FY 1992 appropriations. Therefore, $47,700,000 remains available for award under this NOFA.

Because lead-based paint is a national problem, it is critical that these funds be used in a manner that maximizes the number of housing units in which lead hazards are abated, and that stimulates cost-effective State and local approaches that can be replicated in as many settings as possible. HUD expects to award 10–15 grants of $1 million—$6 million each, which is consistent with the intent of Congress as evidenced by the Senate Committee Report on the Department's appropriations. (See, S. Rpt. 102–107, at 54. Because the Senate Committee expressed concern about

diluting the benefits of this demonstration program, the Department has also adopted a 50,000 population requirement for eligible applicants. The Department believes that smaller communities can best be served by State applicants.)

C. Eligibility

The Appropriations Act (see 105 Stat. 746) specifies the following eligibility requirements for participation in this grant program to abate lead-based paint hazards in housing:

(1) The grants shall be for the abatement of significant LBP and lead dust hazards in low- and moderate-income owner-occupied units and privately owned low-income rental units;

(2) Applicants shall be States or units of general local government;

(3) Funds shall be available only for projects conducted by contractors certified and workers trained through a federally or State-accredited program; and

(4) Applicants must demonstrate the capability to identify housing units with significant LBP hazards, to oversee the safe and effective conduct of the abatement, and to assure the future availability of abated units to low- and moderate-income persons.

D. Definitions

The following definitions apply to this grant program:

Abatement—A comprehensive process of eliminating exposure to lead-based paint and lead dust which includes testing; replacement, enclosure, encapsulation, or removal of the lead-based paint hazard; as well as measures for worker protection, containment of dust and debris, cleanup and proper disposal of waste, and clearance testing.

Applicant—A State, or a unit of general local government above 50,000 population.

Certified Contractor—An individual who has successfully completed a State-accredited lead-based paint training program and who will conduct abatement work in accordance with that training.

Encapsulation—A method of abatement that involves the coating and sealing of surfaces with durable, surface coatings specifically formulated to be elastic, long-lasting, and resilient to cracking, peeling, algae, and fungus, so as to prevent chalking or flaking lead-containing substances from becoming part of house dust or accessible to children. Paint is not an encapsulant.

Enclosure—The resurfacing or covering of surfaces, and sealing or caulking with durable materials so as to prevent or control chalking, flaking, lead-containing substances from becoming part of house dust or accessible to children.

HEPA (High efficiency particulate accumulator)—A vacuum cleaner fitted with a filter capable of filtering out particles of 0.3 microns or greater from a body of air at 99.97 percent efficiency or more.

Low/Moderate-Income—Low-income means an individual, household or family earning a maximum of 80 percent of the area median income as determined by HUD. Moderate-income means an individual, household, or family earning a maximum of 95 percent of the area median. HUD may establish income ceilings higher or lower than 80 percent or 95 percent of the area median income on the basis of HUD findings that such variations are necessary.

Replacement—A strategy of abatement that entails removing components such as windows, doors, and trim that have lead-based painted surfaces, and installing new or de-leaded components free of lead-based paint.

State-Accredited Program—A State-approved certification or licensing program conducted in accordance with State statutes or regulations that establish minimum education, training, and experience requirements for lead-based paint abatement contractors, workers, and inspectors. (HUD advises States that are establishing or revising these programs that the Environmental Protection Agency (EPA) is developing standards for the training and certification of contractors and workers involved in lead-based paint abatement activities. See, the EPA's Appropriation Act for FY 1992, at 105 Stat. 765. HUD urges these States to watch for the EPA's publication of standards in the **Federal Register**, because HUD funding of lead-based paint abatement activities beyond this current funding cycle is expected to be based on final EPA standards. For further information on the EPA standards, or guidance on the development of a State certification or licensing program, applicants may contact the EPA Division of Environmental Assistance at the telephone number listed in the Appendix to this NOFA, or HUD's Office of Lead-Based Paint Abatement and Poisoning Prevention at the telephone numbers listed at the beginning of this NOFA.)

Substrate—The material to which a coating such as paint is applied. Residential substrates are usually wood, plaster, masonry, gypsum board, or metal, including components such as door frames, window trim, walls, ceilings, baseboards.

Surface—The outer or topmost boundary of a substrate.

Testing—The measurement of lead in painted surfaces by Federal- or State-certified personnel using a portable X-ray fluorescence analyzer, laboratory analysis of paint samples, or other methods approved by HUD.

Trained Worker—A worker who has successfully completed a State-accredited lead-based paint training program.

E. Program Objectives and Requirements

(1) Objectives

The grant program is designed to accomplish three major objectives:

(a) Encourage State and local governments to initiate or expand lead-based paint inspection, abatement, and training certification programs in order to reduce the health hazards associated with exposure to lead-based paint and lead dust, especially as these hazards affect young children in low- and moderate-income households;

(b) Encourage State and local governments to plan and implement cost-effective testing, abatement, and financing programs, including the testing of innovations that can serve as models for other jurisdictions interested in addressing this problem. Because of the high costs of eliminating lead-based paint hazards, particular encouragement is offered for programs that can safely reduce average per-unit abatement costs; and

(c) Document the health effects of lead-based paint abatement activity by testing blood-lead levels of young children before and after abatement has taken place.

(2) Number of Grants To Be Awarded

Approximately 10–15 grants will be awarded, ranging between $1 million and $6 million.

(3) *Funding.* Grantees shall be reimbursed, in accordance with a schedule to be included with the applicant's proposal and approved by HUD. (See Section V, Administrative Provisions, of this NOFA.)

(4) Limitations on the Use of Assistance

(a) These lead-based paint grant funds are to be used for testing and abatement activities in residential units constructed prior to 1978. These units must be either the principal residence of owner-occupants whose incomes fall within the low/moderate-income definition set forth in section I.D of this NOFA, or private rental housing occupied or available for occupancy only by families or individuals whose incomes fall within

the low-income definition set forth in section I.D of this NOFA.

(b) Pursuant to the Coastal Barrier Resources Act (16 U.S.C. 3501), grant funds may not be used for properties located in the Coastal Barriers Resources System.

(c) Under the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001–4128), grant funds may not be used to abate lead-based paint by means of removal and replacement, enclosure, or encapsulation on properties located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards unless:

(i) The community in which the area is situated is participating in the National Flood Insurance Program in accordance with the regulations thereunder (44 CFR parts 59–79), or less than a year has passed since FEMA notification regarding such hazards; and

(ii) Flood insurance on the property is obtained in accordance with section 102(a) of the Flood Disaster Protection Act. Applicants are responsible for assuring that flood insurance is obtained and maintained for the appropriate amount and term.

(d) The National Historic Preservation Act of 1966 (NHPA) (16 U.S.C. 470) and the regulations at 36 CFR part 800 apply to the abatement activities that are to be undertaken pursuant to this NOFA. HUD is responsible for satisfying the obligations to make a historic preservation finding under section 106 of the NHPA and the regulations. Recipients are to assist HUD in making the required findings by providing information to support the determination. This information includes the address of the property, and either a complete description of the activities to be carried out or an indication that no external changes are proposed and the property is not listed on the National Register of Historic Places or eligible for inclusion on the National Register as required by section 106 of the NHPA. In the alternative, the recipients may provide evidence of consultation with the State Historic Preservation Officer (SHPO).

(5) Eligible Activities

The following activities are eligible for support under the grant program:

(a) *Direct project elements.* (i) Inspection of housing constructed prior to 1978 to determine the presence of lead-based paint or lead dust through the use of portable X-ray fluorescence analyzers or approved laboratory analyses.

(ii) Abatement of lead-based paint hazards by means of removal, enclosure, encapsulation, or replacement methods.

(iii) Less-than-full-abatement techniques for programs that apply a differentiated set of resources to each unit, dependent upon conditions of the unit and the extent of hazards.

(iv) Temporary relocation of families and individuals during the period in which abatement is conducted and until the time the affected unit receives clearance for reoccupancy.

(v) Blood testing of children under the age of seven residing in units undergoing inspection or abatement.

(vi) Housing rehabilitation activities that are specifically required to carry out effective abatement and without which the abatement could not be effected.

(vii) Engineering and architectural costs that are necessary to, and in direct support of, abatement.

(viii) Liability insurance.

(ix) Data collection and documentation.

(b) *Support elements.* (i) Administrative costs (maximum of 10 percent).

(ii) Program planning.

(iii) Establishment of State certification programs for testing and abatement contractors and worker training.

(iv) Establishment of State certification or licensing of local government inspection processes to verify proper abatement and worker protection.

(v) Establishment of funding mechanisms to assist testing and abatement efforts, with particular emphasis on assistance to low- and moderate-income owners and renters.

(vi) Establishment of a community education program on lead hazards.

(6) Project Design Standards and Requirements

Grantees will be afforded considerable latitude in designing and implementing the methods of LBP hazard reduction to be employed in their jurisdictions. HUD is interested in promoting innovative and creative approaches that result in the reduction of this health threat for the maximum number of low- and moderate-income residents, and that demonstrate replicable techniques that are better, faster, less expensive, or more effective than current practices. Flexibility will be allowed within the parameters established below. It is critical that procedures for all phases of testing and abatement be clearly established in writing and adhered to by all applicants, recipients, and their contractors. It is only in this manner that research and evaluation of the cost-effectiveness of the methods employed can be undertaken. Grantees will be required to collect the data necessary to document the various methods employed in order to determine the relative cost and effectiveness of these methods in reducing lead-based paint hazards. Pre- and post-abatement blood testing of children under the age of seven shall be a major determinant of effectiveness. The following is provided to guide applicants:

(a) *Thresholds for abatement.* While the Department's Interim Guidelines for Hazard Identification and Abatement in Public and Indian Housing (see Appendix) employ two abatement thresholds, one milligram per square centimeter (1.0 mg/cm^2) or 0.5 percent by weight, applicants may utilize other thresholds, provided that the alternative threshold, with adequate justification, is accepted by HUD. The justification must state why the applicant believes the proposed approach will provide satisfactory health protection for occupants and discuss cost savings and benefits expected to result from using the proposed approach. HUD's review of alternative thresholds or methods will be made after grant award, in a separate approval process.

(b) *Surfaces to be abated.* While HUD's Interim Guidelines require the abatement of all leaded interior and exterior surfaces, the applicant may choose to abate fewer surfaces or apply any other partial abatement techniques, provided that an adequate justification is established and accepted by HUD. The justification must state why the applicant believes the proposed approach will provide satisfactory health protection for occupants and discuss cost-savings and benefits expected to result from using the proposed approach. HUD's review of alternative techniques will be made after grant award, in a separate approval process.

(c) *Clean-up.* The applicant may employ post-abatement clean-up procedures that differ from the procedures in the HUD Interim Guidelines, provided that an adequate justification is established and accepted by HUD. The justification must state why the applicant believes the proposed approach will provide satisfactory health protection for occupants and discuss cost savings and benefits expected to result from using the proposed approach. HUD's review of alternative procedures will be made after grant award, in a separate approval process.

(d) *Waste disposal.* The Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 *et seq.*) (RCRA), administered by the Environmental Protection Agency (EPA), shall govern all waste disposal resulting from abatement.

(e) *Worker protection.* The applicant shall observe the procedures for worker protection established in the Interim Guidelines for Hazard Identification and Abatement in Public and Indian Housing, published by HUD in September 1990 (see Appendix).

(f) *Uniform Relocation Act.* (i) The applicant shall comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4201–4655). These policies are described in HUD Handbook 1378, Tenant Assistance, Relocation and Real Property Acquisition.

(ii) No displacement (permanent, involuntary move) is anticipated. However, to preclude avoidable claims for relocation assistance, all occupants (owner and tenants) shall, as soon as feasible, be notified in writing that they will not be displaced by the lead-based paint abatement program.

(iii) Residential occupants who will not be required to move permanently may be required to relocate temporarily to permit the lead-based paint abatement program to be carried out. All conditions of the temporary relocation must be reasonable. At a minimum, the tenant shall be provided:

(*a*) Reimbursement for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporarily occupied housing and any increase in monthly rent/utility costs at that housing; and

(*b*) Appropriate advisory services, including reasonable advance written notice of the date and approximate duration of the temporary relocation; the address of the suitable, decent, safe, and sanitary dwelling to be made available for the temporary period; and the reimbursement provisions of subparagraph (*a*) of this paragraph.

(iv) The policy regarding temporary relocation costs for owner-occupants who elect to participate in abatement is a matter of grantee discretion.

(g) *Post-abatement clearance.* Grantees shall be required to meet the post-abatement wipe test clearance thresholds contained in the HUD Interim Guidelines (see Appendix). Wipe tests shall be conducted by an independent, accredited laboratory. Units shall not be reoccupied until acceptable clearance levels are achieved.

(h) *Prohibited abatement methods.* Abatement methods that will not be allowed are open-flame burning, uncontrolled abrasive blasting, or machine sanding without HEPA attachments. The applicant is cautioned that methods that generate high levels of lead dust, such as abrasive sanding, shall be undertaken only with requisite worker protection, containment of dust and debris, and increased clean-up.

F. Environmental Review

Because at the time of application submission only neighborhoods or other locators of the housing to be abated will be known, rather than specific properties, the Department has determined that it will perform an environmental review in accordance with 24 CFR part 50 at the time each property is proposed for abatement under the grant, rather than before HUD approval of the grant.

HUD's environmental review will be limited to satisfying its obligation to make an historic preservation finding under section 106 of NHPA and the implementing regulations. HUD has determined that lead-based paint abatement falls within a categorical exclusion (see 24 CFR 50.20(c)) from review under the National Environmental Policy Act and is not subject to the remaining authorities listed in 24 CFR 50.4, with the exception of the funding limitations under the Coastal Barrier Resources Act and the flood insurance purchase requirements of the Flood Disaster Protection Act of 1973. The applicant is responsible for compliance with these funding limitations and flood insurance purchase requirements, as discussed in section I.E(4), Limitations on the Use of Assistance, of this NOFA.

G. Rating Factors

HUD will use the following criteria to rate and rank applications received in response to this NOFA. The rating factors are listed in the order of their relative importance, and will also be used to rate applications considered under the special, large-volume category discussed below in Section I.H of this NOFA ("special volume category"). The total number of points is 100.

(1) *Strategy. (40 points)*—The quality of the proposed lead-based paint testing and abatement strategy. Strategies that promote new or innovative cost-effective methods will be awarded a higher number of quality rating points than those of otherwise equal quality that propose only conventional testing and abatement techniques. The strategy should include:

(a) The identification of pre-1978 housing to be inspected, tested and abated;

(b) Blood screening of young children;

(c) The abatement program, including financing, community education, temporary relocation, and the degree to which the strategy focuses upon high-hazard units occupied by low- and moderate-income owners and low-income renters with children under the age of seven; and

(d) The methodology for documenting the testing and abatement methods to be used and their costs.

(2) *Applicant capacity. (35 points)*—The ability of the applicant to initiate and carry out the lead-based paint testing and abatement program successfully. Elements to be considered include:

(a) Demonstrated knowledge and experience of the proposed project manager in planning and managing large and complex interdisciplinary programs involving housing rehabilitation, public health, and evironmental management.

(b) Demonstrated knowledge and experience of the staff in carrying out these undertakings.

(c) The ability of the applicant to have completed the necessary planning, site selection, and participant selection to commence the actual on-site testing and abatement activity within 6 months (12 months for special volume category) of the date of grant award and to complete abatement activity within 24 months (36 months for special volume category) of the date of grant award. However, for applicants in States proposing to enact within 12 months legislative authority to accredit programs for contractor certification and worker training, HUD shall allow testing and abatement to be commenced within 6 months (12 months for special volume category), and abatement to be completed within 24 months (36 months for special volume category), of the date State enabling legislation is enacted (unless a local government applicant is allowed additional time under section II.B(6)(b)(ii) of this NOFA).

(d) The extent of cooperation among the applicant's housing, health and environmental agencies, especially with regard to medical referrals of children with elevated blood-lead levels.

(e) The willingness of the jurisdiction to cooperate fully with any health-related research or evaluation associated with this grant program.

(3) *Resource Coordination. (10 points)*—The degree to which the requested grant would be augmented by obtaining additional fiscal or programmatic resources through

coordination and integration with other housing or health programs, using both public and private sources. The applicant will be rated according to the information it provides on the amounts and sources of these additional resources. Funds from other Federal programs may be included in the analysis of additional resources.

(4) *Local Contribution. (10 points)*—The extent of local contribution, in either cash or in-kind services. The applicant will be rated according to its identification of sources and inclusion of letters or other evidence of commitment from donors. The costs of blood testing and medical follow-up are eligible for inclusion in the computation of the local contribution. Community Development Block Grant funds will be considered local funds for purposes of this program. Other Federal resources will be excluded from the computation of the local contribution.

(5) *Community Participation. (5 points)*—The degree to which the applicant proposes to enlist the active participation of community- or neighborhood-based groups or organizations, including local businesses, through consultation, employment, or other activities. The applicant will be rated according to the information it provides on the names and proposed role of local participants.

H. Special Rating Category: Volume Production For LBP Abatement

The Department is especially interested in considering new or innovative ways to abate large numbers of units on an expedited basis. The magnitude of the lead-based paint hazard makes it imperative that cost-effective strategies that eliminate or mitigate this hazard in large numbers of units be actively encouraged. The Department expects that volume production, utilizing similar cost-effective abatement methods and techniques, represents the best opportunity to demonstrate a firm unit-cost basis for particular abatement strategies. Accordingly, any proposals that emphasize cost-effective, large-scale abatement, i.e., a minimum of 300 units within a 24-month period, will be considered in a separate funding category. These proposals will be scored on the basis of rating factors (1)–(5) in section I.G. of this NOFA, except that in factor (2) commencement of testing and abatement shall be within 12 months, and completion of abatement shall be within 36 months, of a grant award (or enactment of legislation, where necessary, as provided in section I.G(2)(c) of this NOFA; a local government applicant may be allowed additional time under section II.B(6)(b)(ii) of this NOFA). Because of the potential costs of volume-production proposals, a maximum of four grants will be made under this special volume category.

II. Application Process

A. Submitting Applications

To be considered for funding, an original and two copies of the application must be physically received in the Office of Lead-Based Paint Abatement and Poisoning Prevention (OLBPAPP), Department of Housing and Urban Development, room B–133, 451 Seventh Street, SW., Washington, DC 20410, no later than 3 p.m. (Eastern Time), on September 21, 1992.

The above-stated application deadline is firm as to date and hour. In the interest of fairness to all competing applicants, the Department will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems.

HUD will review each application to determine whether it meets all of the threshold criteria established under Section II.B of this NOFA. Non-responsive applications will be declared ineligible for further consideration. Applications that meet all of the threshold criteria will be eligible to be scored and ranked, based on the total number of points allocated for each of the rating factors in Section I.G of this NOFA.

HUD intends to fund the highest ranked applications within the limits of funding availability, but reserves the right to advance other eligible applicants in funding rank if necessary to assure geographic diversity or enhance data reliability.

B. Application Threshold Requirements

(1) *Purpose.* The application must be for funds to be used for the abatement of significant LBP and lead dust hazards in low- and moderate-income owner-occupied units and low-income privately owned rental units.

(2) *Eligibility to receive assistance.* The applicant must demonstrate that it is a State or a unit of general local government with a population of more than 50,000.

(3) *Financial responsibility.* For purposes of this program, HUD has determined that all governmental entities are deemed to meet the requirements for accounting and financial responsibility. The applicant shall be responsible for the performance of all consortium members, partners, contractors, and joint venture participants.

(4) *Identification of significant hazard housing.* The applicant must demonstrate capability to identify housing units with significant lead-based paint hazards, as provided in the application kit.

(5) *Safe and effective conduct of the abatement.* The applicant must demonstrate capability to oversee the safe and effective conduct of the abatement work, as provided in the application kit.

(6) *Contractor certification program requirement.* Each applicant shall demonstrate that it will carry out its abatement program under an operational State-accredited certification/training program.

(a) Applicants utilizing contractors certified and workers trained within a State that currently has a LBP certification/training program shall furnish citations for enabling statutes and regulations, as well as other appropriate documentation (e.g., certificates and licenses), as proof thereof.

(b) For other applicants, the following provisions shall apply: (i) An applicant shall furnish at the time of application, letters of intent to establish a certification program that shall be enacted within 12 months and have completed initial training sessions within 18 months from date of grant award. Letters of intent shall be from the Governor of the State and an authorized representative of the legislative body in the State, setting forth their plans to make a good faith effort to enact within 12 months of the grant award enabling legislation that would establish an appropriate department or office, to put an operating staff in place, and to promulgate appropriate regulations and complete the initial training sessions within 18 months of the grant award.

(ii) Local government applicants in States that have furnished letters of intent and have made a good faith effort to carry out that intent, but have been unable to enact legislation within 12 months, or complete initial training sessions within 18 months, from the date of award shall, in either of these events, have the option of using workers and contractors certified or licensed under accredited programs of other States. Upon the occurrence of the first of these events, the local government applicant shall have an additional 6 months from the expiration of the grace period (12

months for enactment of legislation, or 18 months to complete the initial training sessions) to commence the actual on-site testing and abatement activity.

(iii) Except as provided in subparagraph (ii) of this paragraph, if the commitment to establish a certification/training program is not fulfilled within the stated time, the grant agreement shall immediately terminate.

(7) Units in which lead hazards have been abated under this program shall be occupied by and continue to be available to low- and moderate-income residents as specified in the Appropriations Act. Accordingly, the grantee shall target neighborhoods where:

(i) The median income is at or below 95 percent of the area median income;

(ii) Rents for standard units are at or below the Section 8 Fair Market Rents; and

(iii) The character of the neighborhood is such that the rents are likely to remain at or below section 8 (42 U.S.C. 1437f) Fair Market Rents for at least 5 years. Furthermore, owners of rental property receiving funds under this grant program shall agree to continue the occupancy, or availability for occupancy, of abated units by low- or moderate-income tenants for a minimum of 5 years.

III. Checklist of Application Submission Requirements

A. Applicant Data

Applicants must complete and submit applications in accordance with the instructions contained in the application kit. The following is a checklist of the application contents that will be specified in the application kit:

(1) The name, mailing address, telephone number, and principal contact person of the applicant. If the applicant has consortium associates, partners, major subcontractors, or joint venture participants contributing resources to the project, similar information shall also be provided for each of them.

(2) Proof of State accreditation requirements for LBP certification/training programs applicable to the contractors and workers that will be used by the applicant, or letters of intent from both the Governor and an authorized representative of the legislative body stating that a good faith effort will be made to have a certification/training program authorized within 12 months, and operational within 18 months, of the grant award (see Section II.B(6)(b)(i) of this NOFA regarding this requirement).

(3) Evidence of the applicant's commitment to eliminating significant lead-based paint hazards in housing.

(4) A management and budget plan that details the proposed costs and schedules for starting and completing each set of project activities.

(5) Evidence of a continuing capacity of the applicant to undertake a lead-based paint testing and abatement program safely and effectively.

(6) Information itemizing what constitutes the local contribution, including values placed on donated in-kind services and letters or other evidence of commitment from donors, and the amounts and sources of coordinated resources.

(7) Information on the names and proposed roles of local participating community- or neighborhood-based groups or organizations, including local businesses.

(8) A completed Form HUD–2880, Applicant/Recipient Disclosure/Update Report, where applicable (see section VI.D of this NOFA).

B. Proposed Activities

(1) Affected Population To Be Served

The applicant shall describe the size and general characteristics of the pre-1978 housing stock within its jurisdiction, including a description of the housing's location, condition, and occupants, and a current estimate of the number of children under the age of seven in these units. Maps should be included. (Priority shall be given to units constructed before 1978 that are occupied by children under the age of seven and that have deteriorating lead-based paint or excessive levels of lead dust.) In addition, the applicant shall provide information on the number of children diagnosed as being lead poisoned within the previous five years and the remedial measures taken to respond to these diagnoses.

(2) Description of LBP Activities

The applicant shall describe the proposed activities, including, but not be limited to, information on the following:

(a) Overall strategy, including priority setting;

(b) Specific neighborhood, area, community, or other locator of the housing units targeted for abatement (area and local maps shall be included);

(c) Inspection and testing of housing;

(d) Blood testing of children under the age of seven, and medical referral for children found to have elevated blood-lead levels;

(e) Abatement methods;

(f) Community education;

(g) Relocation;

(h) Coordination with public health and housing programs;

(i) Data collection and documentation; and

(j) Mechanisms that the applicant proposes to employ to provide financial assistance to low- and moderate-income owners and low-income renters under this grant program for abatement.

C. Certifications and Assurances

(1) The application shall contain an assurance that the applicant will comply with the environmental laws and authorities at 24 CFR 50.4, and that it will:

(a) Supply information necessary for HUD to perform any required environmental review of each property;

(b) Carry out mitigating measures required by HUD or select alternate eligible property; and

(c) Not commit to or carry out any program activities for any property until HUD approval is received.

(2) The application shall contain a certification that the applicant will comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; implementing regulations at 49 CFR part 24; and HUD Handbook 1378, Tenant Assistance, Relocation and Real Property Acquisition.

(3) The application must be in compliance with Federal civil rights laws and requirements.

(4) The application shall contain assurances that the applicant will comply with the requirements of the Fair Housing Act (42 U.S.C. 3601–19), Executive Order 11063, and title VI of the Civil Rights Act of 1964, pertaining to equal opportunity and nondiscrimination in housing, and to all regulations issued in accordance with these authorities.

(5) The application shall include assurances of nondiscrimination on the basis of age or handicap, in compliance with the Age Discrimination Act of 1975, Section 504 of the Rehabilitation Act of 1973, and all regulations issued pursuant to these authorities.

(6) The applicant shall assure that it will conduct dust-wipe testing in all units in which lead hazards are abated both prior to and immediately after the abatement, and that the applicant will conduct dust wipe testing at 6- and 12-months after abatement, in conjunction with the blood-lead testing of the resident children.

(7) The applicant shall assure that it will test and record the blood-lead level of all children under the age of seven occupying affected units prior to abatement. The applicant shall also

assure that it will test and record blood-lead levels of affected children at six months and at one year after abatement is completed. Abatement of a unit shall not commence until blood-lead tests have been administered to children under the age of seven occupying the unit. Children determined to have elevated blood-lead levels, using the Center for Disease Control October 1991 Guidelines (see Appendix to this NOFA), shall be provided appropriate medical treatment as set forth by the Centers for Disease Control. (The costs of blood testing and medical follow-up are eligible for inclusion in the computation of the local contribution.)

(8) The applicant shall assure that it will cooperate with any federally sponsored or endorsed monitoring or evaluation efforts carried out in conjunction with the grantee's lead-based paint activities under this program. This includes providing documentation of all testing, inspection, and abatement.

(9) The applicant shall assure that assistance provided under this grant program shall not be used to supplant other resources designated for the proposed project. For purposes of this clause, "other resources" means resources provided from any source other than the HUD Office of Lead-Based Paint Abatement and Poisoning Prevention.

(10) The application will contain any other assurances as HUD shall include under this NOFA.

IV. Corrections to Deficient Applications

HUD will notify an applicant, in writing, shortly after the expiration of the NOFA response deadline, of any technical deficiencies in the application. In order to receive further consideration for assistance, the applicant must submit corrections to the Office of Lead-Based Paint Abatement and Poisoning Prevention within 14 calendar days from the postmark date of HUD's letter notifying the applicant of any technical deficiencies. Corrections to technical deficiencies will be accepted within the 14-day time limit.

Applicants will only be permitted to correct those deficiencies determined to be technical, e.g., a missing certification or missing signature. Deficiencies determined to be substantive may not be corrected.

V. Administrative Provisions

(1) Obligation of Funds

Funding shall be provided on a cost-reimbursable basis not to exceed the amount of the grant, except as otherwise provided in this paragraph. After a grant agreement has been executed with a grantee that is subject to existing State program accreditation requirements, HUD may, upon written request, provide to a grantee a cash advance that shall not exceed 10 percent of the grant amount and shall be limited to the minimum amount needed for the actual, immediate cash requirements of the grantee in carrying out the purposes of this NOFA. Those grantees whose awards are conditioned upon proof of newly executed executive or legislative authority to carry out the requirements of this NOFA may request a one-time advance of funds, not to exceed 5 percent of the grant amount, for purposes of implementing certification or licensing requirements.

HUD will not make additional payments from the amount awarded to a grantee until the grantee's contractors and workers have met the certification and training requirements of a State-accredited program. All additional payments will be made on a cost-reimbursable basis, except that a 10 percent final payment shall be made upon completion of all tasks and delivery of an acceptable final report.

(2) Increases

After the signing of the grant agreement and initial obligation of funds, HUD will not increase the grant sum or the total amount to be obligated based upon the original scope of work. Amounts awarded may only be increased as provided in paragraph (3), Deobligation, of this section.

(3) Deobligation

(a) HUD may deobligate amounts for the advance or grant if proposed activities are not initiated or completed within the required time after selection.

(b) The grant agreement will set forth in detail other circumstances under which funds may be deobligated and other sanctions imposed.

(c) HUD may undertake any one, or a combination, of the following actions:

(i) Readvertise the availability of funds that have been deobligated under this section in a new NOFA;

(ii) Reconsider applications that were submitted in response to the most recently published NOFA and select additional applications for funding with deobligated funds. These selections will be made in accordance with the selection process described in the applicable NOFA;

(iii) Consider supplemental applications from existing grantees for the performance of expanded scopes of work that may be of benefit to the overall program; and

(iv) For deobligated funds that total less than a minimum grant amount ($1 million), consider issuing an RFP for a contract to provide technical assistance or other program support services.

VI. Other Matters

A. Environmental Review

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR part 50, which implements section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The finding of no significant impact is available for public inspection during regular business hours in the Office of the General Counsel, Rules Docket Clerk, Department of Housing and Urban Development, 451 Seventh Street, SW., room 10276, Washington, DC 20410.

B. Federalism Executive Order

The General Counsel, as the Designated Official under section 8(a) of Executive Order 12612, Federalism, has determined that the policies and procedures contained in this NOFA will not have substantial direct effects on States or their political subdivisions, or the relationship between the federal government and the States, or the distribution of power and responsibilities among the various levels of government. Under this NOFA grants will be made for the abatement of significant lead-based paint and lead-dust hazards in low- and moderate-income owner-occupied units and privately owned low-income rental units. Although the Department encourages States and local governments to initiate or expand LBP certification, testing, abatement, and financing programs, any action by a State or local government in these areas is voluntary. Because action is not mandatory, the NOFA does not impinge upon the relationships between the Federal government and State and local governments, and the notice is not subject to review under the Order.

C. Family Executive Order

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this document will likely have a beneficial impact on family formation, maintenance and general well-being. This NOFA, insofar as it funds repairs to privately owned housing, will assist in preserving decent housing stock for resident families. Accordingly, since the impact on the family is beneficial, no further review is considered necessary.

b. Section 102 of the HUD Reform Act—Documentation and Public Access Requirements—Applicant/Recipient Disclosures

(1) Documentation and Public Access Requirements

HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its quarterly **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis. (See 24 CFR 12.14(a) and 12.16(b), and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these documentation and public access requirements.)

(2) Disclosures

HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period generally less than three years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. (See 24 CFR part 12, subpart C, and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these disclosure requirements.)

E. Prohibition Against Lobbying Activities

The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of section 319 of the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) and the implementing regulations at 24 CFR part 87. These authorities prohibit recipients of Federal contracts, grants, or loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal government in connection with a specific contract, grant, or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying. Under 24 CFR part 87, applicants, recipients and subrecipients of assistance exceeding $100,000 must certify that no Federl funds have been or will be spent on lobbying activities in connection with the assistance.

F. Prohibition Against Lobbying of HUD Personnel

Section 112 of the Housing and Urban Development Reform Act of 1989 (Pub. L. 101–235, approved December 15, 1989) (Reform Act) added a new section 13 to the Department of Housing and Urban Development Act (42 U.S.C. 3531 *et seq.*). Section 13 contains two provisions concerning efforts to influence HUD's decisions with respect to financial assistance. The first imposes disclosure requirements on those who are typically involved in these efforts—those who pay others to influence the award of assistance or the taking of a management action by the Department and those who are paid to provide the influence. The second restricts the payment of fees to those who are paid to influence the award of HUD assistance, if the fees are tied to the number of housing units received or are based on the amount of assistance received, or if they are contingent upon the receipt of assistance.

Section 13 was implemented by final rule published in the **Federal Register** on May 17, 1991 (56 FR 29912). If readers are involved in any efforts to influence the Department in these ways, they are urged to read the final rule, particularly the examples contained in appendix A of that rule.

Any questions concerning the rule should be directed to the Office of Ethics, room 2158, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone: (202) 708–3815 (TDD/Voice). (This is not a toll-free number.) Forms necessary for compliance with the rule may be obtained from the local HUD office.

G. Prohibition Against Advance Information on Funding Decisions

Section 103 of the Reform Act proscribes the communication of certain information by HUD employees to persons not authorized to receive that information during the selection process for the award of assistance. HUD's regulation implementing Section 103 is codified at 24 CFR part 4 (see 56 FR 22088, May 13, 1991). In accordance with the requirements of Section 103, HUD employees involved in the review of applications and in the making of funding decisions are restrained by 24 CFR part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted by 24 CFR part 4. Applicants who have questions should contact the HUD Office of Ethics: (202) 708–3815 (TDD/Voice). (This is not a toll-free number.)

The Office of Ethics can provide information of a general nature to HUD employees, as well. However, a HUD employee who has specific program questions, such as whether particular subject matter can be discussed with persons outside the Department, should contact his or her Regional or Field Office Counsel, or Headquarters Counsel for the program to which the question pertains.

Authority: 42 U.S.C. 4821–4846; 42 U.S.C. 3535(d).

Dated: June 29, 1992.

Arthur S. Newburg,

Director, Office of Lead-Based Paint Abatement and Poisoning Prevention.

Appendix—Relevant Federal Regulations and Guidelines

To Secure Any Of The Documents Listed, Call The Listed Telephone Number (generally not toll-free).

Regulations

1. Worker Protection: General Industry Lead Standard, 29 CFR 1910.1025 (OSHA regulations); phone (202) 755–1822.
2. Waste Disposal: 40 CFR parts 260–268 (EPA regulations); phone 1–800–424–9346.

Guidelines

1. Lead-Based Paint: Interim Guidelines for Hazard Identification and Abatement in Public and Indian Housing; HUD, September 1990 (phone (202) 755–1822):
   Post Abatement Clearance, No More Than:
   200 Micrograms/Sq. Ft. (Floors)
   500 Micrograms/Sq. Ft. (Window Sills)
   800 Micrograms/Sq. Ft. (Window Wells)
2. HUD Handbook 1378, Tenant Assistance, Relocation and Real Property Acquisition; phone (202) 708–0336.
3. Preventing Lead Poisoning In Young Children; Centers for Disease Control, October 1991 (phone (404) 488–4880.

Information on Content of State-Accredited Contractor Certification and Worker Training Programs

Contact: EPA Office of Pollution Prevention and Toxics, Division of Environmental Assistance; phone (202) 260–3790.

CDC Classes of Blood Levels in Children:

Class	Concentration (ug/dL)	Comment
I	<9	Child is not considered to be lead-poisoned.
IIA	10–14	Large number or proportion of children with blood lead levels in this range should trigger community-wide childhood lead poisoning prevention activities. Children in this range may need to be rescreened more frequently.
IIB	15–19	Child should receive nutritional and educational interventions and more frequent screening. If the blood lead level persists, environmental investigation and intervention should be done.
III	20–44	Child should receive environmental evaluation and remediation and a medical evaluation; may need pharmacologic treatment of lead poisoning.
IV	45–69	Child will need both medical and environmental interventions, including chelation therapy.
V	>70	Child is a medical emergency. Medical and environmental management must begin immediately.

[FR Doc. 92–15698 Filed 7–2–92; 8:45 am]

BILLING CODE 4210–32–M

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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 "P L U S" (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).

H.J. Res. 470/P.L. 102-309

To designate the month of September 1992 as "National Spina Bifida Awareness Month"!. (June 30, 1992; 106 Stat. 275; 1 page) Price: $1.00

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CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

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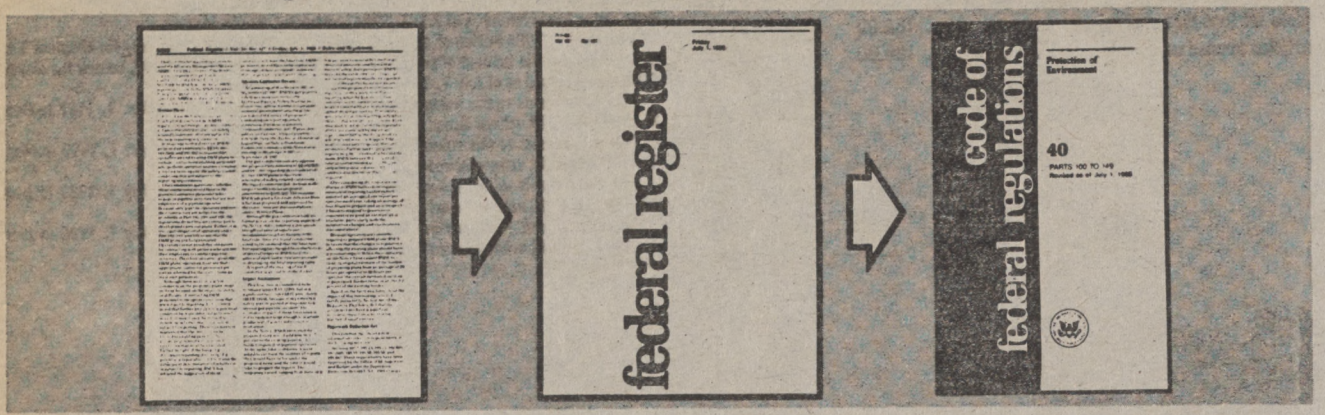

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